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224-444  
B.S.A.  
MONDAY, JULY 12, 1976



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

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## List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 5630 Pub. Law 94-340  
 An act to amend the Federal Boat Safety Act of 1971 in order to increase and extend the authorization for appropriations for financial assistance for State boating safety programs.  
 (July 6, 1976; 90 Stat. 802)

H.R. 11439 Pub. Law 94-342  
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H.R. 12188 Pub. Law 94-341  
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H.R. 13380 Pub. Law 94-343  
 An act to amend the Central, Western, and South Pacific Fisheries Development Act to extend the appropriation authorization through fiscal year 1979, and for other purposes.  
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## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Twelve agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this trial program are invited. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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# rules and regulations

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

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

## Title 17—Commodity and Securities Exchanges

### CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

#### PART 14—RULES RELATING TO SUSPENSION OR DISBARMENT FROM APPEARANCE AND PRACTICE

##### Adoption of Rules

The Commodity Futures Trading Commission has adopted rules relating to suspension or disbarment from appearance and practice before the Commission. These rules comprise a new Part 14 of Title 17 of the Code of Federal Regulations.

For the purpose of efficient and proper administration of the Commission's duties, and to prevent situations in which the Commission and the public place reliance on or trust in attorneys or accountants who have shown themselves to be unqualified or untrustworthy, the Commission is adopting rules whereby such persons may be temporarily or permanently denied the privilege of appearing or practicing before the Commission.

Appearance and practice are general terms intended to encompass any type of professional conduct before the Commission on behalf of another person. "Appearance," as defined in § 14.2, means the appearance of one person on behalf of another at any proceeding conducted by the Commission; "practice" means the transacting of any formal business with the Commission on behalf of another person, including the preparation of any document, of whatever nature, to be submitted to the Commission, by an attorney or accountant.

Hearings may be held under several of the provisions in Part 14. Section 14.3 provides that the hearings shall be held before an administrative law judge, utilizing procedures establishing in the Commission's rules of practice applicable to adjudicatory proceedings (Part 10) and shall generally be prosecuted by the General Counsel of the Commission or representatives from his office.

The Commission may disqualify, pursuant to § 14.4, any person who is found to have violated, caused, or aided and abetted violations of the Commodity Exchange Act and the rules adopted thereunder. It is contemplated that under this section relief would be requested during the administrative proceeding in which the charges of violation are made, and would generally involve a request for other sanctions as well.

The opportunity for a complete review of the factual basis for denial is afforded when the Commission's action is taken pursuant to §§ 14.4 and 14.8.

Sections 14.5 through 14.7, on the other hand, would permit the Commission to deny the privilege of appearing and practicing based on prior adverse administrative or judicial action against that person, without an independent review by the Commission of the facts upon which that adverse action was predicated.

Any person who after a licensing or certification to practice his or her profession has been convicted of any felony or of a misdemeanor involving fraud or involving moral turpitude in matters related to the regulatory responsibilities of the Commission, and whose conviction has not been reversed by an appellate court, is automatically barred under § 14.5 from appearing and practicing as long as that conviction stands. Likewise, under § 14.6, anyone who has been suspended or disbarred by any court or licensing authority is, during the period of suspension or disbarment, prohibited from appearing or practicing before the Commission even if he or she holds a valid license from another jurisdiction. Under both § 14.5 and § 14.6 the Commission's prohibition stands even if an appeal is pending and even if the conviction or action was on a plea of nolo contendere or its procedural equivalent.

Section 14.7 establishes a procedure whereby a person may be suspended or his privilege of appearing and practicing revoked if he or she has been (1) enjoined by any court of competent jurisdiction in an action brought by this Commission for violation of the Commodity Exchange Act; (2) found by any court of competent jurisdiction, in an action brought by this Commission, to have committed, caused or aided and abetted a violation of the Commodity Exchange Act; or (3) found by the Commission in an administrative proceeding to have committed, caused or aided or abetted a violation of the Commodity Exchange Act. The third provision, however, is not applicable where the Commission was not a complainant in the initial administrative proceeding (i.e., in a reparation proceeding brought pursuant to Part 12 of these rules). The Commission has adopted this exception with respect to reparation proceedings in order to facilitate settlements between the parties; if a settlement were to have a collateral effect under these rules, it might cause matters to be litigated that might otherwise be settled. Of course, the Commission could in any event, if the circumstances warranted, initiate proceedings to suspend or deny the privilege pursuant to the provisions of § 14.8 based on unethical or improper professional conduct or lack of character or integrity.

Because of the often close relationship between the type of activities that constitute violations of the Commodity Exchange Act and those which are violations of the federal securities laws, the Commission has determined that violations of the federal securities laws may also be a basis of action by this Commission to deny the privilege of appearing and practicing before it.<sup>1</sup> Accordingly, under § 14.7, action may be taken if a person has been enjoined by any court of competent jurisdiction based on actions brought by the Securities and Exchange Commission for violations of the federal securities laws (15 U.S.C. 77a to 80b-20) or found by any court of competent jurisdiction in an action brought by the Securities and Exchange Commission, or found by the Securities and Exchange Commission in an administrative proceeding initiated by it to have committed, caused, or aided or abetted a violation of the federal securities laws. However, unlike the situation where the legal action was brought by this Commission, where a violation of the federal securities laws is involved in court or administrative action taken by the SEC, an injunction or other finding which was entered upon consent or by default will not be a sufficient basis for disqualification. This limitation has been adopted to prevent this Commission from interfering with the ability of the Securities and Exchange Commission to settle matters it initiates. The Commission could, however, if appropriate, use the facts involved in the consent action to bring separate proceedings pursuant to § 14.8.

Action taken pursuant to § 14.7, whether based on violations of the Commodity Exchange Act or the federal securities laws, is at the discretion of the Commission. The Commission may take preliminary action, giving due consideration to the public interest, without a preliminary hearing. The individual then has 30 days after service of the order of temporary suspension to petition to lift the suspension. Otherwise the order becomes permanent.

When a petition to lift the temporary suspension is received the Commission must within 30 days either lift the temporary suspension or set the matter

<sup>1</sup> Provisions of the Act recognize that persons who have violated the federal securities laws may for that reason be disqualified from registration as a futures commission merchant or associated person, floor broker, commodity trading advisor, or commodity pool operator. See sections 4n(7)(B) and 8a(2)(B), 7 U.S.C. 6n(7)(B) and 12a(7)(B), and the Commission's interpretation of the latter provision, published at 40 FR 28125 and 28126.



down for hearing or both. Following a hearing, or opportunity therefor, the Commission may (1) disqualify the petitioner from appearing or practicing for a period of time or permanently; (2) censure the petitioner; (3) determine that no sanction is warranted.

In any hearing, a showing by the Commission staff that an injunction has been entered or findings made in accordance with the criteria set forth in § 14.7 shall be a sufficient basis for censure or disqualification. The burden shall then be on the petitioner to show mitigating or other factors why the sanctions should not be imposed. He or she, however, may not relitigate the factual or other questions which were litigated or might have been litigated in the earlier proceeding. In this respect, where a person has consented to entry of any injunction or the imposition of administrative sanctions without findings or without admitting the allegations of the complaint, where the complaint had been filed by this Commission, that person will nonetheless be presumed to have engaged in the conduct alleged in the complaint.

Section 14.8 contains a general provision whereby, after notice and opportunity for hearing, the Commission may deny, either permanently or temporarily, the privilege of appearing or practicing before it to any person based upon a showing of substantial evidence on one of three grounds. This may be done on the basis, first, that he or she does not possess the requisite qualification to represent others; secondly, that he or she may be lacking in character or integrity; and thirdly, that he or she has engaged in unethical or improper professional conduct either before the Commission or elsewhere.

As noted above §§ 14.4 through 14.7 will permit or require a professional disqualification based by judicial action or by the administrative action of state or other federal agencies. Section 14.9 will impose a duty upon any person who appears or practices before the Commission promptly to notify the Commission of the adverse decision or action taken against him. A person who fails within thirty days to advise the Commission of the adverse decision or action will for that reason alone automatically be disqualified from appearance and practice before the Commission unless and until the appropriate filing has been made. Of course, the Commission may act under the rule upon such information as may come to its attention either under this filing requirement or otherwise. And no filing or failure to file under this section will affect the applicability of the operative sections of the rules.

The final section of this part, § 14.10, permits anyone who has been disqualified under any of the prior provisions to apply for reinstatement at any time. A hearing will be granted on the application in the discretion of the Commission.

Pursuant to authority contained in the Commodity Futures Trading Commission Act, Pub. L. 93-463, Section 101(a) (11), 88 Stat. 1391, 7 U.S.C. 4a(j),

the Commodity Futures Trading Commission hereby adopts a new Part 14 of Title 17 of the Code of Federal Regulations as set forth below:

- Sec.  
14.1 Scope.  
14.2 Definitions of appearance and practice.  
14.3 Hearings.  
14.4 Violation of Commodity Exchange Act.  
14.5 Criminal conviction.  
14.6 Disbarment or suspension by licensing authority.  
14.7 Finding of violation of Commodity Exchange Act or Federal securities laws in another proceeding.  
14.8 Lack of requisite qualifications, character and integrity.  
14.9 Duty to file information concerning adverse judicial or administrative action.  
14.10 Reinstatement.

AUTHORITY: Pub. L. 93-463, Sec. 101(a) (11), 88 Stat. 1391, 7 U.S.C. 4a(j).

#### § 14.1 Scope.

The rules of this part describe the circumstances under which persons may be denied, either temporarily or permanently, the privilege of appearing or practicing before the Commission as an attorney or accountant. An attorney may also be excluded from further participation in a particular adjudicatory proceeding in accordance with the provisions of § 10.11(b) of this chapter or from further participation in a particular investigatory proceeding in accordance with the provisions of § 11.7(c) (2) of this chapter.

#### § 14.2 Definitions of appearance and practice.

(a) *Appearance.* For the purpose of this Part, "appearance" refers to the representation of a person by another who appears in his behalf at any adjudicatory, investigatory or rulemaking proceeding conducted before the Commission, including but not limited to those proceedings encompassed in Parts 10 through 13 of the Commission's rules.

(b) *Practice.* For the purpose of this part, practicing before the Commission shall include but shall not be limited to:

(1) The preparation of any statement, opinion or other paper by any attorney or accountant filed with or submitted to the Commission on behalf of another person in or in connection with any application, notification, report or other document; and

(2) Transacting any other formal business with the Commission, on behalf of another person, in the capacity of an attorney or accountant.

#### § 14.3 Hearings.

Hearings required or permitted to be held under provisions of this part shall be held before an Administrative Law Judge, utilizing the procedures established in the rules of practice (Part 10) for adjudicatory proceedings. Any proceeding brought under provisions of this part shall, unless otherwise determined by the Commission, be prosecuted by the

General Counsel of the Commission or by such attorneys in his office as he may assign.

#### § 14.4 Violation of Commodity Exchange Act.

The Commission may deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person who is found by the Commission, after notice of and opportunity for hearing in the matter, to have violated, caused, or aided and abetted any violation of the Commodity Exchange Act, as amended, 7 U.S.C. 1, et seq., or the rules and regulations adopted thereunder.

#### § 14.5 Criminal conviction.

Any person who after licensing or certification to practice his profession by any competent authority has been convicted of any felony or of a misdemeanor involving fraud or involving moral turpitude in matters related to the regulatory responsibilities of the Commission, and whose conviction has not been reversed by an appellate court, may not appear or practice before the Commission. A conviction within the meaning of this section shall be deemed to have occurred when the convicting court enters its judgment or order, regardless of whether an appeal is pending or could be taken, and includes a judgment on a plea of nolo contendere.

#### § 14.6 Disbarment or suspension by licensing authority.

Any attorney who has been suspended or disbarred by a Court of the United States or any state or territory or the District of Columbia and any person whose license to practice as an accountant has been revoked or suspended in any state or territory or the District of Columbia may not appear or practice before the Commission during the period when such suspension or revocation is in effect. A suspension or revocation shall be deemed to have occurred when the disbarring, suspending or revoking agency or tribunal enters its order, regardless of whether appeal is pending or could be taken, and includes a judgment or order on a plea of nolo contendere or the procedural equivalent of such a plea. For purposes of this section it shall be irrelevant that any attorney or accountant who has been suspended, disbarred, or otherwise disqualified from practice before a court or in a jurisdiction continues in professional good standing before other courts or in other jurisdictions.

#### § 14.7 Finding of violation of Commodity Exchange Act or Federal securities laws in another proceeding.

(a) *Temporary suspension.* The Commission, with due regard to the public interest, and without preliminary hearing, may by order temporarily suspend from appearing or practicing before it any person who, on or after the effective date of this rule has been by name:

(1) Permanently enjoined by reason of his misconduct by any court of competent jurisdiction (i) whether by consent,



default, upon summary judgment or after trial, in any action brought by the Commission based upon violations of any provision of the Commodity Exchange Act, as amended, or of the rules and regulations adopted thereunder, or (ii) after trial or upon summary judgment in any action brought by the United States Securities and Exchange Commission based upon any violation of the federal securities laws (15 U.S.C. 77a to 80b-20) or of rules and regulations adopted thereunder;

(2) Found by any court of competent jurisdiction (whether by consent, default, upon summary judgment or after trial) in any action brought by the Commission to which he is a party, or found by the Commission (whether by consent, default, upon summary disposition or after hearing) in any administrative proceeding in which the Commission is a complainant and to which he is a party, to have committed, caused, or aided and abetted a violation of any provision of the Commodity Exchange Act, as amended, or of the rules and regulations promulgated under any of those statutes;

(3) Found upon summary judgment or after trial by any court of competent jurisdiction in any action brought by the United States Securities and Exchange Commission to which he is a party, or found by the Securities and Exchange Commission, upon summary disposition or after hearing, in any administrative proceeding in which the Securities and Exchange Commission is a complainant and to which he is a party, to have committed, caused, or aided or abetted a violation of any provision of the federal securities laws (15 U.S.C. 77a to 80b-20) or of the rules and regulations adopted thereunder.

(b) *Petition to lift suspension.* Any person temporarily suspended from appearing and practicing before the Commission in accordance with paragraph (a) of this section may, within 30 days after service upon him of temporary suspension, petition the Commission to lift the temporary suspension. If no petition has been received by the Commission within 30 days after service of the order by mail the suspension shall become permanent.

(c) *Consideration of Petition.* Within 30 days after the filing of the petition described in paragraph (b) of this section the Commission shall either lift the temporary suspension or set the matter down for hearing or both. After opportunity for hearing, the Commission may censure the petitioner or may disqualify the petitioner from appearing or practicing before the Commission for a period of time or permanently or may determine that no action is appropriate.

(d) *Hearing.* A showing that the petitioner has been enjoined or has been found to have committed, caused or aided or abetted violations as described in paragraph (a) of this section, without more, may be a basis for censure or disqualification; that showing having been

made, the burden shall then be on the petitioner to show why he should not be censured or disqualified. A petitioner will not be heard to contest any findings against him or admissions made by him in the judicial or administrative proceedings upon which the proposed censure or disqualification is based. A petitioner who has consented to the entry of a permanent injunction as described in paragraph (a) (1) of this section without admitting the facts set forth in the complaint shall nevertheless be presumed for all purposes under this section to have been enjoined by reason of the misconduct alleged in the complaint.

#### § 14.8 Lack of requisite qualifications, character and integrity.

In addition to those matters specifically referred to in §§ 14.4 through 14.7, the Commission may, after notice and opportunity for hearing in the matter, deny, temporarily or permanently, the privilege of appearing or practicing before it to any person who is found by the Commission by a preponderance of the evidence:

(a) Not to possess the requisite qualifications to represent others; or

(b) To be lacking in character or integrity; or

(c) To have engaged in unethical or improper unprofessional conduct either in the course of an adjudicatory, investigative, rulemaking or other proceeding before the Commission or otherwise.

#### § 14.9 Duty to file information concerning adverse judicial or administrative action.

Any person appearing or practicing before the Commission who has been the subject of a conviction, suspension, disbarment, revocation, injunction or finding of the kind described in §§ 14.5 through 14.7, unless based on action instituted by the Commission, shall promptly file a copy of the relevant order, judgment or decree with the Secretariat of the Commission at 2033 K Street, NW., Washington, D.C. 20581, together with any related opinion or statement of the agency or tribunal involved. Any person who has been the subject of administrative or judicial action of the kind described in §§ 14.5 through 14.7 and who has not filed a copy of the order, judgment or decree within thirty days after its entry shall for that reason alone be disqualified from appearing or practicing before the Commission until such time as the appropriate filing shall be made, but neither the filing of these documents nor the failure of a person to file them shall in any way affect the operations of any other provision of this part.

#### § 14.10 Reinstatement.

Any person who is disqualified from appearing or practicing before the Commission under any of the provisions of this part may at any time file an application of reinstatement and the appli-

cant may, in the Commission's discretion, be afforded a hearing on the application. However, denial of the privilege of appearing or practicing before the Commission shall continue unless and until the applicant has been reinstated by order of the Commission.

The foregoing rules shall be effective July 12, 1976. The Commission finds that the foregoing action relates solely to agency practice and procedures and that the public procedures and publication prior to the effective date of the rules in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required. Nevertheless, the Commission is interested in the views of attorneys, accountants and other interested persons concerning the merits of these rules, and will welcome any suggestion that may be forthcoming concerning ways in which they may be improved. Comments should be sent to CCU, 2033 K Street, NW., Washington, D.C. 20581.

Issued in Washington, D.C. on July 7, 1976.

By the Commission.

WILLIAM T. BAGLEY,  
Chairman, Commodity Futures  
Trading Commission.

[FR Doc. 76-20062 Filed 7-9-76; 8:45 am]

### PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

#### General Composition and Authority

The Commodity Futures Trading Commission is adopting a new Subpart B to Part 140 of Title 17 of the Code of Federal Regulations, setting forth the general statutory composition of the Commission (§ 140.10), and granting authority to act on behalf of the Commission to the Senior Commissioner present at the time an emergency situation arises if it is not feasible to convene a quorum of the Commission and action must be taken prior to the next scheduled meeting of the Commission (§ 140.11). Even then, the Senior Commissioner will be required to consult with such other members of the Commission as may be present at the Commission's principal offices and to attempt to reach all other members of the Commission by telephone (§ 140.11 (b)).

All actions taken under Senior Commissioner authority are required to be reported to the Commission within one business day (§ 140.11(c)) and the Commission may affirm, modify, alter or set aside any action taken (§ 140.11(d)). The Commission will review emergency action taken under Senior Commissioner authority at the request of any of its members (§ 140.11(d)(1)) or at the request of any person directly and adversely affected (§ 140.11(d)(2)). The Commission may, in its discretion, review emergency action of the Senior Commissioner upon petition by any other person (§ 140(d)(3)). All persons directly af-



feared by action taken under Senior Commissioner authority will be notified that the Senior Commissioner present, and not the full Commission, had acted on the matter so that he may seek Commission review under this rule.

The emergency action taken under Senior Commissioner authority will be deemed the action of the Commission unless and until the Commission shall direct otherwise (§ 140.11(a)).

Pursuant to authority contained in section 2a(11) of the Commodity Exchange Act, as amended, 7 U.S.C. 4(a)(j), 88 Stat. 1391, the Commodity Futures Trading Commission hereby adopts a new Subpart B to Part 140 of Chapter I of Title 17 of the Code of Federal Regulations as set forth below:

#### Subpart B—Functions

Sec.  
140.10 The Commission.  
140.11 Emergency action by the Senior Commissioner available.

AUTHORITY: Sec. 2a(11) of the Commodity Exchange Act, as amended, 7 U.S.C. 4(a)(j); 88 Stat. 1391.

#### Subpart B—Functions

##### § 140.10 The Commission.

The Commission is composed of a Chairman and four other Commissioners, not more than three of whom may be members of the same political party, who are appointed by the President, with the advice and consent of the Senate, for 5-year terms, one term ending each year. The Commission is assisted by a staff, which includes lawyers, economists, accountants, investigators and examiners, as well as administrative and clerical employees.

##### § 140.11 Emergency action by the senior Commissioner available.

(a) *Authority of senior Commissioner.* When it is not feasible to convene a quorum of the Commission, the Senior Commissioner present at the principal offices of the Commission (or, during non-business hours, available in the Washington, D.C. area) may take emergency action on behalf of and in the name of the Commission in accordance with the procedures set forth in this section. Members of the Commission shall be considered senior in the following order: The Chairman, the Vice-Chairman, and other Commissioners in order of their length of service on the Commission. Where two or more Commissioners have commenced their service on the same date, the Commissioner whose unexpired term in office is the longest will be considered senior.

(b) *Exercise of authority.* Subject to the right of the Commission to review any emergency action taken as herein-after provided, the Senior Commissioner may act on behalf of and in the name of the Commission with respect to all of the functions of the Commission except general rulemaking functions: *Provided, however,* That the Senior Commissioner shall not exercise any authority on be-

half of the Commission (1) without consultation with such other member of the Commission as may at the time be present at the Commission's offices in Washington, D.C., and without a reasonable attempt to consult, by telephone, with other members of the Commission; and (2) unless, in the opinion of the Senior Commissioner (after consulting with the General Counsel or his deputy or associate, and such other members of the Commission staff as the Senior Commissioner deems appropriate) the public interest requires that action be taken prior to the next scheduled meeting of the Commission.

(c) *Report to the Commission.* The exercise of Senior Commissioner authority shall be reported to the Commission within one business day thereafter either by the Senior Commissioner or at his direction, and shall be recorded by the Secretariat in the Minute Record of all official actions of the Commission. The Secretariat shall promptly notify any directly affected person of the action taken and that it was the Senior Commissioner available, rather than the Commission as a whole, who took the action.

(d) *Review by the Commission.* The Commission may, in the following circumstances, review any action taken under Senior Commissioner authority and may affirm, modify, alter or set aside the decision:

(1) Upon the request of any member of the Commission, any action taken by a Senior Commissioner shall be reviewed by the Commission.

(2) In the event action by a Senior Commissioner suspends, denies or revokes or otherwise directly and adversely affects any license, right or privilege of any person, that person may in writing request review by the Commission and shall be entitled to have the action of the Senior Commissioner reviewed by the Commission.

(3) The Commission may, in its discretion, review any action taken by a Senior Commissioner upon petition by any other person.

(e) *Final effect of action by Senior Commissioner.* In any matter, the action taken under Senior Commissioner authority shall be deemed the action of the Commission unless and until the Commission shall otherwise direct.

The foregoing rules shall be effective July 12, 1976. The Commission finds that the foregoing action relates solely to agency practice and procedure and that the public procedures and publication prior to the effective date of the rules in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, D.C. on July 7, 1976.

WILLIAM T. BAGLEY,  
Chairman, Commodity Futures  
Trading Commission.

[FR Doc. 76-20063 Filed 7-9-76; 8:45 am]

#### Title 18—Conservation of Power and Water Resources

##### CHAPTER I—FEDERAL POWER COMMISSION

[Docket Nos. R-424; 446; Order No. 530-B]

##### PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR CLASS A AND CLASS B PUBLIC UTILITIES AND LICENSEES

##### PART 104—UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES (CLASS C AND CLASS D)

##### PART 141—STATEMENTS AND REPORTS (SCHEDULES)

##### PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

##### PART 204—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES (CLASS C AND CLASS D)

##### PART 260—STATEMENTS AND REPORTS (SCHEDULES)

##### Uniform System of Accounts; Order Revising Prior Orders

JULY 6, 1976.

In the matter of: Accounting for premium, discount and expense of issue, gains and losses on refunding and reacquisition of long-term debt, and inter-period allocation of income taxes, and amendments to the Uniform Systems of Accounts for Classes A, B and C Public Utilities and Licensees and Natural Gas Companies; Deferred Income Taxes.

I. On February 17, 1976, a group of public utilities, listed in Appendix A ("Utility Group") filed a petition for rehearing of Order No. 530-A. Since that was a final order denying rehearing, the Commission treated the petition as one for reconsideration, and granted it solely for the purposes of further consideration on March 18, 1976. The Commission also allowed 20 days for parties to file responses to this motion, which time was later extended. A large number of utilities filed responses supporting the reconsideration, and generally urging that the Commission return to what was seen as the holding of Order No. 530 (see Appendix B for listing). A group of public systems filed a response urging the Commission to deny reconsideration of Order No. 530-A. We now have before us for final decision the entire record in Docket Nos. R-424 and R-446 as well as our prior decisions in Orders No. 530 and 530-A. (Order 530 (40 FR 26981, June 26, 1975), Order 530-A (41 FR 3849, Jan. 27, 1976).)

In Order No. 530 the Commission reviewed the changes in circumstances which supported the implementation in general of normalization, stated that normalization would be in the public interest and that "the Commission, as a matter of general policy, would favor ratemaking treatment upon a normalization basis, provided appropriate factual showings are developed in each instance." The nature of these factual showings was not elucidated in Order No.



530, and in fact, reflected some ambivalence on the part of the Commission concerning both the legal permissibility and the policy desirability of allowing normalization when its use resulted in what is variously described as a tax deferral or a tax savings. In Order No. 530-A the Commission asserted that "courts have required a finding that a tax deferral will occur rather than a permanent tax savings" in order to permit normalization of liberalized depreciation. And it stated that it would "of course \* \* \* require a showing by the utility requesting normalization \* \* \* that a tax deferral rather than a tax savings would occur \* \* \*".

Upon reconsideration, we find this reasoning to have been incorrect. For the reasons set forth below we find that there is no legal bar to the Commission either permitting or denying normalization of the tax effect associated with timing differences in the recognition of expenses for tax purposes and for book purposes. The principles of setting just and reasonable rates forbid the normalization of tax effects only when there will in fact be a permanent difference between treatment of items for tax purposes and book purposes. Examples of such permanent differences include treatment of municipal bond interest, political contributions, or depletion allowances permitted by statute.

In light of this conclusion, we reiterate our finding in Order No. 530 that the use of normalization for rate purposes would be beneficial and in the public interest, and announce that it shall be our policy to permit such normalization upon a showing simply that the tax effect being normalized relates only to timing differences rather than to permanent differences between book and tax treatment.

II. An early case concerning the legality and propriety of the Commission's granting tax normalization was *Amere Gas Utilities*, 15 F.P.C. 760. In that case the Commission upheld normalization of liberalized depreciation even though both the examiner's decision and a dissent pointed out that assuming an expanding plant in service, the deferred tax account treated as a whole would never reach a cross-over point and diminish. Id. at 771-773, 783-785. The Commission did so largely because of its view that this result was intended and mandated by Congress. Id. at 782. The Commission addressed the question of tax deferral versus tax savings by noting that with increasing plant in service "there is a continuing tax deferral so long as additional facilities are being installed." The Commission thus distinguished a "continuing deferral" from a true savings.

The Commission's approval of normalization was upheld in a series of cases including *El Paso Natural Gas Company v. F.P.C.*, 281 F. 2d 567, 573 (5th Cir., 1960); *Cities of Lexington, Kentucky, et al. v. F.P.C.* 295 F. 2d 109 (4th Cir., 1961); and *Panhandle Eastern Pipeline Company v. F.P.C.*, 316 F. 2d 659 (D.C. Cir., 1963). In these cases, however, the courts

specifically rejected the idea that Congress had intended that normalization be used. See, e.g. 281 F. 2d at 572-573; 295 F. 2d at 114-115. The court in *El Paso* specifically recognized, as an exception to the principle that ratemaking could only recognize the actual taxes paid in a given year, "the treatment to be afforded the tax saving or deferral resulting from the use by the taxpayer of the declining balance method of depreciation of new equipment. In practical effect this works a tax deferral rather than a tax savings." Thus, the courts in considering Commission approval of normalization during this period upheld such approval even though they specifically found that such a treatment was not required by Congress and even though they were cognizant of the effect of an ever-increasing plant balance.

In 1966, in the *Alabama-Tennessee* case (31 F.P.C. 208, affirmed 359 F. 2d 318 (5th Cir. 1966)), the Commission denied normalization of liberalized depreciation, because of changed conditions, and the policy implications of the continually increasing plant anticipated in that case. The Court of Appeals upheld that decision against the argument by the gas pipeline that the Commission was required to allow normalization. Both the Commission and the court emphasized the Commission's freedom to choose how to treat the effect of timing differences between tax and book accounting. 31 F.P.C. at 212; 359 F. 2d at 339.

This case has been taken by some as authority that the Commission must deny normalization in any case where its effect will be to create what is characterized as "Tax Savings" rather than a "Tax Deferral." To the contrary, the court emphasized at some length the Commission's discretion in establishing and applying the standards for cost of service.

The court noted approvingly the summary of the state of the law given in the brief for the Solicitor General, opposing Supreme Court review of the *El Paso* case where he stated as follows:

From this survey, it appears that, whatever merit there may be in either [the flow-through or normalization] method, the least that can be said is that a regulatory commission's choice between the two is assuredly within its discretion, depending on the particular views of the particular agency. No general issue of law is involved, only a discretionary choice among competing accounting systems. (Brief at 11-12)<sup>1</sup>

The series of statutes and cases concerning the treatment of liberalized depreciation do not significantly alter this underlying state of the law, that the Commission is free, unless specifically bound by statute, to adopt any accounting treatment which will result in a just and reasonable rate. In the Tax Reform Act of 1969, section 441, Congress did mandate that companies had an absolute right to abandon the flowthrough method of accounting for post-1969 ex-

pansion property. Even here, Congress impinged only lightly on the Commission's jurisdiction, giving the companies an absolute right to use straight-line depreciation, but requiring Commission approval for normalization. The Commission gave that approval for post-1969 expansion property in Order No. 404, 43 F.P.C. 740.

It should be noted that the Commission thereby approved normalization in a situation which would lead to exactly the type of deferral which is alleged to be an illegitimate "tax savings" if constantly increasing plant in service is assumed. The Commission decision was nevertheless upheld in *Memphis Light v. F.P.C.*, 462 F. 2d 853, 865 (D.C. Cir. 1972), cert. denied, 409 U.S. 941 (1972).

The Commission also decided that since post-1969 expansion property would be treated separately, there could thus be no additions or expansions to counterbalance the declining depreciation on pre-1970 property. Therefore, it allowed normalization for such property, as well. *Texas Gas Transmission*, 43 F.P.C. 824. This ruling was upheld by the Supreme Court and the Court of Appeals in *F.P.C. v. Memphis Light*, 411 U.S. 458; 500 F. 2d 798 (D.C. Cir., 1974), on remand. It should be noted that in this case the Commission itself recognized that prior court rulings had not mandated a particular outcome. It stated, 43 F.P.C. at 829, "[i]t should be observed that while we were upheld in requiring flow-through in both these cases [*Alabama-Tennessee*, *supra*, and *Midwestern Gas Transmission*, 36 F.P.C. 611], the court in neither case indicated that we were required to order that the companies use flow-through."

Again, the courts dealt with the situation in terms of the Commission's own standard of deferral versus savings. They never held that this distinction was required, nor that the Commission in its expertise might not decide to allow normalization even where there was the possibility of continual increments to plant. See 500 F. 2d at 807, and n. 61, noting that while any "normalization" literally violates the principle that rates should be based only on actual taxes paid, it is permissible because "while Texas Gas is not currently paying taxes at straight-line rates, it is incurring the liability now to pay increased taxes in the future."

Thus, this sequence of statutes and cases provides no authority for the proposition that the Commission is prohibited from ruling either for flow-through accounting or normalization, in the absence of a specific Congressional mandate.

The reasons given in Order No. 530 for allowing normalization (especially pp. 9-11) amply support the Commission's gen-

<sup>1</sup> The "actual taxes paid" principle has also been somewhat eroded recently by rulings such as *Texas Gas Transmission*, *supra*, p. 3, concerning post-1969 expansion property, and Commission Order 448, allowing natural gas companies to retain the benefits of investment tax credits.

<sup>2</sup> 359 F. 2d at 335, note 34 (also cited at 31 F.P.C. at 212, note 8).



eral policy. The Commission there stated:

The adoption of normalization of income taxes for rate purposes will contribute to the health of the electric and natural gas industries by increasing cash flow and by reducing external financing requirements. In addition, normalization will contribute to the financial stability of companies and improve fixed charge coverages.

For the aforesaid reasons, we believe that the cash flow which would result from the use of normalization for rate purposes would be beneficial and in the public interest \* \* \*

III. We agree that in general a company may not be considered as having paid taxes when such taxes will, in fact, never be paid. With regard to the items at issue in Orders No. 530 and 530-A, however, the most that can be said is that the accounting for any particular item or piece of plant, simply causes taxes to be deferred. A company will pay lesser taxes in the current year, or the next several years with respect to an item, but it will pay greater taxes in years further in the future because of the earlier treatment. Thus, it is only appropriate that the benefits of that tax treatment be normalized, that is, spread over the ratepayers in all of those years. And this analysis is correct even if later construction means that a similar cycle is starting on another piece of plant, as the initial cycle is ending.

It has been argued that under conditions of constantly increasing plant in service, the unfavorable tax treatment in the later period of the life of a plant will always be offset and outweighed by the favorable treatment of the early life of recently constructed plant. This possible outcome was rejected as a basis for denying normalization of liberalized depreciation in Order No. 404, *supra*. We again reject that logic as a basis for denying normalization. The actual outcome of a series of years' use of normalization cannot be known until the time comes. But if the tax effect of each year's construction is spread equitably over the plant's life, the aggregate result cannot but be equitable.

The discussion above indicates the legality of the Commission's allowing normalization even in the situation of liberalized depreciation and a constantly increasing plant in service. The additional items for which normalization is authorized under Order No. 530 are even less subject to the argument that an unfair tax savings will result. This is because the condition which triggers the tax benefit in the most important of these cases is not the existence of a large amount of plant in service on which depreciation is being taken, but rather the incidence of uncompleted construction. Thus, the tax timing differences associated with items 2, 3 and 7 listed at pages 6-7 of Order 530, all of which relate to the treatment of expenses during construction, are affected only by the amounts of uncompleted construction, rather than by the total plant in service.

The net tax effect of the timing differences created by the immediate deduc-

tion of such items for tax purposes while they are capitalized for book purposes can essentially be gauged by comparing the tax deferrals created in any given year by the deduction of such items during construction with the proportionate amortization of tax deferrals from all prior years. It is thus obvious that in any year in which plant construction slackens, a company's deferred taxes amortized could exceed its new deferrals. Since, in reality, the amount of construction in progress for any specific company will vary significantly from year to year, normalization is especially appropriate.

The other items listed are generally less significant in amount, and are items on which it is again unlikely that any consistent pattern of continuous growth can be found. The relationship between tax and book lives of property in the future is quite uncertain, and dependent on future Congressional action (item 4); it is certainly not the policy of this Commission that regulatory commission expense may be confidently assumed to grow indefinitely (item 1); and the amounts of fuel costs deferred, to the extent, if any, such deferrals are approved by the Commission, may vary widely depending on market factors and the actions of regulatory commissions (item 6). Finally, the timing differences rising from normalization of item 5, the use of the "removal cost" feature of the Revenue Act of 1971, would be quite the opposite of a tax saving, as such amounts are depreciated for book purposes over the life of plant, but not taken for tax purposes until the plant is actually retired.

In short, we believe that the Commission's intention in Order No. 530-A should be restated so as to allow normalization in any case where the difference in the recognition of an item for tax and book purposes is clearly only a timing difference. The seven items specifically listed in Order No. 530 at pages 6 and 7 represent items for which there is only a timing difference. Normalization will not be permitted for items on which it can be shown that the difference between the recognition of such items for tax and book purposes is a permanent difference.

Short of that situation, the Commission is legally free to adopt any of the various competing accounting systems, and it does hereby choose to adopt the method of normalization as set forth in Order No. 530. Thus, where the accounting treatment of any item differs from the tax treatment so that tax benefits or expenses accrue at times different from those indicated on the company's books, the tax effects so involved may be normalized.

As we have concluded that there is no judicial bar to the allowance of normalization in these cases, we now believe there is no need for a specific factual showing supporting normalization in each rate proceeding, and the Commission's policy favoring normalization should be implemented in each case.

There are several benefits from this procedure. By a finding that tax normalization is appropriate in all cases, we reduce uncertainty concerning allowable revenues of regulated companies. The ability to attract capital is thus improved, with resultant lower costs to consumers. Financial planning by both utilities and customers is facilitated. In addition, a consistent determination of this issue should help in our effort to reduce the length of time rate cases remain pending with accompanying benefits to both the public and the industry.

Finally, as noted in Order No. 530-A, we shall continue our policy of deducting the deferred taxes in Accounts 282 and 283 from rate base. This will result in a sharing of the benefits of normalization with the customers of the utility.

The Commission finds. Good cause exists to grant the application for reconsideration filed by the Utility Group as herein ordered and conditioned.

The Commission orders. (A) The application for reconsideration filed by the Utility Group is granted.

(B) The original decision of the Commission in Order No. 530 is affirmed and readopted, except that for rate purposes normalization will be permitted of the tax effect of all timing differences in the treatment of items for tax purposes and book purposes. Normalization will not be permitted where the difference in treatment of the items for tax purposes and book purposes is a permanent difference.

By the Commission.

KENNETH F. PLUMS,  
Secretary.

#### APPENDIX A

##### THE UTILITY GROUP

Alabama Power Company  
Baltimore Gas and Electric Company  
Boston Edison Company  
Central Illinois Light Company  
Commonwealth Edison Company  
Iowa Power & Light Company  
Jersey Central Power & Light Company  
Long Island Lighting Company  
Metropolitan Edison Company  
Montana Power Company  
New England Power Company  
Pacific Power & Light Company  
Pennsylvania Power & Light Company  
Public Service Company of Indiana  
Public Service Company of New Hampshire  
Virginia Electric and Power Company

##### PERSONS FILING JOINDER IN THE UTILITY GROUP PETITION

Northern States Power Company  
Florida Power Corporation  
Minnesota Power and Light Company

#### APPENDIX B

Arkansas-Missouri Power Company  
Arkansas Power & Light Company  
Arthur Andersen & Company  
Carolina Power & Light Company  
Central and Southwest Corporation  
Cincinnati Gas & Electric Company  
Commonwealth Edison Company  
Consumers Power Company  
Duke Power Company  
Federal Energy Administration  
Florida Power & Light Company  
Georgia Power Company  
Gulf Power Company



Interstate Natural Gas Association of America  
Iowa-Illinois Gas and Electric Company  
Louisiana Power & Light Company  
Middle South Utilities, Inc.  
Mississippi Power and Light Company  
Nevada Power Company  
New Orleans Public Service Inc.  
Northeast Utilities and its System Companies  
Northern Natural Gas Company  
Oklahoma Gas and Electric Company  
Potomac Electric Power Company  
Southern California Edison Company  
Southern Services, Inc.  
Southwestern Electric Power Company  
Tampa Electric Company  
Utah Power & Light Company

[FR Doc.76-20037 Filed 7-9-76;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

[FHWA Docket No. 76-11]

PART 655—TRAFFIC OPERATIONS

Subpart H—Right-Turn-on-Red at Signalized Intersections

• **Purpose.** These interim regulations are being issued by the Federal Highway Administration (FHWA) in order to establish an interim national policy on permitting vehicular turns on a steady red traffic signal after stopping and yielding the right-of-way to vehicles and pedestrians in the intersection.

The Energy Policy and Conservation Act (Pub. L. 94-163) enacted December 22, 1975, at Part C, section 362(c) (5) requires that State energy conservation plans, to be eligible for Federal assistance, include "a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping." In recent years, many States have permitted right-turn-on-red (or left-turn-on-red for one-way streets onto which the traffic is not permitted to turn right). In 1975, section 11-202 of the Uniform Vehicle Code was amended to permit a right turn after stopping for traffic facing a steady red traffic signal, except when a sign is in place prohibiting such turn. Thirty-six States now follow this recommendation. Twelve States allow a right-turn-on-red (RTOR) only when a sign is in place permitting the turn. Two other States permit RTOR at all intersections. At the request of the National Advisory Committee on Uniform Traffic Control Devices the FHWA conducted a study (1) to determine whether permitting RTOR is desirable and, if so, (2) to recommend guidelines for uniform application of the practice nationwide. This study concluded that the RTOR feature:

1. Reduces delay, especially to the right-turning vehicles, for nearly all conditions;
2. Increases intersection capacity over a given period of time, thereby improving the level of service;

3. Reduces fuel consumption and auto emissions as a result of the reduced idling in the travel lane nearest the left lane for right-turning vehicles at intersections; and

4. Results in an insignificant number of accidents.

Uniformity of traffic control devices and traffic laws is needed in order to maintain safe and efficient motor vehicle travel. Therefore, FHWA recommends a national policy regarding RTOR (or left-turn-on-red where appropriate) whereby this turn is permitted after stopping except where signs are in place prohibiting the movement at selected intersections.

The interim regulations will remain in effect pending the issuance of final regulations. Interested parties and governmental agencies are urged to submit written comments, views and data concerning these interim regulations and to make recommendations as to possible final regulations. Please send three (3) copies of all comments and materials to: Federal Highway Administration, Room 4230, 400 Seventh Street, SW., Washington, D.C. 20590, and refer to the above docket number (76-11). Any comments submitted should include the name and address of the person or organization submitting it. All comments must be submitted on or before August 26, 1976 (the closing date) in order to be considered. Comments and materials received will be available for public inspection both before and after the closing date in Room 4230, Office of Chief Counsel, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

The interim regulations are effective as of July 15, 1976.

Issued on: July 2, 1976.

NORBERT T. TIEMANN,  
Federal Highway Administrator.

Chapter I of Title 23, Code of Federal Regulations, is amended by adding a new Subpart H to Part 655 as set forth below:

Subpart H—Right-Turn-On-Red at Signalized Intersections

Sec.  
655.801 Purpose.  
655.803 Policy.  
655.805 Action.  
AUTHORITY: Pub. L. 94-163; 23 U.S.C. 109 (d), 315, 402(a); 49 CFR 1.48.

Subpart H—Right-Turn-On-Red at Signalized Intersections

§ 655.801 Purpose.

The purpose of this subpart is to set forth an interim national policy on permitting vehicular turns at a steady red traffic signal.

§ 655.803 Policy.

It is the policy of the Federal Highway Administration (FHWA) that after stopping and granting the right-of-way to vehicles and pedestrians lawfully

using the intersection, vehicular turns on a steady red traffic signal should be permitted as follows unless a sign prohibiting this movement is placed at the respective intersection:

(a) A vehicle traveling on a one-way hand curb or other defined edge of the roadway may turn left onto another one-way street on which all the traffic is moving to said vehicle's left.

(b) A vehicle traveling in the travel lane nearest the right hand curb or other defined edge of the roadway may turn right onto a two-way street or onto another one-way street on which all the traffic is moving to said vehicle's right.

§ 655.805 Action.

Guidelines for prohibiting the right-turn-on-red (RTOR) (or left-turn-on-red (LTOR) where appropriate) movement at specific intersections are as follows:

(a) RTOR should be prohibited where:  
(1) Sight distance of vehicles approaching from the left is less than the following minimums:

Cross street speed limit (m.p.h.):	Minimum sight distance (feet) <sup>1</sup>
20	120
25	150
30	190
35	220
40	270
45	320
50	360
55	410

<sup>1</sup> Sight distance as measured from the stop line if pedestrian crosswalks are present, or if none, from the edge of the cross street pavement or curb line.

(2) The intersection has more than four approaches or has restricting geometrics which cause additional conflicts. (The restriction should apply to only those approaches which have multiple or unusual conflicts that are not easily identified by the motorist).

(3) There is an exclusive pedestrian phase during which pedestrians can cross all crosswalks.

(4) The intersection is within 200 feet of a railroad grade crossing, and the signal controller is preempted during train crossings. (The prohibition should apply only to the approach from which right turns are made into the railroad crossing lane.)

(b) RTOR may be prohibited where:

(1) Significant pedestrian conflicts are resulting from RTOR maneuvers.

(2) More than one RTOR accident per year has been identified for any particular approach.

(3) There is an unusual movement such as double left turns from opposing traffic that would not be anticipated by the RTOR driver.

(4) There are school crossings or any areas where there are large numbers of children expected.

[FR Doc.76-20059 Filed 7-9-76;8:45 am]



## Title 26—Internal Revenue

## CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

## SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

## REPUBLICATION OF 1939 CODE EXCISE TAX REGULATIONS NOT ENTIRELY SUPERSEDED

In the FEDERAL REGISTER for February 23, 1976, it was announced that the codification in Title 26 of the Code of Federal Regulations (Internal Revenue) of documents of general applicability and future effect as of April 1, 1976, will include, as an appendix to Subchapter D, §§ 316.1 through 316.29 of Part 316 of Treasury Regulations 46 (26 CFR (1939) Part 316). In the FEDERAL REGISTER for March 1, 1976, it was announced that this appendix will also include § 330.1-1 of Part 330 (Determination of Price and Price Readjustments), which was adopted by Treasury Decision 6340, 23 FR 9692, December 16, 1958.

Notice is hereby given that the appendix will also contain the explanatory material set forth below.

JAMES F. DRING,  
Director,

Legislation and Regulations Division.

HEADNOTE FOR 26 CFR (1939 CODE)  
PART 316

Sections 316.200 et seq., relating to filing requirements, etc., have been superseded. For regulations relating to administrative provisions of special application to manufacturers excise taxes, see Subpart O of 26 CFR Part 48 (26 CFR 48.6011(a) through 48.6675-1).

FOOTNOTES FOR 26 CFR (1939 CODE)  
PARTS 316 AND 330

§ 316.2—§ 316.2 sets forth the effective dates of various excise tax laws enacted before 1955. It is reproduced here for informational purposes.

§ 316.6—§ 316.6 does not apply with respect to sales after December 31, 1958. For rules applicable to sales after that date, see §§ 48.4219 and 48.4219-1.

§ 316.7—§ 316.7 does not apply with respect to sales after December 31, 1958. For rules applicable to sales after that date, see §§ 48.4218 through 48.4218-5.

§ 316.9—See section 4217(b) of the Internal Revenue Code of 1954 for a limitation on the amount of tax payable on lease payments.

§ 316.15—Paragraph (b) of § 316.15 does not apply with respect to sales at retail after December 31, 1958. For temporary rules applicable to such sales after that date, see § 148.1-5.

§ 316.20 through 316.23—§ 316.20 through 316.23 do not apply with respect to sales after December 31, 1958. For temporary rules applicable to sales after that date, see § 148.1-3.

§ 316.24 and 316.25—§ 316.24 and 316.25 apply with respect to sales to purchasers who are not registered pursuant to section 4222 of the Internal Revenue Code of 1954. For temporary rules applicable to sales to purchasers who are so registered, see § 148.1-3.

§ 316.28 and 316.29—The procedures set forth in §§ 316.28(1) through (q) and 316.29 (c) do not apply with respect to sales after December 31, 1958. For temporary rules relating to tax-free sales of supplies for vessels or aircraft to a purchaser who is registered pursuant to section 4222 of the Internal Revenue Code of 1954, see § 148.1-3. For

temporary rules relating to such sales to a purchaser who is not so registered, see § 145.4-1.

§ 330.1-1—In the case of articles sold after December 31, 1960, § 330.1-1 does not apply to certain local advertising charges. For rules relating to the treatment of such charges in the case of sales after December 31, 1960, see §§ 48.4216(f) through 48.4216(f)-3.

[FR Doc.76-20064 Filed 7-7-76; 4:18 pm]

## Title 28—Judicial Administration

## CHAPTER I—DEPARTMENT OF JUSTICE

## PART 42—NONDISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES

## Equal Employment Opportunity in Federally Assisted Programs and Activities

On page 56454 of the FEDERAL REGISTER of December 3, 1975, there was published a proposal to amend § 42.206. The change eliminates the preference for judicial proceedings over administrative proceedings in the event of civil rights non-compliance by recipients of financial assistance from the Law Enforcement Assistance Administration. Interested persons were asked to provide comments to LEAA by January 19, 1976. After giving due consideration to all comments submitted with respect to the proposed amendment, the amendment is adopted.

In addition, the following changes have been made after further consideration by the Administration:

(1) The clause "and shall issue and promptly make available to interested persons forms, instructions, and procedures for effectuating this subpart as applied to programs for which he is responsible" is eliminated from the first sentence;

(2) The section reference "510" is changed to "509."

Section 42.206(a) is revised to read as follows:

§ 42.206 Conduct of investigations, procedures for effecting compliance, hearings, decisions, and judicial review.

(a) Each responsible Department official shall take appropriate measures to effectuate and enforce the provisions of this subpart. The conduct of investigations and the procedures for effecting compliance, holding hearings, rendering decisions and initiating judicial review of such decisions shall be consistent with those prescribed by §§ 42.107 through 42.111 of Subpart C of this part: *Provided*, That no recipient of Federal financial assistance or applicant for such assistance shall be denied access to the hearing or appeal procedures set forth in sections 509 and 511 of the Act for denial or discontinuance of a grant or withholding of payments thereunder resulting from the application of this subpart.

Effective Date: This amendment takes effect on July 12, 1976.

RICHARD W. VELDE,  
Administrator, Law Enforcement  
Assistance Administration.

[FR Doc.76-20057 Filed 7-9-76; 8:45 am]

## Title 33—Navigation and Navigable Waters

## CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD5-76-04R]

## PART 127—SECURITY ZONES

## Establishment of Security Zones; Hampton Roads—James River—Newport News, Virginia

This amendment to the Coast Guard's Security Zone Regulations establishes the waters of the James River in the area of the Newport News Shipbuilding and Drydock Company, Newport News, Virginia as a security zone. This security zone is established to prevent interference with the launching of the Guided Missile Cruiser U.S.S. *Mississippi* at the Newport News Shipbuilding and Drydock Company, Newport News, Virginia.

This amendment is issued without publication of a notice of proposed rule-making, because this security zone involves a military function of the United States.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.506 to read as follows:

§ 127.506 Hampton Roads — James River—Newport News, Virginia.

The waters within the following boundary is a security zone: A line beginning at a point on Newport News Shipbuilding Pier 2 at position 36°58'48" N, 76°26'26" W to a position at 36°57'53" N, 76°26'42" W, thence to a position at 36°59'07" N, 76°27'57" W, thence to a point on shore at position 36°59'35" N, 76°26'55" W, thence to the point of beginning.

(40 Stat. 220, as amended, (sec. 1, 63 Stat. 503), sec. 6(b), 80 Stat. 937; 50 U.S.C. 191, (14 U.S.C. 91), 49 U.S.C. 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949-1953 Comp. 356, 778, 873, 3 CFR, 1964-1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b).)

Effective date: This amendment is effective from 1030Q to 1400Q, July 31, 1976.

Dated: June 16, 1976.

R. E. SAWYER,  
Commander, U.S. Coast Guard,  
Acting Captain of the Port.

[FR Doc.76-19891 Filed 7-9-76; 8:45 am]

## Title 39—Postal Service

## CHAPTER I—U.S. POSTAL SERVICE

## PART 111—GENERAL INFORMATION ON POSTAL SERVICE

## Mail Classification Changes Implementing Regulations

In the June 3, 1976, FEDERAL REGISTER (41 FR 22375) there appeared a Postal Service Notice of proposed rulemaking pertaining to amendments to Chapter I of the Postal Service Manual. The proposed amendments dealt with regulations that would implement changes in the mail classification schedule recommended by the Postal Rate Commission (Rate Commission Docket No. MC73-1, Phase I, issued April 15, 1976). The Governors of the Postal Service approved



the recommended decision of the Postal Rate Commission on June 2, 1976.

Interested persons were invited to submit written data, views or arguments concerning the proposed revised regulations. Numerous comments have been received from various persons and organizations. These comments were carefully considered by the Postal Service in formulating the regulations set forth below.

Many commenters generally remarked on the need to assure the local postal officials properly implement these new classification categories. Examples were cited of cases where misunderstandings between mailers and postal officials have resulted. These examples, as appear from the comments, occurred following very early inquiries concerning the new classifications. The Postal Service has since taken measures to assure that all officials are fully informed of the features of the new classifications.

Many commenters on the presorted first-class mail regulations addressed provisions concerning use of metered postage. Suggestions were made that all pieces in a mailing should be allowed to be metered at one rate (either the lower presort rate for 5-digit and 3-digit pieces, or the higher presort rate for residual pieces) with either refunds made (if all pieces are metered at the higher rate) or additional payment made when the mailing is presented (if all pieces are metered at the lower rate). Such a procedure would require that the Postal Service verify the number of pieces qualifying for the lower rate in a metered mailing in order to verify the amount of the refund, or additional payment. Since metered mailings need not be of identical weight, there is no practical way such a verification could be performed. Accordingly, this suggestion has not been adopted.

One commenter argued that there would appear to be no reason to require that metered pieces be submitted with a mailing statement if full single-piece rate postage is paid. Pieces paid at the full single-piece rate need only be submitted with a mailing statement if the pieces bear "Presorted" markings. The mailing statement is a necessary element of internal revenue and volume data systems and hence must accompany presorted mailings. We note here, however, that pieces may not bear "Presorted" markings unless submitted as part of a presorted mailing.

Another commenter argued that metered mailings of pieces that weigh less than one ounce, but which are not identical weight should not have to be segregated and volumes reported by weight category. Mailing of nonidentical weight pieces within the same postage rate increment will be permitted for metered mailings, as provided in the proposed regulations. The volumes need not be reported in the mailing statement by weight category within each postage rate increment.

Commenters also addressed the regulations governing presorted mail bundling requirements. They suggested that the

use of separation tabs, rather than bundling with rubber bands should be permitted, that bundling with string be allowed, and that mailers should not be required to supply their own rubber bands if the Postal Service would not return rubber bands for reuse. The regulations do provide that separation tabs may be used, where authorized by the local Postmaster. Bundling with string is not authorized in the regulations because our experience has been that an unacceptably high rate of failure in bundles wrapped with string occurs. Accordingly, only rubber bands will be permitted for bundling presorted first-class mail. The final regulations have been amended to provide that the Postal Service will supply presorted first-class mailers with rubber bands, to ensure that rubber bands of the requisite quality are available, and used.

One commenter suggested that the proposed regulations be clarified to assure that all post cards, including those billing cards which, under current regulations, must be presorted under Postal Service Manual, Section 131.24, are eligible for presorted first-class mail rates. The final regulations have been so clarified.

One commenter correctly noted that the proposed regulations should provide that presorted first-class mail left over after filing City trays should be placed in SCF trays, rather than in mixed States trays, and the final regulations so provide.

Commenters also suggested that the proposed presorted first-class mail regulations, as written, do not expressly recognize existing plant load programs. The regulations do not preclude postmasters from establishing procedures for accepting presorted first-class mail under plant load arrangements. No changes in plant load policies are being made.

Another commenter argued that acceptance procedures for verifying the presort were too stringent and may delay processing, and further suggested that payment of additional charges for disqualified pieces through a trust account should be allowed. The verification procedures are designed to ensure that presort requirements are met, in order to ensure that the Postal Service recovers the cost saving on which the presort rates are based. The Postal Service has little experience verifying the kind of presort requirements that apply to presorted first-class mail. After experience is gained with the new presort category, acceptance procedures will be reviewed to determine whether changes should be made. Disqualification of mailings that result in requiring mailers to pay additional postage is expected to be an infrequent occurrence. The mailer should be confident that a mailing will qualify as presorted first-class mail before it is presented. Therefore the Postal Service is not establishing additional procedures for facilitating payment of additional postage for disqualified mail through trust accounts.

Comments on the presorted first-class mail regulations also suggested that pre-

cancelled or mailer cancelled stamps should be permitted. Under one proposal, a special stamp, at the lower presort rate, would be required. Under another, use of the full rate stamps, with a refund for pieces qualifying for the lower presort rate, would be required. The Postal Service is unable at present to determine whether a special stamp would be warranted in light of expected usage. Nor is it possible at this time to determine whether there would be sufficient usage to warrant the additional procedures that would be required if precancelled or mailer cancelled stamps were permitted, with or without the additional procedures for refunds. Without foreclosing the use of cancelled stamps on presorted first-class mail in the future, pending further evaluation, the regulations have not been amended to permit use of stamps on presorted first-class mail. Postage on presorted first-class mail must be paid either by meter or permit imprint.

A number of commenters opposed application of the full \$75 per calendar year accounting fee for business reply advance deposit accounts for the September 12 to December 31, 1976, period. The arguments on this point are well taken. Generally, the amount of the advance deposit account charge, and the existence of the advance deposit/non-advance deposit categories are intended to serve the dual functions of compensating the Postal Service for operations required in serving advance deposit customers, and of assuring that low volume business reply users, for whom use of an advance deposit account would not be economical, are able to continue their use of business reply mail. The \$75 account charge thus establishes a volume break point at which it becomes economical for mailers to pay 3.5 cents per piece plus the accounting charge, rather than the 12 cent per piece charge. Because the September 12, 1976, date for the new advance deposit category is not the result of conditions over which users have any control, and because the failure to prorate the advance deposit account charge for the September-December period would disturb the volume break at which use of advance deposit accounts is economical both for the mailer and the Postal Service, the advance deposit account charge will be prorated. As with the other \$30 calendar year fees, for presorted categories, the \$30 permit fee for all business reply users will not be prorated because the prorated fees would not compensate the Postal Service for the operations associated with the permit system.

Other comments suggested clarification with respect to the number of business reply mail permits and advance deposits accounts that must be maintained. The final regulations include such clarification.

As originally proposed, regulations concerning nonstandard mail provided that mail pieces that were nonstandard would be subject to the nonstandard surcharge, if mailed at bulk third-class rates, when accorded forwarding or return to sender service. As originally in-



tended, the application of the surcharge would be limited to those instances in which the single-piece third-class postage date was charged for the forwarding/return service.

Commenters have submitted extensive arguments in opposition. Included were arguments that such a regulation is inconsistent with the terms of the classification schedule recommended by the Postal Rate Commission and approved by the Governors of the Postal Service, and that technically, forwarded and returned bulk rate third-class mail is not single-piece third-class mail. As noted below, another commenter suggested the size standards for nonstandard mail should be changed to accommodate 8½" x 11" pieces mailed at bulk third-class rates, since, in the commenter's view, such pieces would be subject to surcharge if accorded forwarding or return to sender service.

The nonstandard surcharge, of course, applies to single-piece third-class mail, but not to bulk-rate third-class mail. Without necessarily accepting these arguments, the Postal Service has determined not to promulgate the proposed regulation concerning forwarded and returned mail in this rulemaking. The amount and structure of the surcharge must be determined at a later date, in a formal proceeding before the Postal Rate Commission, at which time a full airing of the various arguments can be made.

Comments also were offered on the minimum size standards concerning mailable matter, to the effect that regulations should incorporate certain provisions of a settlement agreement approved by the Postal Rate Commission concerning the Postal Service's agreement to collect and make available data on undersized mail pieces. The regulations that are the subject of this rulemaking are proposed amendments to the Postal Service Manual. The Postal Service Manual is not the proper vehicle for promulgating such material. Hence no such provision has been incorporated in the final regulations, although there is, of course, no intention to depart from the referenced settlement agreement terms.

No comments were submitted on the proposed regulations pertaining to the new bulk parcel post and bound printed matter categories. The regulations have been amended, however, to remove from the section dealing with the form of permit imprint (Postal Service Manual § 145.5) the illustration of the fourth-class bulk catalog imprint, which appeared in the proposed regulations through inadvertence. As noted in the summary and text of proposed section 135.12 of the Postal Service Manual in the June 3 notice, the fourth-class catalog category is discontinued and a new bound printed matter category, which includes former fourth-class catalogs, has been substituted. Mailers of bound printed matter who have material printed with the catalog endorsement will be permitted to continue to use that catalog form of imprint until their supply is exhausted.

Comments on the proposed regulations concerning presorted special-rate fourth-class mail address preparation requirements and acceptance procedures. Commenters suggested that the word "Presorted" should be permitted on pieces not mailed at the presort rates. This will not be authorized. The purpose of this marking is to identify pieces mailed in the new presorted special-fourth category, and is a necessary feature of Postal Service internal costing systems. Were "Presorted" markings permitted on single-piece rate mail, the resulting cost information would not be accurate, for the cost data for the single-piece category would understate the actual costs for that mail, and would overstate the costs for the presorted category. In support of their position, the commenters argued that presorted markings on residual pieces of presorted first-class mail are permitted although the rate for such residual pieces is not reduced. The markings on residual pieces of presorted first-class mail are required, since such pieces are included in the presorted first-class category for internal costing systems purposes.

One commenter argued that the definitions for machinable parcels should be amended and lowered to include 8 ounce pieces. These definitions have no impact on the presorted special-fourth user other than for sack labeling purposes. At present, the experience of the Postal Service is that a reduction to 8 ounces is not advisable. The machinable parcel criteria are subject to further evaluation, and possible revision, as warranted by further experience within bulk mail center operations.

Commenters also argued that presort verification procedures are too stringent and should recognize that an entire mailing, consisting of volumes in excess of the minimum volume requirements, should not be disqualified without regard to the quantity that satisfies the presort requirements. Compliance with presort requirements is essential if the Postal Service is to recover the cost savings on which the presort rates are based. In addition the Postal Service has little experience with verification procedures for presortation requirements of this kind. It is the intention of the Postal Service that verification procedures will be reviewed to determine whether changes are warranted after the presort category has been in effect for a reasonable period.

Commenters also suggested that the proposed regulations implementing the presorted special-fourth class categories may automatically preclude mailing of presorted mail as part of a plant load program. Postmasters are not precluded from establishing procedures for accepting presorted mail as part of a plant load program; no change in plant load policies are being made.

Many commenters suggested changes that the Postal Service is unable to make because the suggested changes are inconsistent with terms of the Mail Classification Schedule recommended by the Postal Rate Commission and accepted by the Governors of the Postal Service.

One government agency suggested a one-half cent per piece reduction from the full first-class rate be allowed for first-class mailings presented in ZIP Code sequence which the Postal Service would bundle, tray, label and pouch. While government mailings are eligible for presorted first-class rates, the Postal Service is unable to establish a new, separate, more or less hybrid, presort category for such mailings as part of its regulations implementing the new classifications.

Another commenter suggested that the lower presorted first-class rate should be applied to mailings that are presorted only to 3-digit ZIP Code destinations, rather than to 5-digit and 3-digit ZIP Code destinations. To omit the 5-digit presort requirement would prevent the Postal Service from realizing the full anticipated cost savings on which the presort rate is based.

Commenters also proposed that residual pieces of presorted first-class mail should qualify for the lower presort rate since such pieces must be presented in ZIP Code sequence. The Mail Classification Schedule approved by the Governors of the Postal Service specifically provides that the lower presort rate is available only for 5-digit and 3-digit presorted pieces and that residual pieces are not eligible for the lower presort rate.

Some commenters argued that the business reply fee of 3.5 cents for advance deposit users and 12 cents per piece for other business reply mailers is unfair to users who do not maintain advance deposits. The level of the fees for these categories was recommended by the Postal Rate Commission and approved by the Governors of the Postal Service and cannot be changed in these regulations. The fees are designed to reflect the cost differences of the two kinds of business reply service.

One commenter proposed that the size standards for nonstandard mail should be relaxed to provide that 8½" by 11" envelopes would not be subject to the nonstandard surcharge. The precise size standards defining nonstandard mail were recommended by the Postal Rate Commission and approved by the Governors of the Postal Service, and were based, in part, on the envelope sizes which, unlike 8½" x 11" envelopes, can be processed on postal machinery.

Other commenters proposed that changes should be made in presorted special-rate fourth-class regulations to provide that presort level B should apply to mail presorted to three-digit bulk mail center locations, and that presort level B should be available to volume mailings that are not presorted to 5-digit ZIP Code destinations whenever possible but which are presorted to 3-digit ZIP Code destinations. As recommended by the Postal Rate Commission and approved by the Governors of the Postal Service, the present level B category is expressly predicated on presortation to 5-digit and 3-digit ZIP Code destinations. The three-digit bulk mail center destinations mentioned by the commenter are not ZIP Code destinations.



Similarly, as recommended by the Postal Rate Commission, and approved by the Governors of the Postal Service, the presort level B mailing must be presorted to 5-digit ZIP Code destinations when there are four or more pieces, twenty or more pounds, or at least one-third of a sack for a five-digit ZIP Code destination. Accordingly, the presort rate is not available for mailings presorted only to three-digit ZIP Code destination or to mailings presorted to 5-digit and bulk mail center destinations.

Accordingly, having given due consideration to all comments received, the Postal Service has determined to adopt the following Amendments to the Postal Service Manual, with the following changes from the original proposal:

1. Section 131.121 as proposed has been amended to add an identical weight requirement, inadvertently omitted in the earlier formulation and to add a provision making it clear that billing cards subject to section 131.224 are eligible for presorted first-class rates.

2. Section 131.233 as proposed has been amended to make clear that the business reply permit fee is a calendar year fee, that a single business reply permit may be used when a copy of the receipt for payment of the permit fee is provided to each office where the business reply mail is returned, and that the business reply advance deposit account can be used only for payment of business reply postage and fees.

3. Section 131.51 as proposed has been amended to permit the use of a carrier sequence code (which includes the ZIP code) on presorted first-class mail.

4. Section 131.542 as proposed has been amended to provide that rubber bands used for bundling presorted first-class mail will be provided by the Postal Service.

5. Section 131.544 as proposed has been amended to provide that the total weight of pieces in a pouch must not exceed 50 pounds, rather than 70 pounds as originally proposed.

6. Section 131.545b as proposed has been amended to provide that mail presorted to city, left over after filling city trays should be placed in an SCF tray.

7. A new section 131.545d has been added, and the following subsections redesignated. The added section provides a recommendation that presorted mail remaining after filling SCF trays be made up in state trays.

8. A new section 131.545c has been added and the following subsections redesignated. The added section provides for riffling one tray of residual mail to verify it is in ZIP code sequence.

9. A new section 131.545j has been added setting forth conditions under which presorted first-class mail bearing erroneously dated metered strips will be accepted.

10. Section 134.33 as proposed has been amended to delete the reference to mail forwarded and returned that originally was mailed at bulk third-class rates.

11. Section 135.25 as proposed has been amended to clarify the distinction between the presort level A and level B categories.

12. Section 135.256 as proposed has been amended to correct erroneous pouch label illustrations.

13. Sections 136.13 and 136.4 as proposed have been amended to conform the presorted airmail text to the comparable presorted first-class mail text.

14. Section 143.3 as proposed has been amended to delete the fourth-class catalog permit imprint illustration.

Numerous minor technical and editorial or style changes and corrections have also been made.

In view of the considerations discussed above, the Postal Service hereby adopts the following revisions in the Postal Service Manual, effective 12:01 a.m., July 6, 1976, except for the changes in section 131.23, which are effective at 12:01 a.m. September 12, 1976.

#### PART 131—FIRST CLASS

1. Section 131.1 is revised to read as follows:

131.1 Rates (Effective December 31, 1975)

.11 Single piece rates. The single piece rates are applied to each letter or piece of first-class mail according to its weight.

Kind of mail	Rate
All first-class mail weighing 13 ounces or less except postal and post cards. See 136.12 for rates on first-class mail weighing more than 13 ounces.	13¢ for the first ounce or fraction of an ounce, 11¢ for each additional ounce or fraction of an ounce.

Single postal cards sold by the post office (see 141.13).	9¢ each.
Double postal cards sold by the post office (see 141.13).	18¢ (9¢ each portion).
Single post cards (see 131.-222).	9¢ each.
Double post cards (see 131.-222) (Reply portion of double post card does not have to bear postage when originally mailed.)	18¢ (9¢ each portion).

.12 Bulk presort rate.

.121 Identical pieces. The bulk presort rate is equal to the applicable single piece first class rate, less one cent for each piece that is part of a group of ten or more pieces sorted to the same five-digit ZIP Code, or of a group of fifty or more pieces sorted to the same three-digit ZIP Code, when they are presented at one post office as part of a single mailing of not less than 500 pieces of first-class mail of identical size and weight, each weighing 13 ounces or less. All pieces must be individually addressed to different addresses, and must be sorted to the maximum extent; i.e. all five-digit sorts in groups of ten or more must be exhausted before proceeding to make up all three-digit sorts in groups of fifty or more. Full first-class postage must be paid on the residue not sorted to groups of 5 or 3 ZIP Code digits as described above. The mailing must be presented at a place and between the hours designated by the postmaster and must comply with the preparation requirements in 131.5. Deposit of metered presort rate mail at other than these designated places will be considered misuse of a postage meter and grounds for revocation of the meter li-

cense in accordance with 144.23. Cards subject to sortation requirements of 131.224 are eligible for the presort rate if they meet all requirements for the rate.

.122 Nonidentical pieces. A group of 500 or more nonidentical pieces within the same postage rate increment which otherwise qualify under 131.121 may be mailed at the presort rate when postage is paid by meter stamps. Nonidentical pieces of the same or different postage rate increments which otherwise qualify under 131.121 may be mailed at the presort rate under permit imprint only when authorized by the Postal Service as part of an optional procedure in accordance with § 145.8, Postal Service Manual, or an experimental procedure under the provisions of § 145.9. Optional procedures for mailing nonidentical pieces must be approved by the Office of Mail Classification.

.13 Nonstandard surcharge. There is currently no surcharge for nonstandard mail as defined in 131.34. However, it is anticipated that such a surcharge will be imposed sometime in calendar year 1978.

2. In section 131.211c strike out the phrase "in 135.214 and 135.215" and insert "in 135.24 and 135.26" in lieu thereof.

3. In section 131.222a strike out the final phrase and insert the following in lieu thereof: "A ratio of width (height) to length between 1 to 1.3 and 1 to 2.5 is recommended."

4. In section 131.225 the first sentence is revised to read as follows:

"Matter which is in the form of a single or double card but which does not conform to the specifications for a single or double post card stated in 131.222 a and b may not be mailed at the first-class postage rate for post cards."

5. In § 131.232a strike out the third sentence and the first word of the fourth sentence; strike out the period at the end of the second sentence, insert a comma in lieu thereof, and add the following: "except as follows: if".

6. In 131.232b add the following after the third sentence: "Numbers of cancelled permits may be used when issuing new permits."

7. In section 131.2 add new .227, add new .232 c and d, and revise .233 to read as follows:

#### 131.2 Classification

##### .22 Postal and post cards

.227 Presorted first-class mail. Presorted First-Class Mail is mail presented in a manner that preserves the orientation, facing and ZIP Code sequence of the pieces.

##### .23 Business reply mail.

##### .232 Permit.

c. When payment is not by use of an advance deposit trust account, postage is collected on each piece of business re-



ply mail at the time it is delivered. Postage due stamps for the amount due will be affixed to the mail or to Form 3582-A, Postage Due Bill. The stamps will be canceled and delivered to the addressee with the mail when he pays the amount due. Business reply mail will not be mixed with other mail in direct packages or sacks for individuals or concerns. See 131.233 for amount to be collected which may not include fees for any special services.

d. Cards which do not conform to the specifications contained in 131.222 are to be charged postage at the regular first-class rate, and not at the card rate.

.233 Postage and fees. a. An annual fee of \$30 will be charged each calendar year for each permit issued. The \$30 permit fee is applicable at each office where mail will be returned except that if the business reply is to be distributed from a central office for return to branches or dealers in other cities, one permit obtained from the post office where the central office is located may be used to cover all the business reply mail of the distributor, if the holder provides a copy of the receipt to each office where mail is to be returned under that permit obtained from the post office payment of postage and fees on any returns refused by such branches or dealers.

b. Permit holders will have the option of keeping an advance deposit at the post office or paying postage due charges to the carrier upon delivery. A \$75 accounting fee will be charged for each advance deposit account at each post office where the mail is to be returned. This fee will be paid each calendar year or portion thereof. No accounting fee will be charged to customers who do not maintain an advance deposit. The business reply account will be used only for payment of business reply postage and fees.

c. When payment is by an advance deposit account as provided for in 131.233b, the amount to be collected is the appropriate first-class, airmail, or priority postage plus a surcharge of 3.5 cents per piece.

d. When no advance deposit is maintained, the amount to be collected is the appropriate first-class, airmail or priority postage, plus a surcharge of 12 cents per piece.

8. In section 131.3 revise .33c and add new .34 reading as follows:

131.3 Weight and size limits.

• • • • •  
.33

c. Pieces having a ratio of width (height) to length between 1 to 1.3 and 1 to 2.5 are recommended.

.34 Nonstandard first-class mail. First-class mail weighing one ounce or less is nonstandard unless it meets the following size standards:

a. Length not greater than 11.5 inches, and

b. Height not greater than 6.125 inches, and

c. Thickness not greater than .25 inch, and

d. An aspect (ratio of height to length) between 1:1.3 and 1:2.5 inclusive.

Nonstandard mail often results in delays or damage to mail because it does not lend itself to machine processing. For this reason, mailers are encouraged to avoid mailing nonstandard first-class mail. It is anticipated that a surcharge will be imposed sometime in calendar year 1978 for nonstandard first-class mail.

9. Sections 131.5 and 131.6 are redesignated sections 131.7 and 131.8; section 131.4 is revised to read as follows and new sections 131.5 and 131.6 are added as follows:

131.4 Payment of postage

.41 Single piece rate. Mailers of first-class matter at single piece rates may pay postage by adhesive stamps, stamped envelopes and postal cards, meter stamps, and permit imprints.

.42 Bulk rate. Mailings made at presort rates must be paid only by meter stamps or permit imprints. Metered postage must be for the first-class presort rate for qualifying pieces and the full first-class rate for residual pieces.

.43 Annual fee. A first-class presort mailing fee of \$30 must be paid once each calendar year at each office of mailing by or for any person who mails first-class or airmail matter at presort rates. Any person who engages a business concern or another individual to mail for him must pay the \$30 fee. This fee is separate from the fee that must be paid for a permit to mail under the permit imprint system (145.1).

131.5 Preparation of presort rate mail.

.51 Addresses. The address on each piece must include the ZIP Code (or carrier sequence code if presorted directly to carriers).

.52 Markings Required. Identifying words "Presorted First-Class" or "Presorted Airmail" must be incorporated as part of the permit imprint or be printed or rubber stamped by the mailer on each piece above the address and immediately below or to the left of the meter stamps or permit imprints. The marking may be printed by a postage meter, special slug, or "ad plate". All pieces in the mailing including residual pieces not qualifying for the lower presort rate must be so marked.

.53 Mailing Statement. Mailers who qualify for the first-class presort rate (see 131.121) must complete, and submit a mailing statement with each mailing. The statement must be signed by the mailer or his authorized agent.

a. Form 3602, Statement of mailing—permit imprint, for mail with permit imprints. If editions of the form earlier than December 1975 are used, two forms must be used; one for those qualifying for the lower presort rate, and one for those which do not. The form for those qualifying for the lower presort rate must be marked "PRESORT RATE" across the top of the form, and should only list the items which qualify for the lower presort rate. The form for the non-qualifying pieces must be marked "Presort Residual" across the top of the form

and should only list the items which do not qualify for the lower presort rate.

b. Form 3602-PC, Mailing statement—bulk rates, for mail bearing meter stamps. If editions of the form earlier than May, 1976 are used, two forms must be used; one for those qualifying for the lower presort rate, and one for those which do not. The form for the qualifying pieces must be marked "Presort Rate" across the top of the form, and should only list the items which qualify for the lower presort rate. The form for the non-qualifying pieces must be marked "Presort Residual" across the top of the form and should only list the items which do not qualify for the lower presort rate.

.54 Sorting requirements.

.541 Packages. When there are 10 or more pieces to the destinations described in 131.545a and/or 50 or more pieces to the destination described in 131.545b and c, they must be secured together as a package by the mailer. Rubber bands are the only acceptable means of securing packages in trayed mail.

.542 Rubber Bands. Rubber bands will be provided by USPS and will be used by mailers to secure packages of bulk mail under the following conditions: a. Packages of pieces measuring up to 5 by 11½ inches are to be secured in packages with rubber bands.

b. Packages should not exceed approximately 4 inches in thickness.

.543 Labeling of Packages. Package labels must be used to identify the makeup of presorted bundles of mail.

a. Place coded pressure sensitive labels in the lower lefthand corner on the address side of the top piece in the package.

b. Do not date package labels.

.544 Traying. Packages are to be made up into trays in accordance with 131.545. Two letter state abbreviations are to be used on labels. In lieu of traying, postmasters may authorize pouching or other suitable containerization of presorted mail when mutually beneficial to the mailer and the Postal Service and when the integrity of the presort can be maintained.

Pouches must be made up in accordance with the procedures prescribed for trays in 131.545 and with the prescribed pouch tags. Packages must be pouches by the mailer when there are enough for the same destination to fill approximately one-third of a pouch. The total weight of pieces placed in one pouch must not exceed 50 pounds. The residual must be clearly segregated from the lower rated presorted mail.

.545 Sortation. a. Five-digit ZIP Code delivery unit packages and trays. (1) Packages. When there are 10 or more pieces but less than a full tray addressed to the same five-digit ZIP Code delivery unit, they must be prepared in packages of 10 or more pieces not more than 4 inches in thickness by the mailer. The pieces in the packages must be faced in the same direction and secured with one or two rubber bands around each package. Red label D must be affixed in the



lower corner on the address side of the top piece in each package.

(2) Presorted Trays. When there is enough mail for the same five-digit ZIP Code delivery unit to fill a tray, (approximately 500 pieces) a direct five-digit tray must be prepared. Mail left over after filling direct trays must be bundled and placed in the appropriate city or SCF tray with the same first three digits. A pouch label must be firmly affixed to the end of the tray. Direct five-digit trays or containers must be labeled in the following manner:

PHILADELPHIA PA 19118  
FCM PRESORTED  
FC JC COMPANY BOSTON MA

b. City packages and Trays. (1) Packages. When there are 50 or more pieces but less than a full tray remaining for a city with a unique three digit ZIP Code prefix after the five-digit ZIP Code delivery unit packages required by 131.545a(1) have been prepared, they must be made up as City packages and must be secured with one or two rubber bands. Cities with unique 3 digit ZIP Code are listed in upper case letters in the listing of "ZIP Code Prefixes" contained in the Directory of Post Offices. Yellow label C must be affixed in the lower left corner on the address side of the top piece in each package.

(2) Presorted trays. City mail plus any packages for five-digit ZIP Code delivery units within those cities not trayed as provided for by 131.545a(2) must be prepared in City trays. A mixed city pouch label must be firmly affixed to the end of each tray. City trays must be labeled in the following manner:

PHILADELPHIA PA 191  
FCM PRESORTED  
FR JAY MAILING CO  
CINCINNATI OH

Mail left over after filling trays must be bundled and placed in an SCF tray.

c. Sectional Center Facility (SCF) packages and trays. (1) Packages. When there are 50 or more pieces but less than a full tray remaining for the same three-digit ZIP Code prefix after the packages required by 131.545a(1) and b(1) have been prepared, they must be bundled as SCF packages to that three-digit ZIP Code prefix. The pieces in the packages must be faced in the same direction and secured with one or two rubber bands. Green label 3 must be affixed in the lower left corner on the address side of the top piece in each package.

(2) Presorted trays. SCF packages plus any five-digit and city packages not trayed as provided for by 131.545a(2) and b(2) and which are destined for the same Sectional Center Facility must be prepared in SCF trays. An SCF pouch label must be firmly affixed to the end

of each tray. SCF trays must be labeled in the following manner:

SCF PHILADELPHIA PA 190  
FCM PRESORTED  
FR Q MAILERS BALTO MD

Presorted mail left over after filling SCF trays must be bundled. It is recommended, but not required, that these be placed in state trays. If state trays are not prepared, bundles must be placed in Mixed States trays.

d. State Trays. It is recommended, but not required, that packages remaining after traying in accordance with 545.131 a(2), b(2), and c(2) be prepared in state trays. A state pouch label in the following format must be firmly affixed to the end of the tray.

DIS CHICAGO IL 600  
IL FCM PRESORTED  
FR RECORD CHICAGO IL

e. Mixed states trays. Packages remaining after traying in accordance with 131.545a(2), b(2), c(2) and d must be prepared in "Mixed States" trays. A mixed states pouch label in the following format must be firmly affixed to the end of the tray.

DIS CHICAGO IL 600  
MIXED STATES FCM PRESORTED  
FR Record Chicago IL

f. Residual mail. (1) Pieces remaining after bundles have been prepared into packages in accordance with 131.545a through e are residual mail and are ineligible for the lower presort rate. Packages of residual mail must be placed in trays in such a way as to maintain the orientation and the ZIP Code sequence of the presort. Trays containing residual mail are not to bear a pouch label. The mail must be presented together with the lower rated portion of a mailing, but must be clearly segregated therefrom to facilitate verification of the quantities of both the lower rated and residual pieces.

(2) In order to speed processing of the mail, it is recommended, but not required, that the mailer prepare state packages when there are 10 or more pieces to the same state. Orange label S must be affixed to the lower left-hand corner of the address side of the top piece in each package.

g. Exceptions to bundling. (1) The bundling requirements for presorted mail left over after filling full trays described in a through e above may be waived when the use of separating tabs is approved by the local postmaster.

(2) The local postmaster may also waive the bundling requirements for loose-packed presorted flat mail sorted to one five-digit ZIP Code destination when there is enough quantity to fill a

number 3 sack. The flats must measure not less than approximately 8 inches high by 10 inches long.

131.6 Presort verification.

.61 Procedure. A designated employee in the weighing section or other location where bulk mailings are accepted shall verify that each mailing made at the presort rate is properly made up and presorted and qualifies for the presort rate. This is in addition to the postage computation verification performed for permit imprint mailings in accordance with 145.57. The designated employee must:

a. Verify that each mailing consist of at least 500 presorted pieces.

b. For each 10 trays or fraction thereof in a mailing:

(1) Select 2 trays of five-digit makeup and randomly withdraw and inspect by rifling 3 handfuls (about 120 letters) from each of the 2 trays to determine whether the tray contains letters bearing other than the five-digit ZIP Code as shown on the tray label.

If a discrepancy of 10 or more pieces is found, the mailing is disqualified.

(2) Select 2 trays of three-digit makeup and follow the procedures in (1) above.

(3) For the trays in (1) and (2) above, check if the proper labels are attached. If one improper label is found, check a total of ten trays. More than one improper label on ten trays is considered disqualifying.

(4) Check one tray of bundled mail to determine if the proper color-coded pressure sensitive package label is used on packages. If a wrong label is encountered, check a total of ten packages. More than one occurrence in ten packages is considered disqualifying.

(5) Check two packages to see if all pieces are in the proper bundles. If any improper bundling is detected, a total of five packages are to be checked. If more than four such improper pieces are in the five packages the mailing is disqualified.

c. Riffle through one tray of residual mail to verify that it is in ZIP Code sequence. More than ten out of sequence in a tray is considered disqualifying.

d. If a mailing is disqualified, the next mailing by the customer at presort rates shall have twice the amount of pieces checked as called for above. In addition, one-fifth of the customer's mailings over the next six months shall receive such intensified checks.

e. For permit mailings, verify that the quantity of lower rated presorted mail agrees with Form 3602. This is done by weighing the presorted mail and dividing the weight by the weight of a single piece.

f. For permit mailings, verify that the quantity of residual mail agrees with Form 3602. This is done by weighing the residual mail and dividing the weight by the weight of a single piece.

g. Return permit imprint mailings to the mailer for corrective action or apply full rates as prescribed in 131.62 when one or more trays or pouches are found to be improperly presorted or when the



mailing does not qualify for the presort rate.

h. For metered mail spot check at least one tray of lower rated pieces and one tray of residual mail to verify that proper postage is applied. If the pieces are not of identical weight, several of the heavier pieces are to be weighed and verified.

i. Return metered mailings and Form 3602-PC to the mailer for corrective action when one or more trays or pouches are found to contain mail improperly presorted or with incorrect postage affixed, or improperly dated, or when the mailing does not qualify for the presort rate (see 131.62).

j. Mailers who elect to correct presort problems that result in disqualification of the mailing will generally be unable to return metered mail to the acceptance unit on the same day originally presented. The date in the meter stamp will thus reflect an incorrect mailing date. If the mailing is presented on the day immediately following its initial presentation and if it then meets all other acceptance requirements, accept that mailing on a one time only basis when:

(1) Its initial presort deficiencies resulted from mailing equipment problems beyond the mailer's control, or

(2) It is the customer's first mailing at the discount rate and the improper presort resulted from misinformation or misunderstanding of the presort requirements.

.62 Acceptance of unqualified metered or permit imprint mailings at single piece Rates. When the verification prescribed by 131.61 reveals a disqualification for the presort rate on a mailing, the mailer may elect to pay the single piece first-class or airmail rate in lieu of correcting the disqualification. Mailers may correct the Form 3602 or Form 3602-PC for unqualified mailings to indicate postage is to be paid at single piece first-class or airmail rates in 131.11 and 136.11. All other provisions of Part 145 are applicable to such mailings. Mailers of unqualified metered mailings must pay the difference in cash at the window and present their copy of the cash receipt at the acceptance point before their mail can be released for processing.

#### PART 134—THIRD CLASS

10. In section 134.2 add new .224 reading as follows:

##### 134.2 Classification.

##### .22 Application of Rates

##### .224 Nonstandard Surcharge

There is currently no surcharge for non-standard mail as defined in 134.33. However, it is anticipated that such a surcharge will be imposed sometime in calendar year 1978.

11. In § 134.3 revise .32c and add new .33 reading as follows:

##### 134.3 Weight and Size Limitations

##### .32

c. Pieces having a ratio of width (height) to length between 1 to 1.3 and 1 to 2.5 are recommended.

.33 Nonstandard third-class mail. Third-class single piece rate mail weighing 2 ounces or less is nonstandard unless it meets the following size standards:

a. Length not greater than 11.5 inches, and

b. Height not greater than 6.125 inches, and

c. Thickness not greater than .25 inch, and

d. As aspect ratio (ratio of height to length) between 1:1.3 and 1:2.5 inclusive.

Nonstandard mail often results in delays or damage to other mail because it does not lend itself to machine processing. For this reason mailers are encouraged to avoid mailing nonstandard third-class mail.

It is anticipated that a surcharge will be imposed sometime in calendar year 1978.

#### PART 135—FOURTH CLASS

12. In § 135.1 strike out .11b-d; redesignate .11e as .11b; add new heading im-

mediately following .11 as follows: ".111 Single Piece Zone Rates"; and strike out § 135.12-.14 and § 135.2 and insert in lieu thereof the following:

.112 Bulk zone rates. Parcel Post, a. Mailings of 300 or more pieces of identical weight may be mailed at bulk zone rates if separated by postal zones. Mailings of pieces of non-identical weight may only be made at bulk zone rates when authorized by the Office of Mail Classification in accordance with 145.8 or 145.9.

b. The rate of postage to be paid on each piece of a bulk zone rate mailing shall be the single piece rate for that zone for an item equal to the average weight per piece for parcels going to that zone, rounded up to the next highest whole pound.

.12 Bound printed matter rates.

.121 Single piece zone rate.

Weight (pounds)	Zones							
	Local	1 and 2	3	4	5	6	7	8
	(cents)	(cents)	(cents)	(cents)	(cents)	(cents)	(cents)	(cents)
1.5.....	45	54	56	58	61	64	68	73
2.....	46	57	58	62	65	69	74	81
2.5.....	48	60	61	66	70	74	81	89
3.....	50	62	65	69	74	81	88	97
3.5.....	52	65	68	73	80	86	94	105
4.....	53	68	70	77	84	92	102	114
4.5.....	54	69	73	81	88	97	109	122
5.....	56	72	76	84	93	102	115	130
6.....	60	77	82	92	102	114	129	146
7.....	62	82	88	98	110	125	142	162
8.....	66	88	94	106	120	137	156	178
9.....	69	93	100	113	129	148	170	196
10.....	72	97	105	121	138	158	184	212

.122 Bulk rates for bulk mailings of separately addressed identical pieces in quantities of not less than 300 mailed at one time.

Zones	Piece rate	Bulk pound rate	Zones	Piece rate	Bulk pound rate
	(cents)	(cents)		(cents)	(cents)
Local.....	26	2.8	5.....	31	7.8
1 and 2.....	31	4.4	6.....	31	9.6
3.....	31	5.2	7.....	31	11.6
4.....	31	6.4	8.....	32	13.9

Note: The total charge for each bulk mailing shall be the sum of the charges derived by applying the applicable pound rate to the total number of pounds and by applying the applicable piece rate to the total number of pieces.

#### .13 Special fourth-class rate.

##### .131 Rates.

Kind of mail (rate restricted to items specifically named)	Rate in cents (without regard to zone)		
	1st pound or fraction of a pound	Each additional pound or fraction through 7 lb	Each additional pound or fraction over 7 lb
Books; 16-mm or narrower width films and catalogs of such films (rate applies for films and catalogs except when mailed to or from commercial theaters); printed music; printed objective test materials; sound recordings; playscripts and manuscripts for books, periodicals and music; printed educational reference charts permanently processed for preservation; looseleaf pages, and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students. (See 135.214)	25	10	8
Single piece rate, presort rates:			
Level A.....	23.9	10	8
Level B.....	24.2	10	8

.1 Mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes. (See .252 a and b.)

.2 Mailings of 2,000 or more pieces properly prepared and presorted to five-digit and three-digit destination ZIP Codes. (See .252c.)

.132 Annual fee. A \$30 fourth-class presort mailing fee must be paid once each calendar year at each office of mailing by or for any person who mails at the presorted special fourth-class rates.

##### .14 Library rate.



Kind of mail (rate restricted to items specifically named mailed by or to organizations mentioned in 135.261)	Rate in cents (without regard to zone)	
	1st pound or fraction of a pound	Each additional pound or fraction

Books; printed music; bound volumes of academic theses; sound recordings; periodicals; other library materials; museum and herbarium materials; 16-mm or narrower width films, filmstrips, transparencies, slides, microfilms; scientific or mathematical kits, instruments, or other devices; also, catalogs, guides or scripts for some of these materials. See 135.215.

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# .15 Application of rates.

.151 The rates in 135.11 and 135.12 are applied on the basis of weight of the individual piece and the distance the mail is sent.

To administer these rates, the earth is considered to be divided into units of area thirty minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude. The distance between these units of area are the basis of the postal zones and shall be measured from the center of the unit of area containing the dispatching sectional center facility or multi-ZIP Coded post office not serviced by a sectional center facility. A post office of mailing and a post office of delivery shall have the same zone relationship as their respective sectional-center facilities or multi-ZIP Coded post offices, but this shall not cause two post offices to be regarded as within the same local zone. The postal zones are defined as follows:

a. The local zone, the extent of which is defined by the Postal Service. This local rate currently applies to parcels mailed at any post office for local delivery at that office; at any city letter-carrier office or at any point within its delivery limits for delivery by carriers from that office; at any office from which a rural route starts for delivery on the same route; and on a rural route for delivery at the office from which the route starts or on any rural route starting from that office.

b. The first zone includes all territory within the quadrangle in conjunction with every contiguous quadrangle, representing an area having a mean radial distance of approximately fifty miles from the center of a given unit of area. The zone one rate applies to parcels mailed between two post offices in the same sectional center.

c. The second zone includes all units of area outside the first zone lying in whole or in part within a radius of approximately one hundred and fifty miles from the center of a given unit of area.

d. The third zone includes all units of area outside the second zone lying in whole or in part within a radius of approximately three hundred miles from the center of a given unit of area.

e. The fourth zone includes all units of area outside the third zone lying in whole or in part within a radius of approximately six hundred miles from the center of a given unit of area.

f. The fifth zone includes all units of area outside the fourth zone lying in whole or in part within a radius of approximately one thousand miles from the center of a given unit of area.

g. The sixth zone includes all units of area outside the fifth zone lying in whole or in part within a radius of approximately one thousand four hundred miles from the center of a given unit of area.

h. The seventh zone includes all units of area outside the sixth zone lying in whole or in part within a radius of approximately one thousand eight hundred miles from the center of a given unit of area.

i. The eighth zone includes all units of area outside the seventh zone.

.152 For articles mailed between Postal facilities, including armed forces post offices, wherever located, the rates according to zone apply, except that the rates of postage for mail transported between the United States, the Canal Zone, Puerto Rico, or the possessions or territories of the United States, including the Trust Territory of the Pacific Islands, on the one hand, and Army, Air Force and Fleet post offices on the other, or among the latter, shall be the applicable zone rates for mail between the place of mailing or delivery and the city of the postmaster serving the Army, Air Force or Fleet post office concerned.

.153 Gold coin, gold bullion, and gold dust, between any two points in Alaska, or between any point in Alaska and any point in the other States or U.S. possessions are charged the rate in 135.111b. The gold must be enclosed in sealed packages not exceeding 50 pounds in weight and sent by registered mail.

.154 An official zone chart may be obtained free by request to the postmaster at the office of mailing. For ZIP Code numbers, consult the National ZIP Code Directory.

.155 The rates in 135.13 and 135.14 are computed on the basis of the weight of the piece regardless of the zone to which addressed.

.156 The single piece rates and conditions are applicable to forwarding and returning of parcels mailed at bulk rates.

## 135.2 Classification.

.21 Fourth-class mail. Fourth-class mail consists of mailable matter:

(1) Not mailed or required to be mailed as first-class mail;

(2) Weighing sixteen ounces or more; and

(3) Not entered as second-class mail (except as specifically provided for transient rate matter).

## .22 Fourth-class bulk zone rates.

.221 The bulk fourth-class zone rates in 135.112 are applied to mailings of 300 or more pieces of fourth-class mail of identical weight. Parcels need not be of identical size or content. Parcels which weigh less than 15 pounds and measure over 84 inches in length and girth combined may not be mailed at these rates.

.222 Mailings of nonidentical pieces may only be made if the mailer has demonstrated that adequate records are maintained to verify and audit such mailings and if the procedure has been specifically authorized by the Director, Office of Mail Classification, in accordance with 145.8 or 145.9.

.223 Separation. The mailer must separate mailing pieces by parcel post zones so that postage may be verified. This requirement may be waived by the Postal Service if the mailer demonstrates to the satisfaction of the Postal Service that records are maintained to enable the Postal Service to accurately verify and audit mailings of fourth-class bulk rate parcels. The Director, Office of Mail Classification, must specifically approve systems for the acceptance of such mailings.

.224 Special services. The insurance, special delivery, special handling, and COD services may be used on mailings sent at bulk fourth-class zone rates. However, special services may not be used selectively for individual parcels mailed at these rates. Selective special services may be used in conjunction with postage payment verification systems approved under the conditions stated in 135.222.

.225 Markings Required. The words "Fourth-Class Bulk Rates" or "Fourth-Class Blk. Rt." must be incorporated as part of the permit indicia or be printed or rubber stamped above the address and to the left or below the permit imprint.

## .23 Bound printed matter.

.231 Description. Only the following specifically described material may be mailed at the Bound Printed Matter rates in 135.12. "Bound Printed Matter" is fourth-class matter that weighs one pound or more but less than 10 pounds and which:

a. Consists of advertising, promotional, directory or editorial material, or any combination of these.

b. Is securely bound by permanent fastenings such as staples, spiral binding, glue, stitching, etc. Loose leaf binders and similar fastenings are not considered permanent.

c. Consists of sheets of which at least 90 percent are imprinted with letters, characters, figures or images or any combination of these, by any process other than handwriting or typewriting.

d. Does not have the nature of personal correspondence.

e. Is not a book eligible for mailing as special fourth-class rate mail.

f. Is not a book which would be eligible for mailing as special fourth-class rate mail but for the inclusion of advertising matter other than incidental announcements of books that either (1) is not permanently bound in the book itself or (2) does not form an integral part of the book itself.

g. Is not stationery, such as pads of blank printed forms.

.232 Markings Required. The words "Bound Printed Matter" must be incorporated as part of the permit indicia or be printed or rubber stamped above the address to the left or below the permit indicia. Mailings under the bulk rates



in 135.122 must also be marked "Bulk Rate" or "BLK RT."

.233 Separation Required for Bulk Mailings. The mailer must separate mailing pieces by parcel post zones so that postage must be verified. Mail for each parcel post zone must be further separated and placed in sacks by cities or States of destination in each instance where there are 10 or more pieces of the same post office or State, or where 5 or more catalogs weigh 10 or more pounds. Use No. 3 mail sacks except when greater volume requires the use of No. 2 mail sacks. When there is insufficient volume for a direct sack or a State sack, combine the pieces in sacks for mixed States by parcel post zones. Label each sack to include parcel post zone separation and destination. The total weight of pieces placed in one sack must not exceed 70 pounds.

.234 Separations Recommended. In addition to the separations required in 135.233, it is recommended that the mailer separate the pieces to the finest extent possible in the manner prescribed by 134.43.

.235 Optional Handling of Bulk Mailings of Bound Printed Matter weighing in excess of 2 pounds when addressed for delivery in local parcel post zone only.

Address labels and unaddressed pieces weighing in excess of 2 pounds, at the option of the mailer, may be mailed separately for local delivery at the office of mailing subject to all of the following conditions:

a. The address labels, which may not measure less than 3 by 4 1/4 inches, must show the full name and ZIP Code address of the sender and addressee and must be sorted by the mailer to the fourth and fifth digit of the ZIP Code.

b. Postage must be paid by permit imprints for each label, including labels returned as undeliverable. The imprint may be placed on the pieces or on the label. See § 145.11.

c. The mailer must submit a completed Form 3605 with each mailing.

d. The total weight of pieces placed in sacks, cartons, crates or any other types of containers must not exceed 70 pounds.

e. The address labels must be sent to the postmaster at the mailing (delivery) office by the mailer.

f. Address labels bearing incorrect, nonexistent or any other undeliverable addresses will be corrected or endorsed to show why they are undeliverable and returned under cover to the mailer. Each envelope shall be rated with postage due at the address correction rate for each address label contained in the envelope. At the request of the mailer, the postmaster will notify the mailer, at mailer's expense and by means specified by mailer, of the number of address labels being returned. The request for notification must accompany the labels. Correctly addressed labels will be held awaiting arrival of the pieces.

g. Pieces will be deposited at the acceptance point designated by the postmaster. If the number of pieces deposited is not enough or too many to match the number of address labels, the postmaster will notify the sender, or his designated representative or agent, of the number of pieces required to complete the delivery or the number in excess. If the additional pieces are not delivered to the post office within fifteen days, the excess address labels will be returned under cover to the mailer. As soon as deliveries are completed, the postmaster will notify the sender or his representative of the number of any excess pieces on hand. Excess pieces may be called for by the mailer without charge. Any excess pieces not called for within fifteen days will be returned to sender postage due at the single piece bound printed matter rate.

.24 Special fourth-class mail. Only the following specifically described articles may be mailed at the special fourth-class rate provided by 135.13:

a. Books, including books issued to supplement other books, of 24 pages or more, at least 22 of which are printed, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations and containing no advertising matter other than incidental announcements of books. Advertising includes paid advertising and publishers' own advertising. Advertising may be in display, classified, or editorial style. The identification statement *Special Fourth-Class Rate—Books* must be placed conspicuously on the address side of each package.

b. 16-millimeter films or narrower width films which must be positive prints in final form for viewing, and catalogs of such films of 24 pages or more, at least 22 of which are printed, except films and film catalogs sent to or from commercial theaters. The identification statement *Special Fourth-Class Rate—16 mm or narrower Films or 16 mm or narrower Film Catalog* must be placed conspicuously on the address side of each package.

c. Printed music whether in bound form or in sheet form. The identification statement *Special Fourth-Class Rate—Printed Music* must be placed conspicuously on the address side of each package.

d. Printed objective test materials and accessories thereto used by or in behalf of educational institutions for testing ability, aptitude, achievement, interests, and other mental and personal qualities with or without answers, test scores, or identifying information recorded thereon in writing or by mark. The identification statement *Special Fourth-Class Rate—Objective Test Materials* must be placed conspicuously on the address side of each package.

e. Sound recordings, including incidental announcements of recordings and guides or scripts prepared solely for use with such recordings. Player piano rolls

are classified as sound recordings. Miscellaneous advertisements, including trademarks, of persons or concerns other than the record manufacturer, are not permissible on title labels, protective sleeves, jackets, cartons, and wrappers, and such advertisements may not be mailed as enclosures. The identification statement *Special Fourth-Class Rate—Sound Recordings* must be placed conspicuously on the address side of each package.

f. Playscripts and manuscripts for books, periodicals, and music. The identification statement *Special Fourth-Class Rate—Manuscript* must be placed conspicuously on the address side of each package.

g. Printed educational reference charts, permanently processed for preservation. The identification statement *Special Fourth-Class Rate—Educational Reference Charts* must be placed conspicuously on the address side of each package.

h. Looseleaf pages, and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students. The identification statement *Special Fourth-Class Rate—Medical Information* must be placed conspicuously on the address side of each package.

NOTE.—When two or more articles described in this section are mailed in the same package, the appropriate descriptive terms shall be combined in the identification statement placed on the address side. Example: *Special Fourth-Class Rate—Books and Sound Recordings*.

.25 Special fourth class presort rates.

.251 Applicability. The presort rates apply to special fourth-class rate matter presorted by ZIP Codes, and mailed in minimum quantities shown below at a place designated by the postmaster.

.252 Minimum Quantities. a. To qualify as a presorted piece subject to the special fourth-class presort Level A rate, a piece must be one of a mailing of at least 500 identical pieces receiving identical service and properly prepared and presented in full sacks (see 135.252e) destined for five-digit ZIP Code locations.

b. Mailings of at least 500 identical outsides as described in 334.5 may qualify for the presort Level A rate if they are made up to preserve the five-digit ZIP Code presort as prescribed by the postmaster. The postmaster may require notification up to 24 hours before the mailing is ready for presentation. The mailer must comply with the postmaster's instructions on how to separate and present mailings of outsides. The postmaster will coordinate such mailings and obtain procedures for separation of parcels through the Regional Logistics Office.

c. To qualify as a presorted piece subject to the special fourth-class presort level B rate, a piece must be one of a



mailing of at least 2000 identical sackable pieces receiving identical service and properly prepared and presented:

(1) In full sacks or substantially full sacks (see e(2) below) destined to five-digit ZIP Code locations. Mail must be separated and sacked to five-digit destinations in this manner to the maximum extent possible. (See e(1) below).

(2) The remainder in full sacks destined to three-digit locations. All material in such sacks must be addressed to the same three-digit destinations.

d. A mailing will receive only one level of presort rate: under 135.252a, 135.252b, or 135.252c. A customer may however, elect to send a product as two or more mailings with separate mailing statements in order to avail himself of the two levels of presort rates.

e. For purposes of the bulk special fourth-class rate schedule the following definitions shall apply:

(1) Full sack shall mean at least eight pieces or pieces sufficient in volume to fill at least one-third of a standard No. 2 postal sack, or pieces sufficient in weight to equal at least 20 pounds; but not to exceed 70 pounds.

(2) Substantially full sack shall mean a postal sack containing at least four pieces or either at least 20 or more pounds or pieces sufficient in volume to fill one-third of a standard No. 2 postal sack but not to exceed 70 pounds.

(3) To qualify as identical pieces subject to this rate schedule, all pieces must be identical in weight. However, the size and content of each piece need not be identical.

.253 Nonqualifying pieces. Pieces which are not sacked to five-digit or three-digit destinations as set forth in 135.251 are not considered presorted for purposes of this rate schedule. Pieces which are sacked to three or five-digit destinations but when sacked, do not meet the "full" or "substantially full" sack criteria do not qualify for the presort rate and must be presented for mailing under a separate mailing statement if mailed under permit imprint.

.254 Nonidentical Pieces. Nonidentical pieces, including those of different postage values, may be merged, presorted together, and presented as a single mailing only when it has been demonstrated by the mailer that records are maintained to enable the Postal Service to accurately verify and audit mailings of such matter and the procedure has been specifically authorized by the Director, Office of Mail Certification, Washington, D.C.

.255 Markings Required. The appropriate identification Statement prescribed by 135.24 must appear on the address side of each piece preceded by the word PRESORTED.

.256 Sack Labeling Requirements. Sacks must be labeled according to the following examples:

a. Five-digit destination

CLEVELAND OH 44101  
5-DIGIT PRESORTED PP  
FR J COMPANY BOSTON MA

b. City with unique 3-digit ZIP Code

CLEVELAND OH 441  
MACHINE PRESORTED PP  
FR J COMPANY BOSTON MA

or

CLEVELAND OH 441  
NONMACHINE PRESORTED SPR  
FR J COMPANY BOSTON MA

c. Sectional center

SCF CLEVELAND OH 440  
MACHINE PRESORTED PP  
FR J COMPANY BOSTON MA

or

SCF CLEVELAND OH 440  
NONMACHINE PRESORTED SPR  
FR J COMPANY BOSTON MA

.257 Container or pallet labelling requirements.

a. Five-digit destination

CLEVELAND OH 44101  
5-DIGIT PRESORTED PP  
FR J COMPANY BOSTON MA

b. City with unique 3-digit ZIP Code

CLEVELAND OH 441  
MACHINE PRESORTED PP  
FR J COMPANY BOSTON MA

or

CLEVELAND OH 441  
NONMACHINE PRESORTED PP  
FR J COMPANY BOSTON MA

c. Sectional center

SCF CLEVELAND OH 440  
MACHINE PRESORTED PP  
FR J COMPANY BOSTON MA

or

SCF CLEVELAND OH 440  
NONMACHINE PRESORTED PP  
FR J COMPANY BOSTON MA



258 Bulk mail center machineability criteria for special fourth-class matter. The Parcel Sorter machineability criteria are:

Weight: At least 1 pound but not over 25 pounds

Length: At least 6 inches but not over 34 inches

Height: At least  $\frac{3}{8}$  inches but not over 17 inches

Width: At least 3<sup>1</sup> inches but not over 17 inches

(a) Mailing pieces that fall below the minimum dimensions specified above are considered SPR's.

(b) Those exceeding the maximum dimensions or irregular in shape are considered non-machineable parcels.

(c) Mailers who are not sure of the size classification of their pieces are advised to consult with their local postmaster.

259 Presort verification. For each 50 sacks or fraction thereof in a mailing, accepting post offices shall verify the presort as follows:

a. Select two sacks of 5-digit make-up and verify that no pieces are included bearing other than the 5-digit ZIP Code shown on the sack label. If a discrepancy of more than one piece is found, the mailing is disqualified.

b. For mailings that include sacks of mail presorted to 3-digit ZIP Code destination, select three sacks and verify that all pieces in a sack bear ZIP Codes having the same first three digits of ZIP Code as that shown on the sack label and that no identical 5-digit ZIP Codes are contained in quantities sufficient to make up a full or a substantially full sack, as appropriate for the presort rate level, for mail addressed to the same 5-digit ZIP Code destination. If it is found that one 5-digit sack could have been made up separately from the pieces in a 3-digit sack, the mailing is disqualified. If more than two pieces are found in any sack made up to the same 3-digit ZIP Code destination that bear a different first three digits of ZIP Code, the mail is disqualified.

c. If a mailing is disqualified, the next mailing by the customer at presort rates should have twice the number of sacks verified as specified in a. and b. above, and such intensified verification shall be extended to one-fifth of the customer's mailings during the following six month period.

#### 26 Fourth-class library rate

Only the articles specifically described in this section may be mailed at the fourth-class library rate provided by 135.14. The identification statement *Library Rate* must be placed conspicuously on the address side of each package. Each package must show in the address or return address the name of a school, college, university, public library, or name of a nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organization or association. No permit is required.

<sup>1</sup> A width of 4 inches is required for parcels less than 9 inches long.

261 The following specific items when loaned or exchanged between schools, colleges, or universities and public libraries, museums and herbaria, nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organizations or associations; or when cooperatively processed by libraries; or loaned or exchanged between libraries, organizations, or associations, and their members, readers, or borrowers, may be mailed at the library rate:

a. Books, consisting wholly of reading matter, scholarly bibliography, or reading matter with incidental blank spaces for notations and containing no advertising other than incidental announcements of books.

b. Printed music, whether in bound form or in sheet form.

c. Bound volumes of academic theses in typewritten or duplicated form.

d. Periodicals, whether bound or unbound.

e. Sound recordings. (See also 136.262b).

f. Other library materials in printed, duplicated, or photographic form or in the form of unpublished manuscripts.

g. Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria.

262 The following specific items when set to or from schools, colleges, universities, public libraries, museums and herbaria and to or from nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organizations or associations, may be mailed at the library rate:

a. 16-millimeter or narrower width films; filmstrips; transparencies; slides; microfilms; all of which must be positive prints in final form for viewing.

b. Sound recordings.

c. Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work, and interests of museums and herbaria.

d. Scientific or mathematical kits, instruments, or other devices.

e. Catalogs of the materials in 135.262 a-d and guides or scripts prepared solely for use with such materials.

263 The address on each piece mailed at the rates provided by 135.13 and 135.14 must include the complete ZIP Code.

13. In § 135.3 revise .31 and revise the heading and description of .311 to read as follows:

135.3 Weight and size limits.

31 Limits. The following size and weight limitations apply to all fourth-class parcels. Additional limitations for Bulk Zone rate and Bound Printed Matter are contained in 135.22 and 135.23.

311 Parcels mailed between post offices with over 949 revenue units. Parcels mailed at these post offices in the 48 contiguous States of the United States addressed for delivery at the same office

or to another such post office in the 48 contiguous States. (See exceptions in 135.312.)

14. In 135.312a strike out the words "of the second, third, or fourth class" and insert "with 949 revenue units or less" in lieu thereof; in 135.312b strike out the words "class of".

15. Section 135.4 is revised to read as follows:

135.4 Payment of postage.

41 Single piece rate mailings. Mailers of articles at single piece rates may use any method of paying postage.

42 Bulk rate mailings.

Mailers of fourth-class matter at bulk rates must pay postage by permit imprint and shall complete and submit with each mailing a Form 3602, or Form 3605, as appropriate.

16. In 135.512 strike out "135.214, 135.215, and 138.3" and insert "135.255, 135.232, and 139" in lieu thereof.

17. In 135.5 strike out the heading of .52 and insert "Parcel Post" in lieu thereof.

18. At the end of § 135.521 add new i reading as follows:

.521 \* \* \*

i. Enclosures or attachments for which postage is paid at the first-class rate in accordance with Part 139.

19. In section 135.6 strike out the entire section heading, including the section number; strike out the next entire section heading, including section number of .61 and insert ".53 Bound Printed Matter" in lieu thereof; strike out the first word of the sentence following redesignated .53 and insert "Only the" in lieu thereof; redesignate .62, .621-.623, as .54, .541-.543; strike out "135.621c" from redesignated .541b and insert "c" in lieu thereof; strike out "in 135.621b" from redesignated .541c; strike out "in 135.621c" from redesignated .541d; strike out "135.622c" from redesignated .542b and insert "c" in lieu thereof; strike out "in 135.622b" from redesignated .542c; strike out "135.622c" from redesignated .542e and insert "135.542c" in lieu thereof; strike out the period at end of redesignated .543, insert a comma in lieu thereof and add the words "and 139.3".

20. Redesignate § 135.7 as 135.6, and add new section 135.7 reading as follows:

135.7 Addressing. The address of all fourth-class matter mailed at bound printed matter, bulk parcel post, library, and special rate fourth-class rates must contain a complete ZIP code.

21. In § 135.8 redesignate .82 as .83; revise .81 and add .82 to read as follows:

135.8 Place of mailing.

81 Articles mailed at single piece fourth-class rates may be mailed at a post office, branch, or station, or handed to a rural or star route carrier.

82 Mailings at bulk or presort discount rates must be made at a station or branch specified by the postmaster.

#### PART 136—AIR AND PRIORITY MAIL

22. In section 136.1 revise .11 and add new .13 to read as follows:

136.1 [Amended].

.11 Airmail.



Weight	Kind of mail	Rate
10 oz. or less...	Air postal or post cards.	14 cents each.
	Letters and packages.	17 cents for the 1st ounce or fraction; 15 cents for each additional ounce or fraction.

13 Bulk presort Rate. The bulk presort rate is equal to the single piece Airmail rate less 1 cent for each piece that is part of a group of 10 or more pieces sorted to the same five-digit ZIP Code, or of a group of 50 or more pieces for the same three-digit ZIP Code when they are presented at one post office as part of a single mailing of not less than 500 pieces of airmail of identical size and weight. The provisions of 131.12, 131.4, 131.5, 131.6 are applicable to such mailings.

23. In § 136.2 strike out the words "Air parcel post" and "airmail" in .234 and insert "Priority Mail" in lieu thereof; in .235 and .236 strike out the word "airmail" and insert "Priority Mail" in lieu thereof.

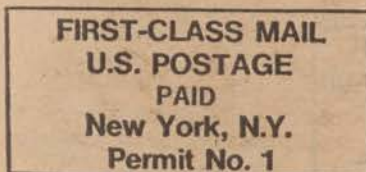
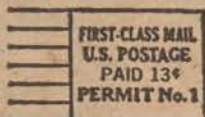
24. In § 136.3 strike out the word "Airmail" in .31 and .32 and insert "Priority Mail" in lieu thereof; add new .33 reading as follows:

136.3 [Amended]

33 Nonstandard airmail. Airmail weighing one ounce or less is nonstandard unless it meets the following size standards:

- a. length not greater than 11.5 inches, and
- b. height not greater than 6.125 inches, and
- c. thickness not greater than .25 inch, and

a. First-Class Mail:



d. an aspect ratio (ratio of height to length) between 1:1.3 and 1:1.5 inclusive. Nonstandard mail often results in delays or damage to mail because it does not lend itself to machine processing. For this reason, mailers are encouraged to avoid mailing nonstandard airmail. It is anticipated that a surcharge will be imposed sometime in calendar year 1978 for nonstandard airmail.

25. Section 136.4 is revised to read as follows:

136.4 Payment of postage.

41 Single Piece Rate. Mailers of airmail matter at single piece rates may pay postage by adhesive stamps, stamped envelopes and postal cards, meter stamps, and permit imprints.

42 Bulk Rate. Mailings of airmail matter made at presort rates must be paid by meter stamps or permit imprints. Metered postage must be for the airmail rate less 1 cent for qualifying lower rated pieces and the full airmail rate for residual pieces.

43 Annual Fee. A first-class presort mailing fee of \$30 must be paid once each calendar year at each office of mailing by or for any person who mails first-class or airmail matter at presort rates. Any person who engages a business concern or another individual to mail for him must pay the \$30 fee. This fee is separate from the fee that must be paid for a permit to mail under the permit imprint system (145.1).

26. In section 137.2 revise .262 to read as follows:

137.2 [Amended].

.26 ZIP coding of Mail.

.262 Presorting and postage charges. When identical pieces of individually ad-

ressed matter are included in a single mailing at the bulk rates in 131.12, 134.12, 135.122, 135.132, and 136.13, the mail must be prepared as prescribed for each bulk category.

PART 145—PERMIT IMPRINTS

27. In section 145.1 strike out "\$15" in .11 and insert "\$20" in lieu thereof.

28. In section 145.2 add the letter "a." immediately before the first sentence, and add new b. as follows:

145. [Amended].

b. The position of the imprint on fourth-class bound printed matter may be varied so that automatic data processing equipment may be utilized to simultaneously print the address, imprint and other postal information. The permit may be placed on the parcel or on the label for items mailed under the provisions of 135.235.

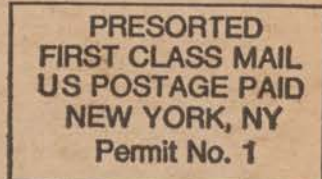
29. In § 145.3 add the following sentence at the end of .32: "Permit indicia may include: amount of postage paid, weight of piece, and markings required by 131.5, 134.436 or 135.2."; redesignate .33 as .34 and add new .33 reading as follows:

145.3 Content of permit imprints.

.33 Mail with special services. Permit mail with special services paid by permit must show First-Class Mail, if first-class mail; U.S. Postage and Fees Paid; City and State; and Permit number. The company may be shown in place of the city and permit number in accordance with 145.34.

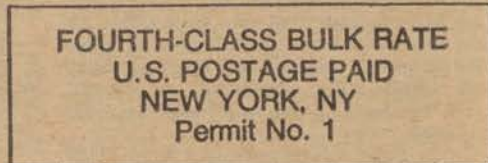
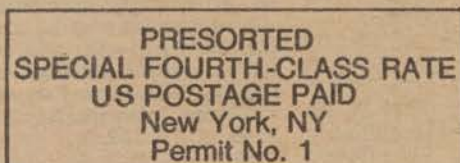
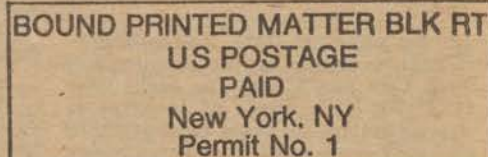
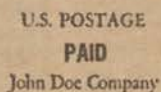
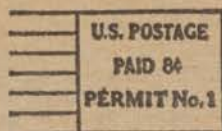
30. In section 145.4 strike out a.-d. and insert in lieu thereof the following:

145.4 Form of permit imprints.

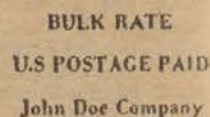
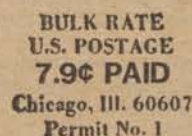
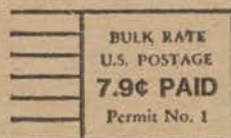




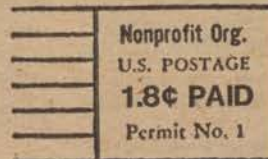
## b. Second-, Third-, and Fourth-Class Mail (Date and First-Class Mail omitted)



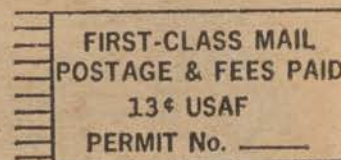
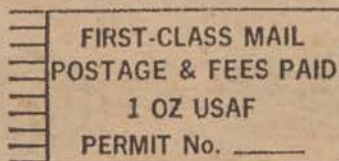
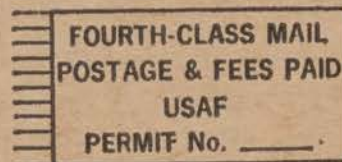
## c. Bulk Third-Class Mail:



## d. SPECIAL RATES FOR AUTHORIZED ORGANIZATIONS ONLY



## e. OFFICIAL MAIL (FIRST-CLASS)

f. OFFICIAL MAIL (FOURTH-CLASS)  
Date and First-Class Mail omitted



31. In section 145.5 redesignate .51b, c, and d as .51c, d, and f respectively; strike out the words "Form 3602" in .53 and .55 and insert "Form 3602 or 3605" in lieu thereof; strike out the words "Form 3602" in .566b and insert "(Form 3602 or 3605)" in lieu thereof; strike out the words "Forms 3602" in .566c and insert "statement of mailing" in lieu thereof; redesignate .565c as .565d; add new .51b and e reading as follows; redesignate .565b as .565c and revise to read as follows; add new .565b reading as follows:

145.5 Mailings with permit imprints.  
.51 Minimum quantities.

b. First-class bulk presort rate. 500 pieces of identical size and weight.

c. Fourth-class zone bulk rate mail. 300 or more pieces of identical weight.

.56 Payment of postage.

b. Verify mail is properly prepared. See 131.43, 131.5, and 135.25 for presort requirements.

c. Fill out the back of the mailing statement (Form 3602 or 3605) and at the same time, by carbon, prepare Form 3607. If the mailer requests a receipt, he must present a duplicate copy of the mailing statement which will be delivered to him after the back is filled out.

32. In section 145.84 strike out the first sentence and insert the following in lieu thereof: "An optional procedure for items of identical weight must be approved by the Regional Postmaster General. An optional procedure for items of nonidentical weight must be approved by the Office of Mail Classification."

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. Notice of the issuance of this transmittal letter will be published in the usual manner in the FEDERAL REGISTER through an appropriate amendment to 39 CFR 111.3

(39 U.S.C. 401, 3623.)

ROGER P. CRAIG,  
Deputy General Counsel.

[FR Doc.76-19627 Filed 7-6-76;9:36 am]

# Title 40—Protection of Environment

## CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

### SUBCHAPTER C—AIR PROGRAMS

[FRL 578-8]

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### Revision to New Jersey State Implementation Plan

On April 27, 1976 the Region II Office of EPA received proposed revisions to the New Jersey State Implementation Plan. This revision request was submitted in

accordance with all applicable EPA requirements as contained in 40 CFR Part 51 and consists in part of administrative orders signed by the Commissioner of the New Jersey Department of Environmental Protection. These administrative orders were issued pursuant to N.J.A.C. 7:27-9.5(a), Temporary Variances, and revise the allowable sulfur in fuel contents contained in 7:27-9.2(a) of Subchapter 9, Sulfur in Fuels, of the New Jersey Administrative Code.

The proposed revisions relax the sulfur in fuel requirements for eight sources in Salem County, eight sources in Cumberland County and one source in Cape May County. Details of these proposed changes are contained in a May 21, 1976 FEDERAL REGISTER notice (41 FR 20895) which announced receipt of the revision request and solicited public comments for a period of 15 days.

In that notice, EPA stated its determination that the State's technical analysis was not adequate to justify approval of the revision request as regards four of the sources. This was due to a lack of information on the potential for occurrence of aerodynamic downwash. Subsequently, three of these sources, Bridgeton Dyeing and Finishing Corporation (Bridgeton City), E. I. du Pont de Nemours and Company (Deepwater) and National Bottle Company (Salem City), were found to be too small to have a major impact upon ambient air quality. During the public comment period, the fourth source, Owens Illinois, Inc., (Bridgeton City) requested an additional 60 days to perform the necessary technical analysis for downwash. As a result, the Regional Administrator has extended the public comment period on the proposed revision as it relates to the Owens Illinois Bridgeton facility until August 6, 1976. Pending EPA final action as regards this source, the current sulfur-in-fuel-oil limitation of 1.0%, by weight, will remain in effect.

Several comments were received during the public comment period established by the May 21, 1976 notice. In addition to the previously discussed extension request from Owens Illinois, additional information regarding the potential for aerodynamic downwash was supplied by National Bottle Company and E. I. du Pont de Nemours Company.

Another commentator, Atlantic City Electric Company requested that the New Jersey revision should be made effective for a period of twelve months rather than for the six-month period as contained in the State's proposal. One part of the New Jersey Department of Environmental Protection's (NJDEP's) comments dealt with this same point. NJDEP correctly indicated that their administrative orders (issued pursuant to N.J.A.C. 7:27-9.5(a)) and not N.J.A.C. 7:27-9.2(a), the regulation itself, will expire in six months. EPA's May 21, 1976 notice may not have been clear on this point. Nevertheless, EPA only has authority to approve the New Jersey revision for the six month period referred to in

the State's administrative orders. Further extensions beyond this period will have to be granted by the State and submitted as another plan revision for EPA approval.

NJDEP also requested in their comments that five sources not included in EPA's proposed revision notice be included in this final action. Similar comments were received from the Cumberland County Planning Board and others. These facilities were included in the air quality analysis submitted by the State as part of its revision request and were considered during the State's public hearing held on April 19, 1976. The facilities were not, however, issued administrative orders by the State of New Jersey as were the other seventeen sources covered by this request. Since EPA's action consists solely of approving or disapproving the administrative orders issued by the State, and no such orders were issued to these sources, EPA has no authority upon which to act. If these five sources ultimately are granted exceptions to Subchapter 9 sulfur in fuel limitations pursuant to N.J.A.C. 7:27-9.2(a) approval/disapproval action by EPA can be initiated.

Four commentators, among them the City of Philadelphia and the Region III Office of EPA, indicated concern about the impact of the proposed revisions on air quality outside the New Jersey counties affected by the proposed revision. Region III's comments were received after a 10-day extension of the comment period had been granted to the Region III Administrator at his request.

The air quality impact of this proposed revision on downtown Philadelphia has been assessed by the Region II Office. An impact analysis for other areas not analyzed by New Jersey was unnecessary due to the fact that air quality in these areas is sufficiently below standards. This is in contrast to downtown Philadelphia which only just recently has attained the primary annual air quality standard for sulfur dioxide.

Based on the most recent air quality data for downtown Philadelphia and an estimate of the potential impact of this revision, it has been determined that a contravention of standards will not be caused. However, the Region II Office intends to review on a monthly basis air quality data for the downtown Philadelphia area. This data should be obtained and analyzed by New Jersey prior to any application to EPA to extend their current administrative orders beyond the initial six-month period.

After review of all relevant material, the Administrator has determined that the proposed revision is consistent with current EPA policies and goals set forth in the requirements of section 110(a) (2) (A)-(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51 in that the proposed revision will not result in the contravention of any applicable ambient air quality standard. Therefore, the Administrator is approving the proposed New Jersey revision for the sources and sulfur limitations listed in Table 1.



TABLE 1

Source	Location	Sulfur in fuel limitations (Sulfur by weight percent)
National Bottle Corp.	Salem City, Salem County	2.0
E. I. duPont de Nemours and Co.	Deepwater, Salem County	1.5
Heinz—USA	Salem City, Salem County	2.0
B. F. Goodrich Chemical Co.	Pedricktown, Salem County	1.5
Ancor Hocking Corp.	Salem City, Salem County	2.0
Atlantic City Electric Deepwater Station	Pennsgrove, Salem County	1.5
E. I. duPont de Nemours and Co.	Carney's Point, Salem County	1.5
Mannington Mills, Inc.	Salem City, Salem County	2.0
Atlantic City Electric B. L. England Station	Beesley Point, Cape May County	2.0
Kerr Glass Manufacturing Corp.	Millville City, Cumberland County	2.5
Leone Industries	Bridgeton, Cumberland County	2.5
Progresso Food Corp.	Vineland City, Cumberland County	2.5
Bridgeton Dyeing and Finishing Corp.	Bridgeton City, Cumberland County	2.5
Whitehead Brothers Co.	Haleville, Cumberland County	2.5
Vineland Chemical Co.	Vineland City, Cumberland County	2.5
Owens Illinois, Inc., Kimble Products Div.	do.	2.5

Effective date: These revisions will become effective July 12, 1976 since they do not result in the imposition of additional substantive burdens on affected sources and can be implemented without delay if the sources so desire.

(42 U.S.C. 1857c-5 and 9.)

Dated: July 1, 1976.

RUSSELL E. TRAIN,  
Administrator,  
Environmental Protection Agency.

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

#### Subpart FF—New Jersey

1. In § 52.1570 paragraph (c) is amended by adding a new subparagraph (12) as follows:

#### § 52.1570 Identification of plan.

(c) \* \* \*

(12) Revisions consisting of 16 administrative orders issued pursuant to the New Jersey Administrative Code (N.J.A.C.) 7:27-9.5(a) and technical support for these orders received on April 27, 1976 from the New Jersey Department of Environmental Protection.

[FR Doc. 76-19919 Filed 7-9-76; 8:45 am]

[FRL 570-1]

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

##### Virgin Islands Implementation Plan; Revision

On January 21, 1976 the Virgin Islands submitted for approval to the Region II Office of the Environmental Protection Agency a proposed revision to the Virgin Islands Implementation Plan. The revision, adopted after public notice and hearing, contained an amended 12 V.I.R. & R. 9:204-26, entitled "Sulfur Compounds Emissions Control." On May 13, 1976 EPA published in the FEDERAL REGISTER notice that it intended to approve the proposed revision insofar as it applies to the islands of St. Thomas and St. John (41 FR 19670). The adequacy of the proposed revision as it concerns the island of St. Croix is still under review in the Regional Office. Recent sulfur oxide ambient air quality data indicates

that national ambient air quality standards are contravened on St. Croix. EPA is attempting to validate these findings and will withhold further action on the revision as it relates to St. Croix until a satisfactory determination that national ambient air quality standards will be attained is made.

The EPA's proposed approval of the revision, which concerns the control strategy for sulfur oxides in the Virgin Islands, was subject to a 15-day public comment period subsequent to its publication on May 13. Copies of the regulation, the certification required by 40 CFR 51.4(d), and the technical justification documents, which had been submitted on January 21 and April 5, 1976, were available for public inspection at EPA's Offices in New York City and Washington, D.C., and in Charlotte Amalie, St. Thomas, at the Office of the Virgin Islands Department of Conservation and Cultural Affairs. No comments were received during the period.

After review of all documents submitted, the Administrator finds that the revision meets the requirements of section 110(c)(2)(A)-(H) and EPA regulations found at 40 CFR Part 51. The purpose of this Notice is to publish the Administrator's final approval of this revision, as it applies to St. Thomas and St. John, in accordance with Section 110 of the Clean Air Act. This approval is effective immediately on July 12, 1976, for reasons more fully discussed below.

This final approval action incorporates one minor change in the text of the regulation as originally proposed. At the request of the EPA, the Governor of the Virgin Islands, acting under his emergency powers as set forth in 3 V.I.C. § 938, repromulgated the regulation and resubmitted it to the Agency on June 3, 1976. The Governor's action had the effect of placing in the regulation itself certain operating conditions applicable to the Virgin Islands Water and Power Authority facility on St. Thomas. These operating conditions were previously contained in an Administrative Order issued by the Virgin Islands Department of Conservation and Cultural Affairs and submitted to EPA as part of the technical support documentation, and were developed as a result of testimony presented during a public hearing held by the Virgin Islands in accordance with 40 CFR

51.4. They were included in the material available for public inspection during the aforementioned EPA public comment period.

The change effected by the Governor adds new language to paragraph (a)(3) of 12 V.I.R. & R. 9:204-26. That paragraph provides that notwithstanding other provisions of the regulation—which permit the burning of fuel oil with a sulfur content, by weight, of up to 2 percent on St. Thomas—no person may burn fuel oil so as to cause contravention of any national ambient air quality standard. To that end, the new language sets limitations on the maximum allowable operating capacities of the three generating units at the St. Thomas power plant, when they are using fuel oil with a sulfur content, by weight, between 1.5 percent and 2 percent. Since these capacity limitations are an essential element of the control strategy designed to attain and maintain the national ambient air quality standards for sulfur oxides in the Virgin Islands Air Quality Control Region, EPA believes that they should be contained in the regulation itself and not in an extraneous document such as an Administrative Order. The Governor of the Virgin Islands agreed with EPA and therefore implemented this minor change.

For a more complete synopsis of the Implementation Plan revision hereby approved, reference is made to the May 13 FEDERAL REGISTER Notice, or to the documents on file in Washington, D.C., New York and Charlotte Amalie.

This action is effective immediately on July 12, 1976. The Administrator finds that good cause exists for making the action immediately effective in that the Virgin Islands fully complied with all public notice and hearing requirements of 40 CFR Part 51; diffusion modeling has shown that the regulation will not cause or contribute to any contravention of national ambient air quality standards for sulfur oxides on St. Thomas; no other State or air quality control region will be affected; only one major source, the St. Thomas power plant, will be affected by the revision; and the Administrator's approval action imposes no additional burden on affected persons.

(Secs. 110 and 301(c), Clean Air Act, (42 U.S.C. 1857c-5, 1857g-(c)).)

Dated: July 1, 1976.

RUSSELL E. TRAIN,  
Administrator.

#### Subpart CCC—Virgin Islands

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

1. Section 52.2770 is amended by revising paragraphs (c)(3) and (4) as follows:

#### § 52.2770 Identification of plan.

(c) Supplemental information was submitted on:

(3) January 21, 1976, Revised Control Strategy for Sulfur Oxides.



(4) June 3, 1976, amended Revised Control Strategy for Sulfur Oxides:

2. A new § 52.2780 is added as follows:

§ 52.2780 Control strategy for sulfur oxides.

(a) The requirements of § 51.13 of this chapter are not met since there has not been a satisfactory demonstration that the Virgin Islands plan provides for the attainment and maintenance of the national ambient air quality standards for sulfur oxides on the island of St. Croix.

(b) 12 V.I.R. & R. 9:204-26, as submitted to EPA on January 21, 1976, and as amended and resubmitted to EPA on June 3, 1976 is approved as it applies to the islands of St. Thomas and St. John. The said regulation is not approved as it applies to the island of St. Croix because of the inadequacy of the control strategy demonstration noted in paragraph (a) of this section. Accordingly all sources on St. Croix are required to conform to the sulfur-in-fuel limitations contained in 12 V.I.R. & R. 9:204-26 as originally submitted to the EPA on January 31, 1972.

[FR Doc.76-20129 Filed 7-9-76;8:45 am]

[FRL 569-7]

**PART 124—STATE PROGRAM ELEMENTS NECESSARY FOR PARTICIPATION IN THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

**PART 125—NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

**Application of Permit Program to Agricultural Activities**

On February 23, 1976, the Environmental Protection Agency (EPA) proposed regulations for applying the National Pollutant Discharge Elimination System (NPDES) permit program to agricultural activities (41 FR 7963). These regulations were proposed in accordance with the June 10, 1975, court order issued following the decision of the Federal District Court for the District of Columbia in the case of *NRDC v. Train* [396 F. Supp. 1393, 7 ERC 1881 (D.D.C. 1975)]. Although EPA is pursuing the appeal of this case, the Agency is required by court order to proceed with the promulgation of these regulations. For a detailed history of the development of the proposed regulations see the preamble to the proposed regulations for concentrated animal feeding operations published November 20, 1975 (40 FR 54182).

EPA solicited comments concerning the proposed regulations and received more than one hundred twenty written statements in response. These comments are available for public inspection at EPA, and have been entered into the record for the development of these final regulations.

**SUMMARY OF THE FINAL REGULATIONS**

These regulations clarify EPA's NPDES jurisdiction over discharges of pollutants from agricultural activities by defining which sources of pollutants are

point sources, and thus subject to the NPDES permit program. It has been determined that, because of the reasons explained below, point sources in the agricultural activities category are conveyances from which irrigation return flow is discharged as a result of the controlled application of water by any person. These point sources will be subject to the general permit program to be proposed shortly in the FEDERAL REGISTER. It is anticipated that under this general permit program few owners or operators will be required to submit applications or other information to the permit-issuing authority. In addition, few owners or operators will be required to monitor, inventory, sample, record, submit reports, install pollution control devices, or otherwise change their method of operation. However, it must be emphasized that these regulations are not intended to supersede or supplant existing State regulations for control of pollution from agriculture, and that owners and operators affected by State regulations remain subject to such regulations. Also, as section 208 plans are developed and implemented, pollution control requirements may be necessary where these plans identify solutions to substantial water quality problems.

**RESPONSE TO COMMENTS**

In the more than one hundred twenty comments received, several diverse issues were raised and discussed, concerning the application of the regulatory program to agricultural activities generally, the direction and impact of the program, and the contents of the regulations themselves. Although many of the comments went well beyond the scope of these regulations, the major relevant issues raised and their resolution with regard to these final regulations are discussed below.

1. *The application of the regulatory program to agricultural activities.* The comments concerning EPA's approach to applying the NPDES permit program to point sources in the agricultural activities category, as required by the court order, expressed a variety of opinions.

a. *Practical considerations.* A few commenters asserted that the program was not comprehensive enough, that more agricultural sources should be covered, and that conventional individual permits should be issued to each owner or operator of such sources. These commenters suggested that all agricultural runoff that is channeled into ditches, pipes or culverts before being discharged into navigable waters should be subject to the permit program regardless of whether or not such runoff is a result of the controlled application of water. According to these commenters, subsurface as well as surface irrigation return flow should be included. These comments were carefully considered, but it has been determined not to expand the definition of point source at this time. However, depending on the effectiveness of the general permit program, the results of the on-going research program, and other changing factors, it may be necessary to re-examine, expand or contract

the definition of agricultural point source.

Several commenters questioned the legality, practicality, rationality and feasibility of EPA's approach. Although some commenters regarded the program as legally adequate and within the bounds of the law, they pointed to several practical considerations that appear to make the program unworkable. For example, the problems inherent in many irrigated areas concern the reuse of irrigation water and the multiple responsibilities among users for the quality of the water as it passes from one irrigated farm to another before being discharged into navigable waters. Thus, it is argued, it would be unjust to impose monitoring, inventory or pollution control requirements on the downstream user where many upstream users may well have contributed to the problem. This potential injustice is a legitimate concern, but is better addressed in the context of the general permit program.

Another issue raised by commenters concerns water and property rights provided for by State law. Any change in the current use and management systems of irrigation water, argued some commenters, would disrupt the complex legal doctrine of prior appropriation water law used in many western states to allocate water resources.

A few commenters suggested that EPA had missed the point entirely. EPA had yet to prove that irrigation return flow contained any pollutants, according to a handful of commenters, and thus should not impose any permit requirements where there was no discharge of pollutants. Another commenter recommended that EPA focus its attention on salinity problems, not irrigation. It was also noted that dilution and desalinization plants are appropriate forms of pollution control to combat pollutant discharges from agricultural sources.

b. *Legal issues.* Aside from these practical considerations, many commenters questioned the legality of the program, stating that the scant legislative history could not be relied upon as indicative of Congressional intent. Also, a few commenters pointed out that agriculture was included in discussions of nonpoint sources in the legislative history, and in the FWPCA itself. Other commenters drew on the FWPCA to argue that there is no legal authority to distinguish and regulate irrigation, while leaving dry land farming unregulated. However, in the case of *NRDC v. Train*, the court acknowledged that EPA should exercise discretion "to determine what is encompassed within [the] scope [of the NPDES permit program. Specifically], it appears that Congress intended for the Agency to determine, at least in the agricultural \* \* \* area, which activities constitute point and nonpoint sources." The court then quoted a statement by Senator Edmund Muskie in the legislative history of the FWPCA that "[g]uidance with respect to the identification of 'point source' and 'nonpoint source,' especially as related to agriculture, will be provided in regulations and guidelines



of the Administrator [of EPA]." *NRDC v. Train*, 396 F. Supp. 1393 at 1401, 7 ERC 1881 at 1886. Once EPA has exercised its discretion to distinguish between point and nonpoint sources, the court recognized that EPA must utilize innovative techniques to develop procedures for administering the NPDES permit program in a logical and manageable manner.

Following this guidance of the court in the proposed regulations for agricultural activities published in February, EPA intended to establish an appropriate program for pollution control in the agricultural activities category. In so doing, the "controlled application of water by any person" concept was utilized as one of the major distinguishing factors between agricultural point and nonpoint sources. Some commenters stated approval of this concept and commended EPA for its approach.

c. *Alternatives*. Because of the diversity of opinions on these regulations and the numerous potential issues in the agricultural activities category, several persons suggested alternatives to promulgating these regulations. Some commenters felt more hearings would be appropriate, both to explain the regulations and to solicit more public comments. Additional hearings will be proposed in conjunction with the development and issuance of the general permits.

Several persons suggested that one or more amendments to the FWPCA would resolve these issues. Different amendments were suggested providing for explicit EPA authority to exclude certain point sources from the permit program, for explicit EPA authority to include management practices in NPDES permits, and for an exclusion of irrigation return flow from the permit program.

In the alternative, several commenters urged EPA to vigorously pursue the appeal of the court decision. As stated above, the *NRDC v. Train* opinion has been appealed. Both EPA and NRDC have filed documents for the appeal and are currently awaiting the setting of a date for oral argument.

Also as stated above, despite the appeal of the suit, EPA is required to proceed with the promulgation of these regulations, although several commenters suggested delays in this promulgation as an alternative. A few persons felt that the comment period following the proposed regulations was insufficient and should have been lengthened. The 45-day comment period was established in order to give EPA enough time after the period ended to develop the final regulations. Because of the court-imposed deadline for these regulations, a longer comment period would have precluded proper consideration of all the comments received. In fact, the 45-day period is an extension of the required 30-day comment period.

A few other commenters suggested that the promulgation date be postponed until June 10, 1977, or that implementation of the program be postponed or extended so that the immediate im-

pact would be minimized. The court order requires promulgation by July 10, 1976. However, because these regulations only address the scope of the application of the NPDES permit program to point sources in the agricultural activities category and do not impose substantive requirements, the impact of this promulgation is minimal.

A few of the comments suggested that, as an alternative, the promulgation of the regulations be postponed until further study of the problems of irrigated agriculture. Research and development, according to some commenters, is needed in several problem areas, particularly to study the nature, extent, and significance of pollution in agricultural areas, and to identify processes, methods and technology to prevent and abate such pollution. Another commenter recommended study in the area of economic impacts when the pollution control program is implemented and whether such program requires inventories, monitoring, reporting, utilization of management practices, or installation of pollution control technology.

Progress is being made in the research on these aspects of controlling pollutant discharges from agricultural activities. For example, there are twenty-six ongoing study projects being conducted by EPA utilizing more than \$5.2 million to collect and evaluate information on irrigation-return flow quality, to identify the conflicts between water rights and improved water management practices relating to both water quantity and quality, to compare management practices to reduce sediment and nutrient losses from irrigated areas, to demonstrate improved salinity control technology and to assess the cost effectiveness of pollutant discharge control and its impact on net income. These studies are in addition to recently completed projects which have evaluated the various sources of return flows, structural control practices, feasibility of end-of-pipe treatment by desalinization, denitrification, and nitrogen stripping, and a limited number of nonstructural salinity control measures.

These studies will continue in conjunction with these final regulations for agricultural activities and thus will help satisfy the concerns of those commenters who suggested that research be the first step in a pollution control program for agriculture.

2. *Impact of the regulations*. Despite the fact that these regulations do not impose any substantive requirements, several persons remarked on the anticipated economic impact of the proposed regulations. All such comments would be better addressed in reference to the general permit program which will be proposed to cover point sources in the agricultural activities category, but are briefly discussed here for general information. Apparently, the proposed regulations raised the specter of the uniform imposition of costly monitoring, reporting and pollution control technology requirements. Although no such requirements are imposed by these regulations

promulgated today or are intended in the regulations to be proposed for general permits, the possibility of such requirements caused much comment.

Several commenters stated, with little or no qualification, that such requirements would be so costly as to drive most small operators out of business. Estimates of \$2,000 per acre of additional costs for clean water requirements were quoted to document this economic impact. However, because no such requirements will be uniformly imposed through the general permit program, no such costs are anticipated. Thus fears that the imposition of huge pollution control costs on irrigators would unfairly burden and discriminate against that segment of the agricultural market are largely unfounded.

A few commenters also expressed the opinion, based on assumed large additional costs, that such money would be spent without commensurate benefit or necessity. These opinions complemented those claiming that there were no pollutants discharged from irrigated agriculture. Thus, it would appear that EPA had proposed pollution control measures without reason or cause. However, these opinions were contradicted by other statements recognizing the pollution problems, particularly silt, salinity, and dissolved solids, associated with agricultural activities.

To combat these problems, EPA will be proposing a program for general permits to begin to deal with agricultural pollution in an organized and comprehensive manner. Although it is difficult to ascertain what long term costs may accrue to effectuate the goals of the FWPCA, the proposed general permit program is not anticipated to burden unduly owners and operators of agricultural activity point sources. Should effluent limitations guidelines be developed and imposed in the future, however, the inflationary impact statement suggested by some commenters may be necessary.

3. *The substantive content of the regulations*. The main thrust of the proposed regulations covering agricultural activities was to distinguish point sources from nonpoint sources and thus not subject to the "controlled application of water by any person." Many persons took issue with this concept and urged that irrigation return flow ditches be considered nonpoint sources and thus not subject to the permit program. Given the broad definition of point source in section 502 (14) of the FWPCA, however, that a point source means "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel [or] \* \* \* conduit (emphasis added)," the argument that irrigation return flow ditches and channels are not point sources is somewhat difficult to sustain.

EPA took the approach in the proposed regulations for agricultural activities of distinguishing water applied to the land through the control of any person (irrigated farming) from water reaching the land as a result of precipitation (dry land farming). Thus where



the application of water by any person to agricultural land results in the discharge of pollutants into navigable waters, such discharge is subject to the NPDES permit program; where the discharge of pollutants is induced by precipitation, the permit program is not applicable. In cases where commingled discharges of pollutants are the result of both man's application of water and precipitation, such discharges are subject to the permit program. The man-controlled application of water is the key to utilizing the NPDES permit program most effectively. For example, there is minimal control over siltation and runoff as a result of a rainstorm or flash flooding, but such siltation and runoff could be reduced through changes in the man-controlled application of water. Thus, where regulation through the permit program is possible and appropriate, such regulation was proposed. In other words, pollution sources amenable to effective regulatory control within the NPDES permit program have been included in the definition of point source in the agricultural activities category, whereas sources for which the NPDES permit program is inappropriate and infeasible have been excluded from that definition.

Having elaborated on the practical problems inherent in EPA's distinction between irrigated and dry land farming, many commenters offered alternative suggestions to distinguish point from nonpoint sources. Some persons interpreted the intent of the FWPCA to provide for two regulatory programs based on the different types of pollution control mechanisms available. It was often stated that point source discharges should be subject to end-of-pipe treatment technology applied in accordance with effluent limitations while water pollution from nonpoint sources should be subject to best management practices (BMPs). These practices are process changes and management techniques to prevent and abate pollution at its source rather than at the outfall.

It is clear that the FWPCA contemplated two comprehensive programs under sections 208 and 402; section 208 provides for the utilization of BMPs to address nonpoint source pollution while section 402 provides for the utilization of effluent limitations to address point source pollution. However, all sources of pollution do not fall clearly and definitively into these distinct classifications. Particularly in the agricultural area, but also in construction, mining and silviculture, some pollution sources that appear to have nonpoint source characteristics can also have point source attributes. For example, in mining operations, runoff from disturbed and exposed land is often diverted and channeled into ditches before being discharged. Although such runoff appears to be diffuse and nonpoint in nature, it is directly process-related and subject to published effluent limitations and NPDES permit requirements. Conversely, diffuse runoff from a cultivated field that is channeled into drainage ditches and diverted

through culverts or trenches before being discharged into navigable waters is considered nonpoint in nature, although it could be argued that the ditch into which the runoff is channeled is a point source. Nor can the distinction between point and nonpoint sources be based upon the availability of pollution control mechanisms as several commenters suggested. Although infeasible, impractical, and uneconomical, discharges from each ditch carrying water from agricultural land could be controlled by effluent limitations and end-of-pipe technology. In this way a nonpoint source could be controlled by technology designed to abate pollution from point sources.

However, although EPA recognizes the rationality of using BMPs to control pollution resulting from agricultural activities, the Agency cannot presently embark on a program to control pollution from agricultural activities through the imposition of BMP requirements in permits. EPA contemplates, however, that many section 208 plans will develop BMP requirements appropriate in particular geographical areas to control such pollution. Until such time as the 208 plans are implemented, general permits will be issued to authorize discharges from agricultural activities. Because section 208(e) of the FWPCA provides that "[n]o permit under section 402 of the [the FWPCA] shall be issued for any point source which is in conflict with a [208] plan," BMPs may play an important role in the issuance of conventional NPDES permits for agricultural activities at a later date. It should be noted, however, that 208 plans cannot arbitrarily and automatically impose BMP requirements on owners and operators of agricultural point sources through NPDES permits. Each NPDES permit issued subsequent to a plan is determined to be consistent with such plan unless the owner or operator of the discharge is provided with notice and opportunity to contest such determination (see 40 CFR 130.32(c)). In addition, because the 208 planning program provides for extensive public participation in the development of the plans, each owner or operator has an opportunity to affect the provisions of the plan for his area.

Although BMPs will not be imposed directly through the permit process at this time, there is obviously Congressional intent that the permit program be closely coordinated with the development and implementation of 208 areawide plans. Through this coordination, most of the concerns expressed by commenters regarding management practices will be satisfied. Most commenters emphasizing the appropriateness of using BMPs in the agricultural activities category stated that BMPs are best selected with local cooperation in conjunction with agricultural organizations such as farm bureaus, USDA Extension Service, Soil Conservation Service and land grant universities with similar expertise. EPA agrees that the development of management practices should take advantage of such local expertise and will structure its section

208 and permit programs to accommodate this local input.

One specific problem raised within the BMP discussion concerned the inclusion of forestry or nursery operations in the definition of irrigation return flow. A few commenters suggested that such operations be considered nonpoint sources because management practices provided the most effective mechanisms to control pollution from such operations. As noted above, however, the distinction between point and nonpoint sources in the agricultural activities category has not been based on control technology alone. Thus, silvicultural nursery operations in which water is controlled by any person remain in the definition of agricultural point source.

Contrary to the understanding of a few commenters, these nursery sources of pollutants are not covered by the regulations for silvicultural activities (also required by the *NRDC v. Train* decision). The regulations for silvicultural activities apply the conventional NPDES permit program to specific industry-related point sources in forest management areas. In contrast, these regulations identify the intent to apply the new general permit program to point source discharges of pollutants resulting from the controlled application of water by any person to both agricultural and silvicultural activities. Thus, the two programs are quite different in their coverage.

There are several references above to the general permit program proposed to be implemented for the point sources identified in these regulations. Several commenters noted the difficulty of appraising the regulations for agricultural activities without knowing the specific provisions of the general permit program. EPA recognized this problem but was under court order to propose the regulations for agricultural activities in February which did not allow for enough time to develop adequate regulations for the general permits. The proposed regulations for general permits, however, will allow for an extended comment period to provide additional time for consideration of the new program. Under this program, it is anticipated that general permits will be issued to numerous owners or operators in designated areas through one or more administrative proceedings. It is also expected that these general permits will impose no nationally applicable monitoring, inventory, recording, reporting or effluent limitation requirements at this time, but will be coordinated with applicable 208 plans. Most other comments concerning the general permit program will be discussed in the proposed regulations for that program.

However, it is important to address one limitation on the general permit program. It is anticipated that the program will provide the permit-issuing agencies with authority to require individual permits in circumstances of serious, remediable pollution problems. This authority caused much concern on the part of commenters focusing on this aspect of the proposed program. Most commenters suggested that the criteria through



which this individual authority would be exercised should be set forth explicitly in the proposed regulations for general permits. To satisfy this concern, EPA intends to list in the proposed general permit regulations criteria upon which selection for individual permits may be based.

To limit this authority to require individual permits, a few commenters suggested that the determination to require such a permit should be made only after a complaint has been registered by a downstream user or other concerned citizen. Although such a complaint may be an excellent mechanism to trigger the determination process for requiring an individual permit, to make it the sole trigger mechanism would be an abdication of the pollution abatement responsibilities of permit-issuing authorities. Thus, the registration of a complaint is one of a list of criteria upon which the requirement for an individual permit may be based.

Finally, one important and oft-repeated comment on the general permit regulations concerned the necessity for adequate public comment on their contents and requirements. Just as for the regulations for agricultural activities, there will be at least a 45-day comment period following the proposal of the regulations for the issuance of general permits. The issuance of the general permits themselves will follow adequate notice and opportunity for hearing to expand the degree and nature of public participation. With these measures, those comments urging public input on the general permit program should be satisfied.

In addition to the promulgation of the regulations for agricultural activities, these regulations include a list of technical changes made in 40 CFR Parts 124 and 125 made over the past four months in response to the *NRDC v. Train* decision. These changes have been made in a piecemeal fashion in four different promulgations and are listed here to clarify the modifications for future reference.

Because of the importance of promptly making known to other Federal Agencies, States, dischargers, environmentalists and other interested persons the content of these regulations, and because of the requirement to implement this program promptly, the Administrator finds good cause to and hereby does declare these regulations effective immediately on July 12, 1976.

(Secs. 304, 402, 501, Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816 et seq., Pub. L. 92-500 (33 U.S.C. 1251 et seq.)).)

Dated: July 7, 1976.

JOHN QUARLES,  
Acting Administrator.

Part 124 of Title 40 of the Code of Federal Regulations, setting forth State program elements necessary for participation in the National Pollutant Discharge Elimination System, is amended as follows:

#### Subpart A—General

##### § 124.1 [Amended]

1. Section 124.1 is amended by deleting paragraph (u) and by redesignating paragraphs (v) to (u).

#### Subpart B—Prohibition of Discharges of Pollutants

##### § 124.11 [Amended]

2. Paragraph (h) is deleted, and paragraphs (f) and (g) are revised to read as follows:

(f) Any discharge of any pollutant when such discharge conforms with the national contingency plan for removal of oil and hazardous substances, published pursuant to subsection 311(c) (2) of the Act.

(g) Water pollution from agricultural and silvicultural activities, runoff from orchards, cultivated crops, pastures, rangelands, and forest lands, except that this exclusion shall not apply to the following:

(1) Discharges from concentrated animal feeding operations as defined in § 124.82.

(2) Discharges from aquatic animal production facilities;

(3) Discharges from agricultural point sources as defined in § 124.84; and

(4) Discharges from silvicultural point sources as defined in § 124.85.

#### Subpart I—Special Programs

##### § 124.81 [Redesignated]

3. Subpart I of Part 124 is amended by deleting the title "Disposal of Pollutants into Wells," by adding a new title "Special Programs," and by redesignating § 124.80 to § 124.81.

4. Subpart I of Part 124 is amended by adding §§ 124.82, 124.83, 124.84 and 124.85 as follows:

Sec.	
124.82	Concentrated animal feeding operations.
124.83	Separate storm sewers.
124.84	Agricultural activities.
124.85	Silvicultural activities.

5. Section 124.84, Agricultural Activities, is added to read as follows:

##### § 124.84 Agricultural activities.

(a) *Definitions.* For the purpose of this section:

(1) The term "agricultural point source" means any discernible, confined and discrete conveyance from which any irrigation return flow is discharged into navigable waters.

(2) The term "irrigation return flow" means surface water, other than navigable waters, containing pollutants which result from the controlled application of water by any person to land used primarily for crops, forage growth, or nursery operations.

COMMENT: This term includes water used for cranberry harvesting, rice crops, and other such controlled application of water to land for purposes of farm management.

(3) The term "surface water" means water that flows exclusively across the

surface of the land from the point of application to the point of discharge.

Part 125 of Title 40 of the Code of Federal Regulations, setting forth policies and procedures for the Environmental Protection Agency's administration of its role in the National Pollutant Discharge Elimination System, is amended as follows:

#### Subpart A—General

##### § 125.1 [Amended]

1. Section 125.1 is amended by deleting paragraph (ii) and by designating paragraph (jj) to (ii).

##### § 125.4 \* [Amended]

2. Paragraph (j) is deleted and paragraphs (f), (g), (h), and (i) are amended to read as follows:

(f) Any discharge of any pollutant when such discharge conforms with the national contingency plan for removal of oil and hazardous substances, published pursuant to subsection 311(c) (2) of the Act.

(g)-(h) [Reserved]

(i) Water pollution from agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, rangelands, and forest lands, except that this exclusion shall not apply to the following:

(1) Discharges from concentrated animal feeding operations as defined in § 125.51;

(2) Discharges from aquatic animal production facilities;

(3) Discharges from agricultural point sources as defined in § 125.53; and

(4) Discharges from silvicultural point sources as defined in § 125.54.

#### Subpart F—Special Programs

3. Subpart 125 is amended by adding a new Subpart F, Special Programs.

4. Subpart F of Part 125 is amended by adding §§ 125.51, 125.52, 125.53 and 125.54. The table of contents follows:

Sec.	
125.51	Concentrated animal feeding operations.
125.52	Separate storm sewers.
125.53	Agricultural activities.
125.54	Silvicultural activities.

5. Section 125.53, *Agricultural activities*, is added to read as follows:

##### § 125.53 Agricultural Activities.

(a) *Definitions.* For the purpose of this section:

(1) The term "agricultural point source" means any discernible, confined and discrete conveyance from which any irrigation return flow is discharged into navigable waters.

(2) The term "irrigation return flow" means surface water, other than navigable waters, containing pollutants which result from the controlled application of water by any person to land used primarily for crops, forage growth, or nursery operations.

COMMENT: This term includes water used for cranberry harvesting, rice crops, and



other such controlled application of water to land for purposes of farm management.

(3) The term "surface water" means water that flows exclusively across the surface of the land from the point of application to the point of discharge.

[FR Doc.76-20130 Filed 7-9-76;8:45 am]

**Title 45—Public Welfare**

**CHAPTER X—COMMUNITY SERVICES ADMINISTRATION**

**PART 1006—PRIVACY ACT REGULATIONS**

**Additional Specific Exemptions and Other Miscellaneous Changes**

On May 7, 1976, there was published in the FEDERAL REGISTER (41 FR 18871) a notice of proposed rulemaking setting forth changes in the Community Services Administration's Privacy Act Regulations, including an exemption of records systems CSA-12 and CSA-13 from certain provisions of the Act under 5 U.S.C. 552a(k)(2). The public was given the opportunity to comment on these proposed changes before June 10, 1976.

No comments have been received, but one error in this notice has been discovered; the revocation of § 1006.5(j) described in the preamble to this notice was incorrectly stated in the text to be a revocation of § 1006.4(j) which does not exist. Therefore, the proposed changes are adopted with this correction but without any other changes as set forth below:

**AUTHORITY:** (5 U.S.C. 552a).

**Effective date:** July 12, 1976.

**Dated:** July 6, 1976.

**SAMUEL R. MARTINEZ,**  
*Director.*

Part 1006, Appendix B, is amended by inserting the words "Contractor Employee" at the beginning of the last item, so it reads "Contractor Employee Equal Employment Opportunity under E.O. 11246, as amended."

**§ 1006.4 [Amended]**

Section 1006.4(b)(3) is revoked and § 1006.4(b)(4) is renumbered § 1006.4(b)(3).

**§ 1006.5 [Amended]**

Section 1006.5(j) is revoked and § 1006.5(k) is renumbered § 1006.5(j).

**§ 1006.9 [Amended]**

1. The table of contents entry and the section heading of § 1006.9 are amended as set forth below.

2. Paragraph (a) of § 1006.9 is revised as set forth below and paragraph (d) is amended by the insertion of the words "be an order for full or partial release of the documents requested or shall" in line 3 after the word, "Shall", and (e)(4) is amended by inserting "or (B)" in line 3 after "5 U.S.C. 552a (g) (1) (A)".

**§ 1006.9 Appeal of initial adverse agency determination on correction or amendment or access.**

(a) "When a request has been denied under §§ 1006.5 or 1006.8, the requester may appeal the denial to the Privacy Act Officer, Office of Administration, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506. An appeal should be identified both on the envelope and in the text as a Privacy Act Appeal.

4. The text of § 1006.14 is designated as paragraph (a) and amended by deleting the portion of the first sentence after "(e)(1)" and substituting "(e)(4)(I) and (f)(4)", and by adding a last sentence to paragraph (a) and a new paragraph (b) as set forth below:

**§ 1006.14 Specific exemptions.**

(a) \* \* \* Any person may still seek access to these records under the Freedom of Information Act; any Privacy Act Request seeking records under this exemption will be processed under the substantive provisions of the Freedom of Information Act.

(b) Under 5 U.S.C. 552a(k)(2), the Director also exempts system CSA-12 entitled "CSA Employee Equal Opportunity System" and CSA-13 entitled "CSA Grantee Employee Equal Opportunity System" from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(I), and (f)(4). The primary reason for asserting this exemption is to avoid disruption of EEO procedures by disclosure of EEO files to persons not entitled to them under EEO procedures. It is also necessary in the case of investigations of grantees (CSA-13) to preserve the ability to obtain information from confidential sources and to protect those sources from reprisals, especially the loss of employment. Any person may still seek access to these records under the Freedom of Information Act; any Privacy Act Request seeking records thus exempted will be processed under the substantive provisions of the Freedom of Information Act.

[FR Doc.76-19966 Filed 7-9-76;8:45 am]

**Title 47—Telecommunication**

**CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION**

[Docket No. 20600; FCC 76-580]

**PART 73—RADIO BROADCAST SERVICES**

**Program Logs for AM, FM and TV Stations**

**REPORT AND ORDER—Proceeding Terminated.** In the matter of amendment of Part 73 of the Commission's rules and regulations relating to program logs for AM, FM and TV stations, Docket 20600.

1. In its continuing effort concerning reregulation of the broadcasting services, the Commission released a notice of proposed rulemaking, September 29, 1975, to amend certain provisions in Part 73 of our rules and regulations in regard to program logs for AM, FM and TV stations.<sup>1</sup>

<sup>1</sup> "General requirements relating to logs:" AM, 73.111; FM, 73.281, NCE\*-FM, 73.581; TV, 73.669. "Program log:" AM, 73.112; FM, 73.282; NCE\*-FM, 73.582; TV, 73.670 (\*Non-commercial Educational).

2. Publication was made in the FEDERAL REGISTER on September 29, 1975, 40 FR 44577. By Order released on October 24, 1975, the dates for filing comments and reply comments were extended to December 15 and 31, respectively (40 FR 51482).

3. Comments were filed by parties listed in Appendix A.<sup>2</sup> No reply comments were filed.

4. The notice of proposed rulemaking herein looked toward amendments of the program log requirements as they pertain to such matters as automated programming systems, use and certification of automatic logging and automatic maintenance of logging data, changes and corrections in program logs, entries of sponsor identification and "uses" by political candidates, program logs for noncommercial educational stations, and the matter of what actually constitutes a program log.

**CORRECTIONS OF MANUALLY KEPT LOGS**

5. The comments generally supported our proposal concerning the initialing of corrections on manually kept logs. The existing rule is, in pertinent part, as follows:

Where, in any program log, or pre-printed program log, or program schedule which upon completion is used as a program log, a correction is made before the person keeping the log has signed the log upon going off duty, such correction, no matter by whom made, shall be initialed by the person keeping the log prior to his signing of the log when going off duty, as attesting to the fact that the log as corrected is an accurate representation of what was broadcast.

The National Association of Broadcasters (NAB) pointed out that many changes are made in early working copies of a program schedule "which upon completion is used as a program log" and stated that considerable confusion exists in the industry as to which of the changes must be initialed for compliance with this provision. NAB contends that initialing should not be required on corrections made before such schedules are finalized and then used as a basis for a program log.

6. The initialing requirement has been for the purpose of assurance that what was shown on the log was an accurate statement of what was actually broadcast. We believe, as indicated in our Notice of Proposed Rule Making herein, that adequate assurance would be obtained if the initialing requirement were deleted and the person keeping the log and signing the log when going off duty attests to the fact that the log, with any corrections or additions made before he so signed the log, is an accurate representation of what was actually broadcast.

7. In supporting the proposal, American Broadcasting Companies, Inc. (ABC), stated that "Since the operator signs the log at the end of his shift, his initialing of corrections and changes made during or prior to his shift are superfluous." The Joint Comments filed by Pierson, Ball

<sup>2</sup> Appendix A filed as part of the original document.



and Dowd (PBD) on behalf of a number of licensees contend that strict compliance with existing rules results in a mass of initials and data which often make the log difficult to read and maintain. In the joint comments of Broad Street Communications Corporation and Cox Broadcasting Corporation, (Broad and Cox) it is concluded that the amendment "would eliminate the time consuming and potentially distracting procedure which the rules now impose."

8. The rules will be amended to implement the certification provision.

9. It should be stressed that no change is being made in the present provision that "if corrections or additions are made on the program log after it has been so signed, explanation must be made on the log or an attachment to it, dated and signed by either the person who kept the log, the station program director, or an officer of the licensee." (emphasis added)

10. We stated in the notice of proposed rulemaking that " \* \* \* we would consider any falsification under the proposed certification provision a ground for revocation of license." PBD states that the Commission has the right to impose sanctions where there has been proof of deliberate falsification of logs with intent to deceive or defraud, but questions whether " \* \* \* the proposed standard for revocation should be as Draconian as the Commission proposes since it does not take into account the aspect of intent, clarity of Commission rules, and other countervailing factors." We hold to the statement that we would consider any falsification under the certification provisions as "a ground" for revocation of license. It could, indeed, be a ground for a lesser sanction if there were countervailing factors.

11. The comments generally supported our proposal for amending the rules on "General requirements relating to logs." They now provide, in pertinent part, the following:

No log or pre-printed log or schedule which becomes a log, or portion thereof, shall be erased, obliterated, or wilfully destroyed within the period of retention, provided by the provisions of this part. Any necessary correction shall be made only pursuant to § 73.112 (program log), 73.113 (operating log) and 73.114 (maintenance log) \* and only by striking out the erroneous portion, or by making a corrective explanation on the log or attachment to it as provided in those sections.

Reference to the "pre-printed log or schedule which becomes a log" is not necessary and, perhaps, misleading. It is the log itself that must not be derogated during the retention period. Accordingly, we will delete the phrase "pre-printed log or schedule which becomes a log."

12. PBD seeks clarification of the term "obliterate" as it appears in the rules (par. 11, *supra*). PBD says that, on a

number of occasions, Commission Field Inspectors have cautioned licensees to change entries on the logs only by means of a single stroke across the erroneous entry, in order to permit the reading of the changed entry. PBD indicates that Field Inspectors "have relied on the strict literal interpretation of the word 'obliterate' (i.e., to make undecipherable)." As long as the change is properly authenticated, it is PBD's view that the contents of the marked-out item are immaterial since it "would appear that the Commission's interest in program logs is to determine what has been broadcast" rather than what was not broadcast.

13. We construe PBD's request for clarification as applying to corrections made on the program log before the person keeping the log signs off duty. With our deletion of the phrase "pre-printed log or schedule which becomes a log" (par. 11, *supra*) and our implementation of the certification provision in lieu of initialing changes made on the program log before the person keeping the log signs off, the matter raised by PBD appears to be remedied. Changes made on the program log after the person keeping it signs off raise different considerations. In such cases, we are, indeed, concerned with what the entry was and the reason for its change, and the provisions regarding erasure, obliteration, and striking out must be strictly enforced.

#### AUTOMATIC LOGGING AND AUTOMATIC MAINTENANCE OF LOGGING DATA

14. A number of comments in this proceeding failed to recognize the difference between automatic program logging and automatic maintenance of program logging data. The difference is, simply, that automatic program logging produces a program log, whereas automatic maintenance of program logging data merely produces a recordation (e.g. tapes of the day's programming, encoded printouts) from which certain entries could be made later in a program log. Automatic logging devices must produce in the English language (as opposed to symbols or digital coding) a complete log containing, in legible form, all entries required by our rules, the same as a manually-kept log. Automatic maintenance of logging data does not, in itself, constitute a log pursuant to our rules but merely stores some of the data from which information can be extracted to make the required entries in a log. Our existing rules provide that any information required to be logged which cannot be incorporated in the automatic maintenance process shall be maintained in a separate record which shall be properly authenticated.

15. Existing rules require also that each tape or other means employed in all types of automatic processes must be accompanied by a certificate that "it accurately reflects what was actually broadcast" (§ 73.112(c) et al.). We proposed that the certification provision be liberalized to the extent that the person responsible for keeping the log, instead

of being required to certify of his own personal knowledge that the tape, or other means, accurately reflects what was actually broadcast, would be required to certify that he checked the said equipment periodically, that at no time was it malfunctioning and that to the best of his knowledge and belief the automated material was an accurate reflection of what was actually broadcast.

16. ABC pointed out that the present form of certification could be construed to "require that the operator attest to the complete accuracy of the automated log based entirely upon his personal knowledge or precisely what was broadcast throughout his shift." At an automated station, ABC says it is possible that the operator on duty will be assigned other tasks to perform in addition to monitoring the performance of the automatic program and logging equipment; and that, thus, even though the operator listens to the station continuously and inspects all automation equipment quite frequently, he or she still might often not be in a position to execute the present certification form, if it were construed as indicated. ABC adds that "in contrast, the modified certification would be based on facts which clearly should be within the direct, personal knowledge of the operator on duty."

17. Metromedia states that the proposal reflects a far more reasonable and appropriate certification. NAB concludes that the proposal "is a fair and reasonable approach to ensure that the automatic logging equipment is functioning properly." Starr KABL, Inc. (Starr) says the proposal assures that station operation will not be left unattended, while, at the same time, it permits the studio operator to assume other necessary responsibilities.

18. Broad and Cox urge that the certification proposal be further modified to require only that the operator has checked the said equipment periodically and that at no time was it malfunctioning; and that, accordingly, there would be no requirement that the certification also include the statement that, to the best of the individual's knowledge and belief, the automated material was an accurate reflection of what was actually broadcast. Broad and Cox assert that this personal assurance can, as a practical matter, add nothing of ultimate substance to the certification. They contend that "unless the Commission is to require constant monitoring to form the basis of that [personal] assurance (which would, of course, eliminate the underlying reason for installing an automatic logging system), such an assurance will reflect ultimate reliance on the fact that the automatic logging equipment was in proper operation; (and) from that fact, it would be inferred that the automated material accurately reflected what was actually broadcast." Broad and Cox conclude that "further personal assurances are duplicative and unnecessary." We believe that the point is well taken and, accordingly, are making the recommended modification.

\* Sections 73.111(c) (AM); 73.281(c) (FM); 73.581(c) (NCE-FM) and 73.669(c) (TV).

\* Rule sections referred to are for AM stations. Counterparts for FM are §§ 73.282, 73.283, 73.284; for NCE-FM, §§ 73.582, 73.583, 73.584; and for TV §§ 73.670, 73.671, 73.672.

\* Sections 73.112(c) (AM) and counterpart Sections in FM, NCE-FM, and TV.



19. NAB, NBC and Metromedia urge that we specify precise time intervals at which the periodic equipment checks must be made. Metromedia suggests that there is no need to make such checks at intervals more frequent than every four hours. NAB and NBC recommend every twelve hours. We believe that checking of the equipment "periodically" must be relative to the particular equipment at a given station. There are many makes, models and types of logging equipment in use. Some is new and highly sophisticated, while some is older and less sophisticated and reliable. Equipment with a proven record of reliability would not need to be checked as frequently as equipment without such a record. It is incumbent upon the licensee to know his equipment and have checks made with sufficient frequency to assure him that any malfunctioning is discovered without undue delay. This is a safeguard for the licensee since, upon a malfunction which leaves the equipment not providing the necessary data, the station must go to manual logging for the period of such malfunction. If the malfunction were not discovered until twelve hours later, or even a much shorter period of time, the need for manual logging would not have been known and not accomplished.

20. Telemundo, Inc. and El Mundo Broadcasting Corporation, licensees respectively of WKAQ-TV and WKAQ AM-FM San Juan, Puerto Rico, assert that, since all but a few stations in Puerto Rico broadcast most of their programs in Spanish, the Commission should permit automatic logging with sequential Spanish language printouts. Inasmuch as Spanish is the legally constituted official language of Puerto Rico, stations licensed to operate there will be considered in compliance with our automatic logging rules when sequential Spanish language printouts are used. However, any logs submitted to the Commission or its representative must be translated into English.

21. In our notice of proposed rulemaking, we invited comments on the question of revising our program logging rules to delete the provisions that have the effect of exempting radio stations which use automatic maintenance of logging data from the requirements for maintaining a legible, daily log; and whether, if such revision were made, those stations should be required to transcribe the data into a legible log within 24 hours of the last entry for that broadcast day.<sup>5</sup> There was near unanimity in strongly opposing any such revisions.

22. A central theme of those comments is, as enunciated by Beef Empire Broadcasting Company, that the revisions are unnecessary, unrealistic, and would result in an economic burden negating the advantages of sophisticated automation equipment in the day-to-day operation

of broadcast facilities; and that it would be in the best interests of the public and the industry to retain the present requirements. Those requirements are that the licensee shall extract information from the "recording" for the days specified by the Commission or its duly authorized representative and submit it in written log form, together with the underlying recording, tape or other means employed. Upon review of this matter, we conclude that our present requirements are adequate and that no revision is necessary at this time. However, we stress that, when a written, daily log is called for by the Commission pursuant to this provision, a licensee will not be heard to say that it is too onerous a burden, financially or otherwise, to furnish such written log, and the Commission will not accept the tapes "or other means" in lieu of the written logs.

23. Comments were invited on the reliability of equipment for automatic program logging and for automatic maintenance of program logging data. As ABC pointed out, there are many different kinds of automatic logging systems in use. The comments reflect each commenter's experience with the system he is using. NBC reported that a recent survey conducted by its Engineering Department showed reliability of the automatic logging systems used at its eight NBC-owned stations to be "something better than 99.5%." ABC stated that the two radio stations at which it uses automated logging equipment have found it to be "extremely reliable." Group W's experience has been that "the equipment now in use is highly reliable." The joint comments filed by McKenna, Wilkinson and Kitner for a number of licensees (see Appendix A) indicate that those licensees "have now had considerable experience with automated logging equipment and have found it to be quite reliable." Each of these comments dealt with automatic logging equipment, not automatic maintenance of logging data. None specified the types of equipment used. Automatic logging equipment ranges from older "first generation" systems to "new generation" systems claimed to have greater sophistication and reliability. Thus, the limited comments herein on reliability are helpful but not conclusive.

24. In our notice of proposed rulemaking, we stated that "in facing the question of whether our program log rules should be amended to abolish the certification provision (with respect to automatic logging and automatic maintenance of logging data) and pave the way for unattended studio operation, we must weigh many public interest considerations." Group W charges that the "Commission should not confuse the use of automatic logging or data retention systems with the entirely separate question of unattended station operation pointed out in the Notice; and that the matter of unattended station operation should be dealt with in a proceeding in which all of the relevant factors may be adequately considered."

25. We agree. The question in this proceeding was one of abolishing the certification provision, which, as indicated,

could "pave the way for unattended studio operation." We are modifying, but not abolishing, the certification provision (para. 18, *supra*), only insofar as it applies to automatic logging or automatic data maintenance procedures, without further reference, in this proceeding, to attended vs unattended station studio operation.

26. In its comments, NBC "again urges that the Commission direct those radio and TV stations which use automatic tape logs to maintain . . . [their] . . . pre-logs in their public inspection files for use by interested parties" but "not require that these business records be certified, up-dated or reviewed for rule compliance." NBC had made the request previously in Docket No. 19667 (making program logs of television stations available for public inspection after 45 days). In that proceeding, the Commission rejected NBC's suggestion and adopted the following "Note" to § 73.674 of the television rules: "In cases where the logging system employed does not provide for a written program log, the licensee shall retain, subject to the above provisions, copies of the station's pre-logs (operating schedules), updated and certified correct." We stated in paragraph 32 of the Report and Order in Docket No. 19667 that although this approach is less than ideal, the only other choices would be no [public] inspection or a required abandonment of this form of logging" (the form used by NBC was a slow-scan video tape system which records selected video images and the entire audio signal).

27. We made no proposal in this proceeding to amend the "Note" to § 73.674 and, again, reject NBC's above-referenced suggestion.

28. In miscellaneous logging matters, The Hearst Corporation states that the Commission has consistently allowed stations to remove billing information from any log before it becomes a part of an application or other file open to public inspection; and that "It would be appropriate for the rules to recognize the right of removal of such non-program data." We believe that the point is well taken and will add to §§ 73.111(d), 73.281(d), 73.581(d) and 73.669(d), AM, FM, NCE-FM and TV respectively, a clause to that effect. The sections will read as follows: (added material italicized)

"\* \* \* Additional information such as that needed for administrative or operational purposes may be entered on the logs. Such additional information, so entered, shall not be subject to the restrictions and limitations in the Commission's rules on the making of corrections and changes in logs and may be physically removed, without otherwise altering the log in any way, before making the log a part of an application or available for public inspection. (Italics added.)"

KOYE Stereo suggests that provision be made for two-digit printouts of program "type" designations. KOYE states that it has been questioned on its "practice of using NW instead of N for News, ET instead of EDIT for Editorials, etc." KOYE suggests that the Commission adopt a series of two-letter designations

<sup>5</sup> The question applies only to AM and FM radio stations. TV stations are required to have a daily written log available for public inspection pursuant to the provisions of § 73.674 of our rules.



for program types. Section 73.111(b) for AM and counterpart rules for FM, NCE-FM and TV provide that "Key letters or abbreviations may be used if proper meaning or explanation is contained elsewhere in the log." A station using program type designations different from those specified in the rules must give an explanation of its abbreviations elsewhere in the log.

#### SPONSOR IDENTIFICATION ENTRIES

29. Our rules require an entry in the program log identifying who paid for the commercial program or announcement and an entry showing that such identification was given on the air as required by section 317 of the Communications Act and § 73.1212 of our rules.\* We proposed to combine the two requirements into one entry which would read as follows:

#### Section 73.112(b) (3)

An entry setting forth the identification of (a) the sponsor(s) of the program, (b) the person(s) who paid for the announcement, or (c) the person(s) who furnished materials or services, with the identification to be entered as it was given in the sponsor identification announcement made pursuant to section 317 of the Communications Act and 73.1212 of this chapter \* \* \*.

30. WAUB states that the proposed revision may have "introduced a source of confusion." Section 73.1212 provides, in pertinent part, that the required identification on the air can be made by giving the sponsor's corporate name, or, the name of the sponsor's product ("when it is clear that the mention of the name of the product constitutes a sponsorship identification"). Comments herein indicate that the name of the product is generally used in on-the-air announcements, whereas the practice in broadcast stations is to pre-log and log the corporate name of the sponsor as given in the contract to buy advertising time. Metromedia complains that the person preparing a pre-printed log would be required to view or listen to every commercial announcement to enter the sponsor identification in the same form as it appears in the commercial announcement. Metromedia concludes that "this would be a horrendous burden which would serve no useful purpose." Several comments suggested that, to avoid potential confusion over precisely what sponsorship identification is required to be logged, provisions should be made for an entry reflecting either the manufacturer's name or the name of the product. The suggestion, however, fails to take note of the fact that § 73.1212, which provides that the name of the product is sufficient sponsorship identification under certain circumstances, applies solely to the over-the-air announcement required by section 317 of the Act. It does not apply in the case of

our program logging rules, which require an entry identifying the person who paid for commercial matter. A program log entry must include the name (corporate or otherwise) to clearly identify the "person" who paid for the commercial matter.

31. We believe that the two entry requirements can be combined in one entry—without confusion or undue burden—by a modification substantially the same as PBD suggested, which is as follows:

An entry setting forth the identification of (a) the sponsor(s) of the program, (b) the person(s) who paid for the announcement, or (c) the person(s) who furnished materials and services; and the entry shall constitute a representation that identification was announced on the air as required by section 317 of the Communications Act and § 73.1212 of the Commission's Rules.

32. A licensee has the same responsibility under this modification as he had under the previous provision to not just assume that proper identification was announced over the air but to be certain that it, in fact, was.

#### PROGRAM LOG ENTRY OF A "USE" BY POLITICAL CANDIDATES

33. We proposed an additional entry in the program log to show, in the case of a paid political program or announcement by or on behalf of a candidate, whether the candidate appeared or was heard thereon to constitute a "use" under Section 315 of the Communications Act. The proposal was for the purpose of facilitating administration of that "Section and our rules with respect to such matters as lowest unit charge and equal opportunities for candidates."

34. Comments herein strongly oppose the proposal. Metromedia states that it would impose a tremendous burden on licensees. Metromedia charges that "the determination as to whether or not a particular individual is a legally qualified candidate for public office is not within the competence of the commercial operations personnel of a broadcast station" and that, "in fact, experienced communications counsel may often disagree with determinations in this area."

35. NAB points out that §§ 73.120 (AM), 73.290 (FM) and 73.657 (TV) of the Commission's rules concerning "Broadcasts by candidates for public office" set forth the requirements for both licensees and political candidates concerning candidate eligibility, censorship, rates, requests for equal opportunities and the political records a licensee must keep and make available for public inspection. NAB "believes this rule ably provides the general public, Commission and all political candidates with ample information from which to make well reasoned determinations concerning any facet of political broadcasting."

36. As previously stated, the purpose of this proposed entry was to facilitate our administration of matters with respect to political candidates. Such an entry would be helpful to our staff. However, the burdens and problems which the proposed entry could create for licensees persuade us to forego its adoption.

#### NONCOMMERCIAL EDUCATIONAL STATIONS

37. The program log rule for each of the broadcast services is the same except for noncommercial educational FM (§ 73.582). We proposed that the rule for noncommercial educational FM be brought into conformance with those for noncommercial educational TV and the other broadcast services.

38. The Association of Public Radio Stations objects to the proposal on the ground that it "ignores the substantial differences in development, funding, staffing and nature of the two media." The amendments here adopted give substantial relief to the other services and should be extended to noncommercial educational FM stations as well.

39. The Idaho State Board of Education (Idaho) generally supports the proposal but "comments on two specific areas which it feels deserve mention not provided in the Notice." First, Idaho poses questions with respect to logging of donor information for delayed network programs and proposes a rule which provides generally that names of donors would be kept in the station's public files rather than the program log.

40. Secondly, Idaho also suggests that the definitions for program data listed in the renewal form for noncommercial educational stations (FCC Form 342) be used for logging purposes instead of the definitions listed in Notes 1 and 2 to the program logging rules.\*

41. Idaho contends that not only are the renewal form definitions better suited to noncommercial educational station programming but also the duplicity of keeping two sets of records would be remedied. Idaho asserts that "changing the Form 342 definitions to conform with the § 73.112 definitions would serve only to saddle noncommercial educational broadcast licensees with a format wherein the majority of programs broadcast would be collapsed into only one or two categories."

42. WBAU raises the same matter, and suggests either substituting the Form 342 definitions for those on Note 1 of the FM program log subpart or modifying the Note 1 definitions "to make them more applicable to educational stations, as well as commercial stations."

43. Both proposals by Idaho are outside the scope of this proceeding. They represent a substantial departure from

\* For the latter entry, the present rules provide that "A check-mark (✓) will suffice but shall be made in such a way as to indicate the matter to which it relates." This provision has proved confusing in broadcasting practice and is being eliminated in favor of the new combination entry.

\* The name must be clear on its face. Thus, an abbreviation of any kind is inadequate unless "proper meaning or explanation is contained elsewhere in the log." (§ 73.111(b) for AM and counterpart rules for FM and TV).

\* FCC Form 342 has six mutually exclusive program categories: Instructional, General, Educational, Performing Arts, Light Entertainment, and Other. Note 1 of the logging rules has eight primary categories ("intended not to overlap"): Agricultural, Entertainment, News, Public Affairs, Religious, Instructional, Sports, and Others.



our proposals in the Notice and have not been the subject of comments by other interested parties. We see, however, much merit to the recommendations for conforming program definitions in the logging rules with the program definitions in the renewal form for noncommercial educational stations (FM, TV, AM). We believe also that further consideration should be given to the proposal concerning donor information. Those matters could be raised in a further notice of proposed rulemaking in this proceeding or by a separate rulemaking. The orderly dispatch of our business points to the latter course as being the better course. It would be a proceeding to elicit comments from all interested parties and especially those most concerned with educational broadcasting (only 4 comments were received from noncommercial educational interests in this proceeding). Thus, we shall adopt the rule amendments set forth below, terminate this proceeding by the Report and Order herein and, at an early date, issue a Notice of proposed rulemaking in the matter of donor information and conforming program definitions as indicated above.

44. Authority for adoption of the amendments contained below is set forth in sections 4(i), and 303(j) and (r) of the Communications Act of 1934, as amended.

45. Accordingly, it is ordered, That, effective August 16, 1976, Part 73 of the Commission's rules and regulations is amended as set forth below.

46. It is further ordered, That this proceeding is terminated.

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

Adopted: May 27, 1976.

Released: June 30, 1976.

FEDERAL COMMUNICATIONS  
COMMISSION,\*  
VINCENT J. MULLINS,  
Secretary.

1. Section 73.111 is revised to read as follows:

**§ 73.111 General requirements relating to logs.**

(a) The licensee or permittee of each AM station shall maintain program, operating and maintenance logs as set forth in §§ 73.112, 73.113 and 73.114. Each log shall be kept by the station employee or employees (or contract operator) competent to do so, having actual knowledge of the facts required, who in the case of program and operating logs shall sign the appropriate log when starting duty and again when going off duty and setting forth the time of each.

(b) The logs shall be kept in an orderly and legible manner, in suitable form, and in such detail that the data required for the particular class of station concerned is readily available. Key letters or abbreviations may be used if proper meaning or explanation is con-

tained elsewhere in the log. Each sheet shall be numbered and dated. Time entries shall be made in local time and shall be indicated as advanced (e.g., EDT) or non-advanced time (e.g., EST).

(c) No log, or portion thereof, shall be erased, obliterated, or willfully destroyed within the period of retention provided by the provisions of this part. Any necessary correction shall be made only pursuant to §§ 73.112, 73.113, and 73.114, and only by striking out the erroneous portion, or by making a corrective explanation on the log or attachment to it as provided in those sections.

(d) Entries shall be made in the logs as required by §§ 73.112, 73.113 and 73.114. Additional information such as that needed for administrative or operational purposes may be entered on the logs. Such additional information, so entered, shall not be subject to the restrictions and limitations in the Commission's rules on the making of corrections and changes in logs and may be physically removed, without otherwise altering the log in any way, before making the log a part of an application or available for public inspection.

(e) The operating log and the maintenance log may be kept individually on the same sheet in one common log, at the option of the permittee or licensee.

2. Section 73.112 and Note 3(b) (2) (iii), (v) & (vi) are revised to read as follows:

**§ 73.112 Program log.**

(a) A program log shall be kept in accordance with the provisions of § 73.111, for each broadcast day, which, in this context, means from the station's sign-on to its sign-off, or from midnight to midnight for stations operating 24 hours a day.

(b) Entries. The following entries shall be made in the program log:

(i) For each program. (i) An entry identifying the program by name or title.

(ii) Entries which indicate the time each program begins and ends. If programs are broadcast during which separately identifiable program units of a different type or source are presented, and if the licensee wishes to count such units separately, the beginning and ending time for the longer program need be entered only once for the entire program. The program units which the licensee wishes to count separately shall then be entered underneath the entry for a longer program, with the beginning and ending time of each such unit, and with the entry indented or otherwise distinguished so as to make it clear that the program unit referred to was broadcast within the longer program.

(iii) An entry classifying each program as to type, using the definitions set forth in Note 1 at the end of this section.

(iv) An entry classifying each program as to source, using the definitions set forth in Note 2 at the end of this section. (For network programs, also give name or initials of network, e.g., ABC, CBS, NBC, Mutual.)

(v) An entry for each program presenting a political candidate, showing the

name and political affiliation of such candidate. See (j) of Note 1.

(2) For commercial matter. (i) An entry identifying (a) the sponsor(s) of the program, (b) the person(s) who paid for the announcement, or (c) the person(s) who furnished materials or services; and the entry shall constitute a representation that identification was announced on the air as required by section 317 of the Communications Act and § 73.1212 of the Commission's rules. See Note 3 at the end of this Section for definition of commercial matter.

(ii) An entry or entries showing the total duration of commercial matter in each hourly time segment (beginning on the hour) or the duration of each commercial message (commercial continuity in sponsored programs, or commercial announcements) in each hour. See Note 5 at the end of this section for statement as to computation of commercial time.

**(3) For public service announcements.**

(i) An entry showing that a public service announcement (PSA) has been broadcast together with the name of the organization or interest on whose behalf it is made. See Note 4 following this section for definition of a public service announcement.

(4) For other announcements. (i) An entry of the time that each required station identification announcement is made (call letters and licensed location; § 73.1201).

(ii) An entry for each announcement presenting a political candidate showing the name and political affiliation of such candidate.

(iii) An entry for each announcement made pursuant to the local notice requirements of §§ 1.580 (pre-grant), 1.594 (designation for hearing) and 73.1202 (licensee obligations), showing the time it was broadcast.

(iv) An entry showing that broadcast of taped or recorded material has been made in accordance with the provisions of § 73.1208.

(c) National network programming. A station broadcasting the programs of a national network which will supply it with all information as to such programs, commercial matter and other announcements for the composite week not log such data but shall record in its log the time when it joined the network, the name of each network program broadcast, the time it leaves the network, and any non-network matter broadcast required to be logged. The information supplied by the network, for the composite week which the station will use in its renewal application, shall be retained with the program logs and associated with the log pages to which it relates.

(d) Manually kept log. Entries on a manually kept log may be made either at the time of or prior to broadcast. The employee responsible for keeping the log shall sign the log when starting duty and when going off duty and enter the time of each. If entries are pre-printed prior to broadcast and any deviation therefrom occurs in what was actually broadcast, an appropriate correction must be

\*Commissioner Hooks concurring in the result.



made on the log. When the employee keeping the log signs the log upon going off duty, that person attests to the fact that the log, with any corrections or additions made before he signed off, is an accurate representation of what was actually broadcast.

(e) *Automatically kept log.* (1) Entries on an automatically kept program log may be made by automatic logging instruments with sequential language printouts corresponding to manually kept log entries.

(2) An employee on duty shall be responsible for the automatic logging process and the keeping of the log. In the event of failure or malfunctioning of the automatic logging process, the person responsible for the log shall make the required entries in the log manually.

(3) The employee responsible shall sign the log, or a separate page to be affixed to the log, when starting duty and when going off duty and enter the time of each. The signature when going off duty constitutes a certification that, as to the automatic printout part of the log, the employee checked the automatic logging equipment periodically throughout the tour and that to the best of his knowledge and belief, at no time during his tour, did it fail or malfunction, unless otherwise noted above the signature; and that, as to any part of the log which was kept manually, with any corrections or additions made thereon before signing off duty, it was an accurate representation of what was actually broadcast.

(f) *Automatic maintenance of logging data.* (1) An employee on duty shall be responsible for any automatic maintenance of data and the keeping of the log. In the event of failure or malfunctioning of the said automatic process, the employee responsible for the log shall make the required entries in the log manually at that time.

(2) The employee responsible shall sign, on a separate page to be affixed to the logging data, when starting duty and when going off duty and enter the time of each. The signature when going off duty constitutes a certification that, as to the automatic maintenance of data equipment, the employee checked it periodically throughout the tour and that to the best of his knowledge and belief, at no time during his tour, did it fail or malfunction, unless otherwise noted above the signature; and that, as to any part of the log which was kept manually, with any corrections or additions made thereon before signing off duty, it was an accurate representation of what was actually broadcast.

(3) The licensee shall extract any required information from automatically maintained program logging data for days specified by the Commission or its duly authorized representative and submit it in written log form, together with the underlying recording, tape, or other means employed, within such time as the Commission may specify.

(g) *Information required.* The licensee, whether employing manual logging, automatic logging or automatic maintenance of logging data, or any combina-

tion thereof, must be able accurately to furnish the Commission with all information required to be logged.

(h) *Corrections.* (1) Program logs shall be changed or corrected only in the manner prescribed in § 73.111(c).

(2) If corrections or additions are made on the log after it has been signed, explanation must be made on the log or an attachment to it, dated and signed by either the person who kept the log, the station program director or manager, or an officer of the licensee.

#### NOTE . . .

(b) . . .

(2) . . .

(iii) Broadcasts of taped, filmed or recorded material announcements.

(v) Announcements pursuant to § 73.1212

(d) that materials or services have been furnished as an inducement to broadcast a political program or a program involving the discussion of controversial public issues.

(vi) Announcements made pursuant to local notice requirements of §§ 1.389 (pregrant), 1.594 (designation for hearing) and 73.1202 (licensee obligations) of this chapter.

3. Section 73.281 is revised to read as follows:

#### § 73.281 General requirements relating to logs.

(a) The licensee or permittee of each FM station shall maintain program, operating and maintenance logs as set forth in §§ 73.282, 73.283 and 73.284. Each log shall be kept by the station employee or employees (or contract operator) competent to do so, having actual knowledge of the facts required, who in the case of program and operating logs shall sign the appropriate log when starting duty and again when going off duty and setting forth the time of each.

(b) The logs shall be kept in an orderly and legible manner, in suitable form, and in such detail that the data required for the particular class of station concerned is readily available. Key letters or abbreviations may be used if proper meaning or explanation is contained elsewhere in the log. Each sheet shall be numbered and dated. Time entries shall be made in local time and shall be indicated as advanced (e.g., EDT) or non-advanced time (e.g., EST).

(c) No log, or portion thereof, shall be erased, obliterated, or willfully destroyed within the period of retention provided by the provisions of this part. Any necessary correction shall be made only pursuant to §§ 73.282, 73.283, and 73.284, and only by striking out the erroneous portion, or by making a corrective explanation on the log or attachment to it as provided in those sections.

(d) Entries shall be made in the logs as required by §§ 73.282, 73.283 and 73.284. Additional information such as that needed for administrative or operational purpose may be entered on the logs. Such additional information, so entered, shall not be subject to the restrictions and limitations in the Commission's rules on the making of corrections and changes in

logs and may be physically removed, without otherwise altering the log in any way, before making the log a part of an application or available for public inspection.

(e) The operating log and the maintenance log may be kept individually on the same sheet in one common log, at the option of the permittee or licensee.

4. Section 73.282 and Note 3(b) (2) (iii), (v) & (vi) are revised to read as follows:

#### § 73.282 Program log.

(a) A program log shall be kept in accordance with the provisions of § 73.281 for each broadcast day, which, in this context, means from the station's sign-on to its sign-off, or from midnight to midnight for stations operating 24 hours a day.

(b) *Entries.* The following entries shall be made in the program log:

(1) *For each program.* (i) An entry identifying the program by name or title.

(ii) Entries which indicate the time each program begins and ends. If programs are broadcast during which separately identifiable program units of a different type or source are presented, and if the licensee wishes to count such units separately, the beginning and ending time for the longer program need be entered only once for the entire program. The program units which the licensee wishes to count separately shall then be entered underneath the entry for a longer program, with the beginning and ending time of each such unit, and with the entry indented or otherwise distinguished so as to make it clear that the program unit referred to was broadcast within the longer program.

(iii) An entry classifying each program as to type, using the definitions set forth in Note 1 at the end of this section.

(iv) An entry classifying each program as to source, using the definitions set forth in Note 2 at the end of this section. (For network programs, also give name or initials of network, e.g., ABC, CBS, NBC, Mutual.)

(v) An entry for each program presenting a political candidate, showing the name and political affiliation of such candidate. See (j) of Note 1.

(2) *For commercial matter.* (i) An entry identifying (a) the sponsor(s) of the program, (b) the person(s) who paid for the announcement, or (c) the person(s) who furnished materials or services; and the entry shall constitute a representation that identification was announced on the air as required by section 317 of the Communications Act and § 73.1212 of the Commission's rules. See Note 3 at the end of this section for definition of commercial matter.

(ii) An entry or entries showing the total duration of commercial matter in each hourly time segment (beginning on the hour) or the duration of each commercial message (commercial continuity in sponsored programs, or commercial announcements) in each hour. See Note 5 at the end of this section for statement as to computation of commercial time.



(3) *For public service announcements.* (i) An entry showing that a public service announcement (PSA) has been broadcast together with the name of the organization or interest on whose behalf it is made. See Note 4 following this section for definition of a public service announcement.

(4) *For other announcements.* (i) An entry of the time that each required station identification announcement is made (call letters and licensed location); § 73.1201).

(ii) An entry for each announcement presenting a political candidate showing the name and political affiliation of such candidate.

(iii) An entry for each announcement made pursuant to the local notice requirements of §§ 1.580 (pre-grant), 1.594 (designation for hearing) and 73.1202 (licensee obligations), showing the time it was broadcast.

(iv) An entry showing that broadcast of taped or recorded material has been made in accordance with the provisions of § 73.1208.

(c) *National network programming.* A station broadcasting the programs of a national network which will supply it with all information as to such programs, commercial matter and other announcements for the composite week need not log such data but shall record in its log the time when it joined the network, the name of each network program broadcast, the time it leaves the network, and any non-network matter broadcast required to be logged. The information supplied by the network, for the composite week which the station will use in its renewal application, shall be retained with the program logs and associated with the log pages to which it relates.

(d) *Manually kept log.* Entries on a manually kept log may be made either at the time of or prior to broadcast. The employee responsible for keeping the log shall sign the log when starting duty and when going off duty and enter the time of each. If entries are pre-printed prior to broadcast and any deviation therefrom occurs in what was actually broadcast, an appropriate correction must be made on the log. When the employee keeping the log signs the log upon going off duty, that person attests to the fact that the log, with any corrections or additions made before he signed off, is an accurate representation of what was actually broadcast.

(e) *Automatically kept log.* (1) Entries on an automatically kept program log may be made by automatic logging instruments with sequential language printouts corresponding to manually kept log entries.

(2) An employee on duty shall be responsible for the automatic logging process and the keeping of the log. In the event of failure or malfunctioning of the automatic logging process, the person responsible for the log shall make the required entries in the log manually.

(3) The employee responsible shall sign the log, or a separate page to be affixed to the log, when starting duty and when going off duty and enter the time

of each. The signature when going off duty constitutes a certification that, as to the automatic printout part of the log, the employee checked the automatic logging equipment periodically throughout the tour and that to the best of his knowledge and belief, at no time during his tour, did it fail or malfunction, unless otherwise noted above the signature; and that, as to any part of the log which was kept manually, with any corrections or additions made thereon before signing off duty, it was an accurate representation of what was actually broadcast.

(f) *Automatic maintenance of logging data.* (1) An employee on duty shall be responsible for any automatic maintenance of data and the keeping of the log. In the event of failure or malfunctioning of the said automatic process, the employee responsible for the log shall make the required entries in the log manually at that time.

(2) The employee responsible shall sign, on a separate page to be affixed to the logging data, when starting duty and when going off duty and enter the time of each. The signature when going off duty constitutes a certification that, as to the automatic maintenance of data equipment, the employee checked it periodically throughout the tour and that to the best of his knowledge and belief, at no time, during his tour, did it fail or malfunction, unless otherwise noted above the signature; and that, as to any part of the log which was kept manually, with any corrections or additions made thereon before signing off duty, it was an accurate representation of what was actually broadcast.

(3) The licensee shall extract any required information from automatically maintained program logging data for days specified by the Commission or its duly authorized representative and submit it in written log form, together with the underlying recording, tape, or other means employed, within such time as the Commission may specify.

(g) *Information required.* The licensee, whether employing manual logging, automatic logging or automatic maintenance of logging data, or any combination thereof, must be able accurately to furnish the Commission with all information required to be logged.

(h) *Corrections.* (1) Program logs shall be changed or corrected only in the manner prescribed in § 73.281(c).

(2) If corrections or additions are made on the log after it has been signed, explanation must be made on the log or an attachment to it, dated and signed by either the person who kept the log, the station program director or manager, or an officer of the licensee.

NOTE 3 \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) Broadcasts of taped, filmed or recorded material announcements.

(v) Announcements pursuant to § 73.1212 (d) that materials or services have been furnished as an inducement to broadcast a political program or a program involving the discussion of controversial public issues.

(vi) Announcements made pursuant to local notice requirements of §§ 1.580 (pre-grant), 1.594 (designation for hearing) and 73.1202 (licensee obligations) of this chapter.

5. Section 73.581 is revised to read as follows:

§ 73.581 General requirements relating to logs.

(a) The licensee or permittee of each noncommercial educational FM station shall maintain program, operating and maintenance logs as set forth in §§ 73.582, 73.583 and 73.584. Each log shall be kept by the station employee or employees (or contract operator) competent to do so, having actual knowledge of the facts required, who in the case of program and operating logs shall sign the appropriate log when starting duty and again when going off duty and setting forth the time of each.

(b) The logs shall be kept in an orderly and legible manner, in suitable form, and in such detail that the data required for the particular class of station concerned is readily available. Key letters or abbreviations may be used if proper meaning or explanation is contained elsewhere in the log. Each sheet shall be numbered and dated. Time entries shall be made in local time and shall be indicated as advanced (e.g., EDT) or non-advanced time (e.g., EST).

(c) No log, or portion thereof, shall be erased, obliterated, or willfully destroyed within the period of retention provided by the provisions of this part. Any necessary correction shall be made only pursuant to §§ 73.582, 73.583, and 73.584, and only by striking out the erroneous portion, or by making a corrective explanation on the log or attachment to it as provided in those sections.

(d) Entries shall be made in the logs as required by §§ 73.582, 73.583 and 73.584. Additional information such as that needed for administrative or operational purposes may be entered on the logs. Such additional information, so entered, shall not be subject to the restrictions and limitations in the Commission's rules on the making of corrections and changes in logs and may be physically removed, without otherwise altering the log in any way, before making the log a part of an application or available for public inspection.

(e) The operating log and the maintenance log may be kept individually on the same sheet in one common log, at the option of the permittee or licensee.

6. Section 73.582 is amended by deleting paragraphs (b) and (c) in their entirety, specifying (b) and (c) as Reserved and adding new paragraphs (d), (e), (f), (g), and (h), to read as follows:

§ 73.582 Program log.

(b) [Reserved]

(c) [Reserved]

(d) *Manually kept log.* Entries on a manually kept log may be made either at the time of or prior to broadcast. The employee responsible for keeping the log



shall sign the log when starting duty and when going off duty and enter the time of each. If entries are pre-printed prior to broadcast and any deviation therefrom occurs in what was actually broadcast, an appropriate correction must be made on the log. When the employee keeping the log signs the log upon going off duty, that person attests to the fact that the log, with any corrections or additions made before he signed off, is an accurate representation of what was actually broadcast.

(e) *Automatically kept log.* (1) Entries on an automatically kept program log may be made by automatic logging instruments with sequential language printouts corresponding to manually kept log entries.

(2) An employee on duty shall be responsible for the automatic logging process and the keeping of the log. In the event of failure of malfunctioning of the automatic logging process, the person responsible for the log shall make the required entries in the log manually.

(3) The employee responsible shall sign the log, or a separate page to be affixed to the log, when starting duty and when going off duty and enter the time of each. The signature when going off duty constitutes a certification that, as to the automatic printout part of the log, the employee checked the automatic logging equipment periodically throughout the tour and that to the best of his knowledge and belief, at no time during his tour, did it fail or malfunction unless otherwise noted above the signature; and that, as to any part of the log which was kept manually, with any corrections or additions made thereon before signing off duty, it was an accurate representation of what was actually broadcast.

(f) *Automatic maintenance of logging data.* (1) An employee on duty shall be responsible for any automatic maintenance of data and the keeping of the log. In the event of failure or malfunctioning of the said automatic process, the employee responsible for the log shall make the required entries in the log manually at that time.

(2) The employee responsible shall sign, on a separate page to be affixed to the logging data, when starting duty and when going off duty and enter the time of each. The signature when going off duty constitutes a certification that, as to the automatic maintenance of data equipment, the employee checked it periodically throughout the tour and that to the best of his knowledge and belief, at no time during his tour, did it fail or malfunction, unless otherwise noted above the signature; and that, as to any part of the log which was kept manually, with any corrections or additions made thereon before signing off duty, it was an accurate representation of what was actually broadcast.

(3) The licensee shall extract any required information from automatically maintained program logging data for days specified by the Commission or its duly authorized representative and submit it in written log form, together with the underlying recording, tape, or other

means employed, within such time as the Commission may specify.

(g) *Information required.* The licensee, whether employing manual logging, automatic logging or automatic maintenance of logging data, or any combination thereof, must be able accurately to furnish the Commission with all information required to be logged.

(h) *Corrections.* (1) Program logs shall be changed or corrected only in the manner prescribed in § 73.581(c).

(2) If corrections or additions are made on the log after it has been signed, explanation must be made on the log or an attachment to it, dated and signed by either the person who kept the log, the station program director or manager, or an officer of the licensee.

7. Section 73.669 is revised to read as follows:

**§ 73.669 General requirements relating to logs.**

(a) The licensee or permittee of each television broadcast station shall maintain program, operating and maintenance logs as set forth in §§ 73.670, 73.671 and 73.672. Each log shall be kept by the station employee or employees (or contract operator) competent to do so, having actual knowledge of the facts required, who in the case of program and operating logs shall sign the appropriate log when starting duty and again when going off duty and setting forth the time of each.

(b) The logs shall be kept in an orderly and legible manner, in suitable form, and in such detail that the data required for the particular class of station concerned is readily available. Key letters or abbreviations may be used if proper meaning or explanation is contained elsewhere in the log. Each sheet shall be numbered and dated. Time entries shall be made in local time and shall be indicated as advanced (e.g., EDT) or non-advanced time (e.g., EST).

(c) No log, or portion thereof, shall be erased, obliterated, or willfully destroyed within the period of retention provided by the provisions of this part. Any necessary correction shall be made only pursuant to §§ 73.670, 73.671, and 73.672, and only by striking out the erroneous portion, or by making a corrective explanation on the log or attachment to it as provided in those sections.

(d) Entries shall be made in the logs as required by §§ 73.670, 73.671 and 73.672. Additional information such as that needed for administrative or operational purposes may be entered on the logs. Such additional information, so entered, shall not be subject to the restrictions and limitations in the Commission's rules on the making of corrections and changes in logs and may be physically removed, without otherwise altering the log in any way, before making the log a part of an application or available for public inspection.

(e) The operating log and the maintenance log may be kept individually on the same sheet in one common log, at the option of the permittee or licensee.

8. Section 73.670 and Note 3(b)(2)(iii), (v) & (vi) are amended to read as follows:

**§ 73.670 Program log.**

(a) A program log shall be kept in accordance with the provisions of § 73.669 for each broadcast day, which, in this context, means from the station's sign-on to its sign-off, or from midnight to midnight for stations operating 24 hours a day.

(b) *Entries.* The following entries shall be made in the program log:

(1) *For each program.* (i) An entry identifying the program by name or title.

(ii) Entries which indicate the time each program begins and ends. If programs are broadcast during which separately identifiable program units of a different type or source are presented, and if the licensee wishes to count such units separately, the beginning and ending time for the longer program need be entered only once for the entire program. The program units which the licensee wishes to count separately shall then be entered underneath the entry for a longer program, with the beginning and ending time of each such unit, and with the entry indented or otherwise distinguished so as to make it clear that the program unit referred to was broadcast within the longer program.

(iii) An entry classifying each program as to type, using the definitions set forth in Note 1 at the end of this section.

(iv) An entry classifying each program as to source, using the definitions set forth in Note 2 at the end of this section. (For network programs, also give name or initials of network, e.g., ABC, CBS, NBC, Mutual.)

(v) An entry for each program presenting a political candidate, showing the name and political affiliation of such candidate. See (j) of Note 1.

(2) *For commercial matter.* (i) An entry identifying (a) the sponsor(s) of the program, (b) the person(s) who paid for the announcement, or (c) the person(s) who furnished materials or services; and the entry shall constitute a representation that identification was announced on the air as required by section 317 of the Communications Act and § 73.1212 of the Commission's rules. See Note 3 at the end of this section for definition of commercial matter.

(ii) An entry or entries showing the total duration of commercial matter in each hourly time segment (beginning on the hour) or the duration of each commercial message (commercial continuity in sponsored programs, or commercial announcements) in each hour. See Note 5 at the end of this section for statement as to computation of commercial time.

(3) *For public service announcements.* (i) An entry showing that a public service announcement (PSA) has been broadcast together with the name of the organization or interest on whose behalf it is made. See Note 4 following this section for definition of a public service announcement.

(4) *For other announcements.* (i) An entry of the time that each required sta-



tion identification announcement is made (call letters and licensed location; § 73.1201).

(ii) An entry for each announcement presenting a political candidate showing the name and political affiliation of such candidate.

(iii) An entry for each announcement made pursuant to the local notice requirements of §§ 1.580 (pre-grant), 1.594 (designation for hearing) and 73.1202 (licensee obligations), showing the time it was broadcast.

(iv) An entry showing that broadcast of taped or recorded material has been made in accordance with the provisions of § 73.1208.

(c) *National network programming.* A station broadcasting the programs of a national network which will supply it with all information as to such programs, commercial matter and other announcements for the composite week need not log such data but shall record in its log the time when it joined the network, the name of each network program broadcast, the time it leaves the network, and any non-network matter broadcast required to be logged. The information supplied by the network, for the composite week which the station will use in its renewal application, shall be retained with the program logs and associated with the log pages to which it relates.

(d) *Manually kept log.* (1) Entries on a manually kept log may be made either at the time of or prior to broadcast. The employee responsible for keeping the log shall sign the log when starting duty and when going off duty and enter the time of each. If entries are pre-printed prior to broadcast and any deviation therefrom occurs, in what was actually broadcast, an appropriate correction must be made on the log. When the employee keeping the log signs the log upon going off duty, that person attests to the fact that the log, with any corrections or additions made before he signed off, is an accurate representation of what was actually broadcast.

(e) *Automatically kept log.* (1) Entries on an automatically kept program log may be made by automatic logging instruments with sequential language printouts corresponding to manually kept log entries.

(2) An employee on duty shall be responsible for the automatic logging process and the keeping of the log. In the event of failure or malfunctioning of the automatic logging process, the person responsible for the log shall make the required entries in the log manually.

(3) The employee responsible shall sign the log, or a separate page to be affixed to the log, when starting duty and when going off duty and enter the time of each. The signature when going off duty constitutes a certification that, as to the automatic printout part of the log, the employee checked the automatic logging equipment periodically throughout the tour and that to the best of his knowledge and belief, at no time during his tour, did it fail or

malfunction, unless otherwise noted above the signature; and that, as to any part of the log which was kept manually, with any corrections or additions made thereon before signing off duty, it was an accurate representation of what was actually broadcast.

(f) *Automatic maintenance of logging data.* (1) An employee on duty shall be responsible for any automatic maintenance of data and the keeping of the log. In the event of failure or malfunctioning of the said automatic process, the employee responsible for the log shall make the required entries in the log manually at that time.

(2) The employee responsible shall sign, on a separate page to be affixed to the logging data, when starting duty and when going off duty and enter the time of each. The signature when going off duty constitutes a certification that, as to the automatic maintenance of data equipment, the employee checked it periodically throughout the tour and that to the best of his knowledge and belief, at no time during his tour, did it fail or malfunction, unless otherwise noted above the signature; and that, as to any part of the log which was kept manually, with any corrections or additions made thereon before signing off duty, it was an accurate representation of what was actually broadcast.

(3) The licensee shall extract any required information from automatically maintained program logging data for days specified by the Commission or its duly authorized representative and submit it in written log form, together with the underlying recording, tape, or other means employed, within such time as the Commission may specify.

(g) *Information required.* The licensee, whether employing manual logging, automatic logging or automatic maintenance of logging data, or any combination thereof, must be able accurately to furnish the Commission with all information required to be logged.

(h) *Corrections.* (1) Program logs shall be changed or corrected only in the manner prescribed in § 73.669.

(2) If corrections or additions are made on the log after it has been signed, explanation must be made on the log or an amendment to it, dated and signed by either the person who kept the log, the station program director or manager, or an officer of the licensee.

NOTE 3 . . . .

(b) . . . .

(2) . . . .

(2) . . . .

(iii) Broadcasts of taped, filmed or recorded material announcements.

(v) Announcements pursuant to § 73.1212

(d) that materials or services have been furnished as an inducement to broadcast a political program or a program involving the discussion of controversial public issues.

(vi) Announcements made pursuant to local notice requirements of §§ 1.580 (pre-grant), 1.594 (designation for hearing) and 73.1202 (licensee obligations) of this chapter.

[FR Doc.76-20026 Filed 7-9-76;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 1-5; Notice 21]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Brake Hoses

This notice amends the definitions and several labeling requirements of Standard No. 106-74, *Brake Hoses*. The definition of "brake hose assembly" is amended to exclude certain assemblies made in the field from all new components for repair service. A definition for "vacuum tubing connector" is added, and the definition of "brake hose" is amended to exclude such connectors. The requirement that certain information remain either visible or properly masked on brake hoses is completed vehicles—the "masking requirement"—is eliminated. In addition, the requirements that hose be labeled "permanently" and that a full legend of information appear on any hose, regardless of its length, are eliminated.

The amendment of the definition in Standard No. 106-74 (49 CFR 571.106-74) of "brake hose assembly" was proposed in Notice 15 (40 FR 8962; March 4, 1975). The remaining amendments were proposed in Notice 19 (40 FR 55365; November 28, 1975). Seventy-nine comments were received in response to the former proposal and 14 in response to the latter. Any suggestions for changes from the proposals not specifically mentioned herein are denied, on the basis of all the information presently available to this agency.

NOTICE 15

Standard No. 106-74 has required the manufacturer of a brake hose assembly, except a vehicle manufacturer who assembles and installs it in a vehicle manufactured by him, to affix a band to his product. The band must be labeled with the date of assembly, a designation identifying him as the assembler, and the symbol "DOT" as a certification that the assembly meets all applicable safety standards. Assemblies made entirely of new components for installation in used vehicles come from a variety of sources. Among these are repair shops, employees of truck fleet owners, and even truck owners themselves. Under the applicable law, each of these many assemblers is a "manufacturer". The NHTSA has concluded that, as suggested in Notice 15, the burden of affixing a band and certifying compliance with the requirements of the standard is not commensurate with the relatively small number of assemblies prepared by such manufacturers. The exclusion of the assemblies in question from the definition will relieve them of both the banding and performance requirements of the standard. The Weatherhead Company, Wagner Electric Corporation, and the Brake System Parts Manufacturing Council pointed out that the proposed amendment of the definition would permit the preparation of replacement hydraulic assemblies in the field with renewable or reusable end



fittings, because such assemblies would no longer be subject to S5.1, which requires hydraulic end fittings to be attached by crimping or swaging. The NHTSA did not intend such a result. Accordingly, this notice limits the proposed exclusion from the definition of "brake hose assembly" to air and vacuum assemblies.

Paccar pointed out that the driver of a tractor-trailer combination is often the owner of the tractor but not the trailer, and that the proposed amendment would not exclude assemblies made in the field by such a driver for installation on the trailer that he is towing. For this reason, the amendment adopted today also excludes from the definition those assemblies prepared by the operator of a used vehicle for installation in that vehicle.

Several distributors of brake hose and brake hose assemblies urged that the proposed exclusion be extended to cover assemblies made by them as well. In recognition of the costs of banding, the NHTSA has granted petitions for rulemaking to eliminate the banding requirement for all manufacturers of brake hose assemblies. A notice of proposed rulemaking on this subject can be expected in the near future. Such an amendment of the standard, if adopted, will relieve distributors of the expense of banding while retaining the performance and other requirements applicable to brake hose assemblies.

#### NOTICE 19

**Masking.** S5.2.2, S7.2, and S9.1 of the standard require certain information to be labeled on new hydraulic, air, and vacuum brake hose, respectively. In addition, S5.2.2 in its present form (by itself and as incorporated by reference in S7.2 and S9.1) requires, effective September 1, 1976, at least one legend of that information to be visible on each brake hose that has been installed in a motor vehicle, unless it is covered by a manually removable masking material in such a way that no adhesive contacts any part of the legend. The practical effect of this section, unless amended, would be to require the addition of an entire new stage in the vehicle manufacturing process.

Elimination of the masking requirement was proposed in Notice 19. All comments in response to the notice supported this proposal. The NHTSA has concluded that, in light of the limited usefulness of the information that would be preserved, the masking requirement creates an inappropriate burden and should be eliminated.

**Labeling of short hoses.** The standard presently requires that, effective September 1, 1976, a complete legend of labeling information appear on every brake hose, regardless of its length. Because this would require manual labeling of hose shorter than the normal label spacing, Notice 19 proposed elimination of the "short hose labeling" requirement. No objections were received, and the requirement is eliminated accordingly. For clarification, the first sen-

tence of S5.2.2 is modified to indicate that, for labeling purposes, hose need merely be cut from bulk hose that is properly labeled.

**Permanent labeling.** Also proposed in Notice 19 was the elimination of the requirement that hoses be permanently labeled. Volkswagen objected to such elimination, arguing that "if the labeling provision has any meaning at all, the labeling must be permanent." Even without a permanence requirement, however, the information specified in S5.2.2 must appear on bulk hose to identify it to distributors, dealers, assemblers, and installers, and to facilitate compliance inspection and testing. Because the agency conducts its compliance tests on new hose and assemblies, these purposes have been fulfilled once the hose is put in service. Accordingly, the permanence requirement is deleted from S5.2.2. If in the future the agency finds a need to ensure preservation of identifying information for the life of the hose, a requirement for permanence can be established through further rulemaking.

**Vacuum tubing connectors.** Bendix Corporation petitioned for an amendment of the standard that would exclude from its coverage certain short flexible connectors used in vacuum brake booster systems. These connectors, while meeting the existing definition of "brake hose", have special performance requirements that make it inappropriate to subject them to this standard. No comments objected to the proposal in Notice 19 to amend the definition of "brake hose". Wagner Electric, however, suggested that the exclusion of tubing connectors be limited to those used in vacuum systems. Such an approach provides the requested accommodation of an existing practice that has proved acceptable without encouraging the improper design of short air and hydraulic brake hoses. Accordingly, the definition of "brake hose" is amended to exclude vacuum tubing connectors. The latter are defined as proposed, with the modification suggested by Wagner Electric.

The National Motor Vehicle Safety Advisory Council took no position on the proposals of these amendments.

In consideration of the foregoing, 49 CFR 571.106-74 (Standard No. 106-74, *Brake Hoses*) is amended as follows:

#### § 571.106-74 [Amended]

1. In S4. *Definitions*, the definition of "brake hose" is amended to read:

"Brake hose" means a flexible conduit, other than a vacuum tubing connector, manufactured for use in a brake system to transmit or contain the fluid pressure or vacuum used to apply force to a vehicle's brakes.

2. In S4. *Definitions*, the definition of "brake hose assembly" is amended to read:

"Brake hose assembly" means a brake hose, with or without armor, equipped with end fittings for use in a brake system, but does not include an air or vacuum assembly prepared by the owner or

operator of a used vehicle, by his employee, or by a repair facility, for installation in that used vehicle.

3. In S4. *Definitions*, a new definition is added, to read:

"Vacuum tubing connector" means a flexible conduit of vacuum that (i) connects metal tubing to metal tubing in a brake system, (ii) is attached without end fittings, and (iii) when installed, has an unsupported length less than the total length of those portions that cover the metal tubing.

4. In S5.2 *Labeling*, the opening paragraph of S5.2.2 is amended to read:

S5.2.2 Each hydraulic brake hose shall be labeled, or cut from bulk hose that is labeled, at intervals of not more than 6 inches, measured from the end of one legend to the beginning of the next, in block capital letters and numerals at least one-eighth of an inch high, with the information listed in paragraphs (a) through (e). The information need not be present on hose after it has become part of a brake hose assembly or after it has been installed in a motor vehicle.

Effective date: July 12, 1976. Because these amendments relieve restrictions and create no additional burdens, the NHTSA finds, for good cause shown, that an immediate effective date is in the public interest.

(Secs. 103, 112, 114, 119, Pub. L. 89-563, 80 Stat 718 (15 U.S.C. 1392, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50)

Issued: July 7, 1976.

JAMES B. GREGORY,  
Administrator.

[FR Doc.76-20035 Filed 7-7-76;3:15 pm]

[Docket No. 73-3; Notice 06]

#### PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

##### School Bus Passenger Seating and Crash Protection

This notice responds to two petitions for reconsideration of Standard No. 222, *School Bus Passenger Seating and Crash Protection*, as it was issued January 22, 1976.

Standard No. 222 (49 CFR 571.222) was issued January 22, 1976 (41 FR 4016, January 28, 1976), in accordance with section 202 of the Motor Vehicle and Schoolbus Safety Amendments of 1974, Pub. L. 93-492 (15 U.S.C. 1392(i)(1)) and goes into effect on October 26, 1976. The standard provides for compartmentalization of bus passengers between well-padded and well-constructed seats in the event of collision. Petitions for reconsideration of the standard were received from Sheller-Globe Corporation and from the Physicians for Automotive Safety (PAS), which also represented the views of Action for Child Transportation Safety, several adult individuals, and several school bus riders.



PAS expressed dissatisfaction with several aspects of the standard. The organization objected most strongly to the agency's decision that seat belts should not be mandated in school buses. PAS disagreed with the agency conclusion (39 FR 27585, July 30, 1974) that, whatever the potential benefits of safety belts in motor vehicle collisions, the possibility of their non-use or misuse in the hands of children makes them impractical in school buses without adequate supervision. In support of safety belt installation, PAS cited statistics indicating that 23 percent of reported school bus accidents involve a side impact or rollover of the bus.

While safety belts presumably would be beneficial in these situations, PAS failed to provide evidence that the belts, if provided, would be properly utilized by school-age children. The agency will continue to evaluate the wisdom of its decision not to mandate belts, based on any evidence showing that significant numbers of school districts intend to provide the supervision that should accompany belt use. In view of the absence of evidence to date, however, the agency maintains its position that requiring the installation of safety belts on school bus passenger seats is not appropriate and denies the PAS petition for reconsideration. The agency continues to consider the reduced hostility of the improved seating to be the best reasonable form of protection against injury.

PAS asked that a separate standard for seat belt assembly anchorages be issued. They disagree with the agency's conclusion (41 FR 4016) that seat belt anchorages should not be required because of indications that only a small fraction of school buses would have belts installed and properly used. However, PAS failed to produce evidence that a substantial number of school buses would be equipped with safety belts, or that steps would be taken to assure the proper use of such belts. In the absence of such information, the agency maintains its position that a seat belt anchorage requirement should not be included in the standard at this time, and denies the PAS petition for reconsideration.

The NHTSA does find merit in the PAS concern that in the absence of additional guidance, improper safety belt installation may occur. The Administration is considering rulemaking to establish performance requirements for safety belt anchorages and assemblies when such systems are installed on school bus passenger seats.

PAS also requested that the seat back height be raised from the 20-inch level specified by the standard to a 24-inch level. In support of this position, the organization set forth a "common sense" argument that whiplash must be occurring to school bus passengers in rear impact. However, the agency has not been able to locate any quantified evidence that there is a significant whiplash problem in school buses. The crash forces imparted to a school bus occupant in rear impact are typically far lower than those imparted in a car-to-car impact because

of the greater weight of the school bus. The new and higher seating required by the standard specifies energy absorption characteristics for the seat back under rear-impact conditions, and the agency considers that these improvements over earlier seating designs will reduce the number of injuries that occur in rear impact. For lack of evidence of a significant whiplash problem, the PAS petition for a 24-inch seat back is denied.

PAS believed that the States and localities that specify a 24-inch seat back height would be precluded from doing so in the future by the preemptive effect of Standard No. 222 under section 103 (f) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(f)).

#### Section 103 \* \* \*

(d) Whenever a Federal motor vehicle safety standard under this subchapter is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any motor vehicle or item of motor vehicle equipment any safety standard applicable to the same aspect of performance of such vehicle or item of equipment which is not identical to the Federal standard. Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to motor vehicle equipment procured for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

Standard No. 222 specifies a minimum seat back height (S5.1.2) which manufacturers may exceed as long as their product conforms to all other requirements of the standards applicable to school buses. It is the NHTSA's opinion that any State standard of general applicability concerning seat back height of school bus seating would also have to specify a minimum height identical to the Federal requirement. Manufacturers would not be required to exceed this minimum. Thus, the PAS petition to state seat back height as a minimum is unnecessary and has already been satisfied, although it does not have the effect desired by the PAS.

With regard to the PAS concern that the States' seat-height requirements would be preempted, the second sentence of section 103(d) clarifies that the limitation on safety regulations of general applicability does not prevent governmental entities from specifying additional safety features in vehicles purchased for their own use. Thus, a State or its political subdivisions could specify a seat back height higher than 20 inches in the case of public school buses. The second sentence does not permit these governmental entities to specify safety features that prevent the vehicle or equipment from complying with applicable safety standards.

With regard to which school buses qualify as "public school buses" that may be fitted with additional features, it is noted that the agency includes in this category those buses that are owned and operated by a private contractor under contract with a State to provide trans-

portation for students to and from public schools.

Sheller-Globe Corporation (Sheller) petitioned for exclusion from the seating requirements for seating that is designed for handicapped or convalescent students who are unable to utilize conventional forward-facing seats. Typically, side-facing seats are installed to improve entry and egress since knee room is limited in forward-facing seats, or spaces on the bus are specifically designed to accommodate wheelchairs. The standard presently requires that bus passenger seating be forward-facing (S5.1) and conform to requirements appropriate for forward-facing seats. Blue Bird Body Company noted in a March 29, 1976, letter that it also considered the standard's requirements inappropriate for special seating.

The agency has considered the limited circumstances in which this seating would be offered in school buses and concludes that the seat-spacing requirement (S5.2) and the fore-and-aft seat performance requirements (S5.1.3, S5.1.4) are not appropriate for side-facing seats designed solely for handicapped or convalescent students. Occupant crash protection is, of course, as important for these students as others, and the agency intends to establish requirements suited to these specialized seating arrangements. At this time, however, insufficient time remains before the effective date of this standard to establish different requirements for the seating involved. Therefore, the NHTSA has decided to modify its rule by the exclusion of side-facing seating installed to accommodate handicapped or convalescent passengers.

School bus manufacturers should note that the limited exclusion does not relieve them from providing a restraining barrier in front of any forward-facing seat that has a side-facing seat or wheelchair position in front of it.

Sheller also petitioned for a modification of the head protection zone (S5.3.1.1) that describes the space in front of a seating position where an occupant's head would impact in a crash. The outer edge of this zone is described as a vertical longitudinal plane 3.25 inches inboard of the outboard edge of the seat.

Sheller pointed out that van-type school buses utilize "tumble home" in the side of the vehicle that brings the bus body side panels and glazing into the head protection zone. As Sheller noted, the agency has never intended to include body side panels and glazing in the protection zone. The roof structure and over-the-head projections from the interior are included in this area of the zone. To clarify this distinction and account for the "tumble home," the description of the head impact zone in S5.3.1.1 is appropriately modified.

In accordance with recently-enunciated Department of Transportation policy encouraging adequate analysis of the consequences of regulatory action (41 FR 16201; April 16, 1976), the agency herewith summarizes its evaluation of the economic and other consequences of this action on the public and private sectors, including possible loss of safety benefits



The decision to withdraw requirements for side-facing seats used by handicapped or convalescent students will result in cost savings to manufacturers and purchasers. The action may encourage production of specialized buses that would otherwise not be built if the seating were subject to the standard. Because the requirements are not appropriate to the orientation of this seating, it is estimated that no significant loss of safety benefits will occur as a result of the amendment. The exclusion of sidewall, window or door structure from the head protection zone is simply a clarification of the agency's longstanding intent that these components not be subject to the requirements. Therefore no new consequences are anticipated as a result of this amendment.

In an area unrelated to the petitions for reconsideration, the Automobile Club of Southern California petitioned for specification of a vandalism resistance specification for the upholstery that is installed in school buses in compliance with Standard No. 222. Data were submitted on experience with crash pads installed in school buses operated in California. Vandalism damage was experienced, and its cost quantified in the submitted data.

The Automobile Club made no argument that the damage to the upholstery presents a significant safety problem. While it is conceivable that removal of all padding from a seat back could occur and expose the rigid seat frame, the agency estimates that this would occur rarely and presumably would result in replacement of the seat. Because the agency's authority under the National Traffic and Motor Vehicle Safety Act is limited to the issuance of standards that meet the need for motor vehicle safety (15 U.S.C. 1392(a)), the agency concludes that a vandalism resistance requirement is not appropriate for inclusion in Standard No. 222.

In light of the foregoing, Standard No. 222 (49 CFR 571.222) is amended as follows:

**§ 571.222 [Amended]**

1. In S4, *Definitions*, the definition of school bus passenger seat is amended to read:

"School bus passenger seat" means a seat in a school bus, other than the driver's seat or a seat installed to accommodate handicapped or convalescent passengers as evidenced by orientation of the seat in a direction that is more than 45 degrees to the left or right of the longitudinal centerline of the vehicle.

2. In S5, *Requirements*, the first paragraph of S5.3.1.1 is amended to read:

S5.3.1.1 The head protection zones in each vehicle are the spaces in front of each school bus passenger seat which are not occupied by bus sidewall, window, or door structure and which, in relation to that seat and its seating reference point, are enclosed by the following planes;

Effective date: October 26, 1976. Because the standard becomes effective on October 26, 1976, it is found to be in the public interest that an effective date sooner than 180 days is in the public interest. Changes in the text of the Code of Federal Regulations should be made immediately.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued: July 7, 1976.

JAMES B. GREGORY,  
Administrator.

[FR Doc.76-20034 Filed 7-7-76;3:15 pm]

**Title 50—Wildlife and Fisheries**

**CHAPTER I—FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR**

**PART 28—PUBLIC ACCESS, USE AND RECREATION**

**Kenai National Moose Range, Alaska; Correction**

In the FEDERAL REGISTER for June 4, 1976, Volume 41, No. 109, page 22565, second column, an error is corrected by changing the special regulation citation § 28.28 to § 26.34.

MARVIN L. PLENERT,  
Acting Alaska Refuge Supervisor.

JULY 2, 1976.

[FR Doc.76-19946 Filed 7-9-76;8:45 am]

**PART 32—HUNTING**

**Certain National Wildlife Refuges in Montana**

The following regulations are issued and are effective July 12, 1976. These regulations apply to public hunting on portions of certain National Wildlife Refuges in Montana.

**GENERAL CONDITIONS:** Hunting shall be in accordance with applicable state regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish & Wildlife Service, 711 Central Avenue, Billings, Montana 59102.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

Migratory game birds may be hunted on the following area:

Red Rock Lakes National Wildlife Refuge, Monida Star Route, Box 15, Lima, Montana 59739.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

Red Rock Lakes National Wildlife Refuge, Monida Star Route, Box 15, Lima, Montana 59739.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title

50, Code of Federal Regulations, Part 32 and are effective through June 30, 1977.

E. D. STROOPS,  
Refuge Manager, Red Rock Lakes  
National Wildlife Refuge.

JULY 2, 1976.

[FR Doc.76-20054 Filed 7-9-76;8:45 am]

**Title 7—Agriculture**

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

**PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA**

**Subpart—Rules and Regulations; Exemption**

This document amends the Subpart—Rules and Regulation (7 CFR Part 917.100 et seq.) to permit a handler to handle not more than 200 pounds, net weight, of pears during any one day to any one person exempt from certain requirements. Those requirements are contained in § 917.37 Assessments, § 917.41 Issuance of regulations, § 917.42 Modification, suspension, or termination of regulations, § 917.45 Inspection and certification, and § 917.50 Reports, and any requirements issued under those sections.

The amended marketing agreement and Order No. 917 (7 CFR Part 917; 41 FR 17528), hereinafter referred to collectively as the "order" regulates the handling of fresh pears, plums, and peaches grown in California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "act". This amendment was recommended by the Pear Commodity Committee which is established under the order to administer its terms and provisions.

Currently, paragraph (b) of § 917.143 (41 FR 22071) provides exemption for specified quantities (by weight) of plums and peaches but contains no exemption for pears. Section 917.43 provides that the Secretary may relieve handlers from certain order requirements on minimum quantities handled. This amendment therefore establishes a quantity of pears which may be handled under exemption and prescribes safeguards and minimum quality and size requirements to assure shipment of mature pears of a quality acceptable to the demand of the particular outlet. This exemption is intended to relieve requirements on relatively small quantities of pears which may be handled at the orchard or at a roadside stand operated by a producer.

It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because (1) pear shipments are expected to begin early in July; (2) handlers who so desire should be afforded the earliest opportunity to handle pears under this amendment; (3) information



on the minimum quantity exemption has been disseminated to handlers; and (4) no useful purpose will be served by postponing the effective date of this amendment.

It is hereby further found that amendment of said rules and regulations, as hereinafter set forth, is in accordance with the provisions of the order and will tend to effectuate the declared policy of the act. Therefore § 917.143(b) (41 FR 22071) is amended to read as follows:

**§ 917.143 Exemptions.**

(b) *Minimum quantities.* Notwithstanding any other provision of this section, pears, plums and peaches may be handled without regard to the provisions of §§ 917.37, 917.41, 917.42, 917.45 and 917.50 under the following conditions:

(1) Such pears, plums and peaches meet the grade requirements set forth in Articles 35, 38, and 34, respectively of the Food and Agriculture Code of California.

(2) Such pears, plums and peaches meet the following applicable minimum diameter requirements as measured by a rigid ring except that not to exceed 5 percent of the pears, plums and peaches in any container may be smaller than such minimum diameters:

(i) Pears shall measure not less than 2 1/4 inches in diameter.

(ii) Plums shall measure not less than 1 1/2 inches in diameter.

(iii) Peaches handled prior to June 16 of any crop year shall measure not less than 2 inches in diameter.

(iv) Peaches handled on or after June 16 of any crop year shall measure not less than 2 1/4 inches in diameter.

(3) Such pears, plums and peaches are for home use and not for resale.

(4) The shipment does not exceed 200 pounds, net weight, of pears, 100 pounds, net weight, of plums and 200 pounds, net weight, of peaches to any one person during any one day.

(5) Such pears, plums and peaches are handled by the person who produced them; and the handling takes place (i) on the premises where grown, or (ii) at a packinghouse or retail stand nearby which is operated by said handler.

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

Dated: July 6, 1976, to become effective July 12, 1976.

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

[FR Doc.76-19971 Filed 7-9-76;8:45 am]

**CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE**

**SUBCHAPTER D—GUARANTEED LOANS**

[FmHA Instructions 449.1 and 449.3]

**PART 1843—FARMER LOANS**

**Loan Subsidy Rates, Claims, and Payments; Amendments**

This amendment applies to loans on which a "conditional commitment for

Guarantee" is issued after close of business, June 30, 1976. This amendment is being published without notice of proposed rulemaking inasmuch as the interest rate to be charged is set by § 1843.3 of this part. The proposed rulemaking procedure is therefore unnecessary.

Section 1843.3, Part 1843, Title 7, Code of Federal Regulations (38 FR 29051, 30102, 30533; 39 FR 15868) is amended by revising paragraph (h).

As revised, 1843.3(h) reads as follows:

**§ 1843.3 Loan subsidy rates, claims, and payments.**

**(h) Current borrower, FmHA, and subsidy rates.**

Loan type	Interest rate to borrower (percent)	Maximum (percent)	
		FmHA rate	Subsidy rate
OL.....	8 3/4	8 3/4	0
EM—Loss loan.....	5	8 3/4	3 3/4
EM—Annual operating.....	8 3/4	8 3/4	0
EM—Major adjustment real estate and chattels.....	8 3/4	8 3/4	0
FO, SW, RL.....	5	8 3/4	3 3/4

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

Effective date: This amendment shall become effective on July 1, 1976.

Dated: June 30, 1976.

J. R. HANSON,  
Acting Administrator,  
Farmers Home Administration.

[FR Doc.76-19976 Filed 7-9-76;8:45 am]

**Title 14—Aeronautics and Space**

**CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

[Airworthiness Docket No. 76-SW-28, Amdt. 39-2665]

**PART 39—AIRWORTHINESS DIRECTIVE**

**Bell Models 205A-1 and 212 Helicopters**

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive imposing a 500-hour retirement time for certain forward and aft float landing gear cross tubes, requiring removal of certain cross tube friction dampers regardless of their condition for Bell Models 205A-1 and 212 helicopters, and superseding Amdt. 39-1153 (36 FR 2864), AD 71-4-1 was published in 41 FR 19674.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BELL. Applies to Models 205A-1 and 212 helicopters, certificated in all categories equipped with fixed float landing gear, P/N's 205-706-050-1 or 205-706-050-7. Compliance required as indicated.

To prevent possible failure of the forward and aft cross tubes, P/N's 205-050-114-1, -3, -5, -7, and -9 and cross tube assemblies, P/N's 205-706-050-5 and -9 due to possible fatigue cracks and to possible ineffective dampers, accomplish the following:

a. Within 50 hours' time in service after the effective date of this AD, remove cross tube damper assemblies, P/N's 205-050-127-3 and -5 manufactured by Frisby and install serviceable damper assemblies, P/N's 205-050-127-5 and -9 manufactured by Lord Manufacturing Company in accordance with Bell Helicopter Company Service Instructions No. 205-24 revised May 3, 1974, or No. 212-14 revised May 15, 1974, or later approved revisions or in accordance with FAA approved equivalent procedures.

b. Remove forward and aft cross tubes, P/N's 205-050-114-1, -3, -5, -7, and -9 and cross tube assemblies, P/N's 205-706-050-5 and -9 that have attained 450 or more hours' total time in service on the effective date of this AD within 50 hours' time in service.

c. Remove forward and aft cross tubes, P/N's 205-050-114-1, -3, -5, -7, and -9 and cross tube assemblies, P/N's 205-706-050-5 and -9 with less than 450 hours' total time in service on the effective date of this AD prior to attaining 500 hours' total time in service.

d. The requirements of this AD do not apply to other landing gear cross tubes or cross tube assemblies.

e. Operators not having kept time in service records on individual cross tubes should use float kit hours' time in service for the purpose of paragraphs (b) and (c).

(Bell Helicopter Company Service Bulletins No. 205-76-2 and 212-76-3 dated March 5, 1976, pertain to this subject.)

This amendment supersedes Amendment 39-1153 (36 FR 2864), AD 71-4-1.

This amendment becomes effective August 7, 1976.

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

Issued in Fort Worth, Texas, on June 28, 1976.

HENRY L. NEWMAN,  
Director, Southwest Region.

[FR Doc.76-19797 Filed 7-9-76;8:45 am]

[Airworthiness Docket No. 76-WE-8-AD, Amdt. 39-2668]

**PART 39—AIRWORTHINESS DIRECTIVES**

**Lockheed-California Company L-1011-385**

**Series Airplanes**

There have been numerous cases where the main landing gear fixed and hinged strut doors on Lockheed-California Company L-1011-385 series airplanes have separated from the airplanes in flight due to inadequate stiffness and strength. These in-flight losses of the main landing gear fixed and hinged strut doors could result in damage to the airplane or injury to persons on the ground. Since this condition is likely to exist or develop in other airplanes of the same type design an airworthiness directive is being issued to require, as an interim action, reduction of the landing gear operating and extended speeds for normal operations by the installation of a placard and by the revision of Limitations in the Airplane Flight Manual. Further, flights with landing gear in fixed down configuration in accordance with the Appendix 7



of the L-1011 FAA-approved Airplane Flight Manual will be prohibited unless FAA-approved Airspeed/Mach indicator with a maximum speed pointer and an aural overspeed warning set for 250 KIAS is installed or unless the main landing gear fixed and hinged strut doors are removed prior to flight. These restrictions will remain in effect until the main landing gear fixed and hinged strut doors are modified in accordance with FAA-approved Lockheed-California Company Service Bulletins or FAA-approved equivalent. The modification of the main landing gear fixed and hinged strut doors will be required within 9000 hours' time in service after the effective date of this Airworthiness Directive. Repetitive visual inspections of the main landing gear fixed and hinged strut doors will be required at intervals of 800 hours' time in service until the doors modification is accomplished.

Since a situation exists that requires immediate adoption of the regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

**LOCKHEED-CALIFORNIA COMPANY.** Applies to Model L-1011-385 series airplanes, certificated in all categories.

Compliance required as indicated.

To prevent in-flight losses of the main landing gear fixed and hinged strut doors, the requirements of paragraphs (a) and (b) must be accomplished until the modification of paragraph (c) is performed.

(a) Within the next 300 hours' time in service after the effective date of this AD, unless the modification of paragraph (c) is already accomplished, accomplish the following:

(1) Modify the existing landing gear maximum extend speed placard in the airplane flight station to reduce the approved landing gear maximum extend speed ( $V_{LE}$ ) from 300 KIAS/0.85M to 250 KIAS/0.73M.

(2) Amend the Limitations Section of the Lockheed L-1011 FAA Approved Airplane Flight Manual, LR 25925, as follows:

"Landing Gear Operating Speed,  $V_{LO}$ :  
"Extension, 250 KIAS/0.73M  
"Landing Gear Extended Speeds,  $V_{LE}$ : 250 KIAS/0.73M

"The Landing Gear Operating Speed,  $V_{LO}$ , and Landing Gear Extended Speed,  $V_{LE}$ , is 300 KIAS/0.85M when FAA-approved Lockheed Service Bulletins 093-010, 093-52-050, 093-52-051, 093-52-074, and 093-52-078 are accomplished, as applicable."

(3) Amend the Limitations Section of Appendix 7 of the Lockheed L-1011 FAA Approved Airplane Flight Manual, LR 25925, to add the following limitations:

Flights with landing gear extended in accordance with this Appendix are prohibited unless paragraphs (i) or (ii) or (iii), below, are accomplished:

(i) FAA-approved Lockheed Service Bulletins, 093-52-010, 093-52-050, 093-52-051, 093-52-074 and 093-52-078 are accomplished, as applicable.

(ii) VMO is reduced to 250 KIAS, and an FAA-approved airspeed/Mach indicator with a maximum speed pointer set at 250 KIAS is

installed, and the FAA-approved aural overspeed warning is reset for 250 KIAS.

(iii) All main landing gear fixed and hinged strut doors are removed prior to flight.

(b) Within the next 800 hours' time in service after the effective date of this AD, and at 800 hours' time in service intervals thereafter, perform visual integrity inspections of the main landing gear fixed and hinged strut doors in accordance with instructions of the L-1011 Maintenance Manual, Sections 32-12-02 and 32-12-03 dated June 23, 1976, or later FAA-approved revisions, and accomplish repairs and replacements as necessary.

(c) Within the next 9000 hours' time in service after the effective date of this AD, unless already accomplished, modify the main landing gear fixed and hinged strut doors by incorporation of the following FAA-approved Lockheed-California Company Service Bulletins, as applicable, or later FAA-approved revisions or equivalent modifications approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

Service bulletin	Date
093-52-010	June 12, 1972
093-52-050	May 27, 1975
093-52-051	Dec. 7, 1973
093-52-074	Oct. 7, 1975
093-52-078	June 16, 1975

(d) The requirements of paragraphs (a) and (b) may be removed after the modification of paragraph (c) has been accomplished. Equivalent modifications and replacements may be approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

Airplanes may be flown to a base for the accomplishment of the modifications required by this AD, per FAR's 21.197 and 21.199, provided the requirements of paragraph (a) are observed.

This amendment becomes effective July 14, 1976.

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

Issued in Los Angeles, Calif., on June 29, 1976.

ROBERT H. STANTON,  
Director, FAA Western Region.

[FR Doc.76-19953 Filed 7-9-76;8:45 am]

[Airspace Docket No. 76-GL-11]

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

### Alteration of Transition Area

On page 13951 of the FEDERAL REGISTER dated April 1, 1976, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Kewanee, Illinois.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

It being determined that good cause, with respect to safety in air commerce and air transportation, exists for mak-

ing this rule effective less than 30 days after publication, this amendment shall be effective 0901 G.m.t., September 9, 1976.

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

Issued in Des Plaines, Ill., on July 2, 1976.

LEON C. DAUGHERTY,  
Acting Director, Great Lakes Region.

KEWANEE, ILLINOIS

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Kewanee Airport (latitude 41°13'06" N., longitude 89°57'42" W.); and within three miles each side of the 218° and 278° bearings from the Kewanee Airport extending from the 5-mile radius to 8 miles southwest and west of the airport.

[FR Doc.76-19954 Filed 7-9-76;8:45 am]

[Airspace Docket No. 76-GL-20]

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

### Alteration of Transition Area

On page 21650 of the FEDERAL REGISTER dated May 27, 1976, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Sidney, Ohio.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

It being determined that good cause, with respect to safety in air commerce and air transportation, exists for making this rule effective less than 30 days after publication, this amendment shall be effective 0901 G.m.t., September 9, 1976.

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

Issued in Des Plaines, Ill., on June 30, 1976.

JOHN M. CYROCKI,  
Director, Great Lakes Region.

SIDNEY, OHIO

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Sidney Airport (latitude 40°14'23" N., longitude 84°09'17" W.).

[FR Doc.76-19955 Filed 7-9-76;8:45 am]

[Airspace Docket No. 76-SO-61]

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

### Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regula-



tions is to alter the Lakeland, Fla., transition area.

The Lakeland transition area is described in § 71.181 (41 FR 440). In the description, an extension, predicated on the Lakeland VORTAC 074° radial, was designated to provide controlled airspace protection of IFR aircraft executing the VOR/DME-A instrument approach procedure to Gilbert Field Municipal Airport, Winter Haven, Florida. The final approach course of the instrument approach procedure and the name of the airport have been changed. It is necessary to alter the description to reflect these changes. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., September 9, 1976, as hereinafter set forth.

In § 71.181 (41 FR 440), the Lakeland, Florida, transition area is amended as follows: " \* \* \* Gilbert Field Municipal Airport, Winter Haven, Florida \* \* \* " is deleted and " \* \* \* Winter Haven's Gilbert Airport \* \* \* " is substituted therefor, and " \* \* \* 074° radial \* \* \* " is deleted and " \* \* \* 071° radial \* \* \* " is substituted therefor.

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

Issued in East Point, Ga., on June 30, 1976.

PHILLIP M. SWATEK,  
Director, Southern Region.

[FR Doc. 76-19952 Filed 7-9-76; 8:45 am]

[Docket No. 15884, Amdt. No. 1028]

**PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES**  
**Miscellaneous Amendments**

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rulemaking dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in ad-

vance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for \$30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective August 26, 1976.

Fresno, CA—Fresno-Chandler Downtown Arpt., VOR-A, Amdt. 3  
Los Angeles, CA—Van Nuys Arpt., VOR/DME-B, Amdt. 2  
Santa Maria, CA—Santa Maria Public Arpt., VOR Rwy 12, Amdt. 9  
Santa Maria, CA—Santa Maria Public Arpt., VOR-B, Amdt. 6  
Billings, MT—Billings Logan Int'l Arpt., VOR Rwy 9, Amdt. 15  
Pierre, SD—Pierre Muni. Arpt., VOR Rwy 25 (TAC), Amdt. 13  
Pierre, SD—Pierre Muni. Arpt., VORTAC Rwy 7, Amdt. 1  
Watertown, SD—Watertown Muni. Arpt., VOR Rwy 17 (TAC), Amdt. 10  
Watertown, SD—Watertown Muni. Arpt., VORTAC Rwy 35, Amdt. 5

\*\*\* effective August 19, 1976:

Ft. Madison, IA—Ft. Madison Muni. Arpt., VOR/DME-A, Amdt. 2  
Baltimore, MD—Glenn L. Martin State Arpt., VOR Rwy 14, Original  
Gulfport, MS—Gulfport Muni. Arpt., VOR Rwy 13 (TAC), Amdt. 16  
Gulfport, MS—Gulfport Muni. Arpt., VOR Rwy 31 (TAC), Amdt. 15

\*\*\* effective July 22, 1976:

Washington, DC—Dulles Int'l Arpt., VORTAC Rwy 12, Amdt. 2

\*\*\* effective June 25, 1976:

Galesburg, IL—Galesburg Muni. Arpt., VOR Rwy 2, Amdt. 7  
Monmouth, IL—Monmouth Muni. Arpt., VOR-A, Amdt. 2

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective August 26, 1976:

Santa Maria, CA—Santa Maria Public Arpt., LOC(BC)-A, Amdt. 4  
Pocatello, ID—Pocatello Muni. Arpt., LOC/DME(BC) Rwy 3, Amdt. 1  
Billings, MT—Billings Logan Int'l Arpt., LOC(BC) Rwy 27, Amdt. 4  
Pierre, SD—Pierre Muni. Arpt., LOC(BC) Rwy 13, Amdt. 2  
Watertown, SD—Watertown Muni. Arpt., LOC/DME(BC) Rwy 17, Amdt. 1

\*\*\* effective August 19, 1976.

Detroit, MI—Will Run Arpt., LOC(BC) Rwy 23L, Amdt. 2

\*\*\* effective June 25, 1976.

Daytona Beach, FL—Daytona Beach Regional Arpt., LOC(BC) Rwy 24R, Amdt. 7

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective September 9, 1976.

Colorado Springs, CO—City of Colorado Springs Muni., NDB Rwy 35, Amdt. 20

\*\*\* effective August 26, 1976.

Fresno, CA—Fresno-Chandler Downtown Arpt., NDB-B, Amdt. 3  
Watertown, SD—Watertown Muni. Arpt., NDB Rwy 35, Amdt. 1

\*\*\* effective August 19, 1976:

Baltimore, MD—Glenn L. Martin State Arpt., NDB Rwy 14, Original  
Baltimore, MD—Glenn L. Martin State Arpt., NDB Rwy 32, Original  
Easton, MD—Easton Muni. Arpt., NDB Rwy 22, Amdt. 3  
Bedford, MA—Laurence G. Hanscom Field, NDB Rwy 29, Amdt. 1  
Salisbury, NC—Rowan County Arpt., NDB-A, Amdt. 4

\*\*\* effective July 29, 1976:

Brenham, TX—Brenham Muni. Arpt., NDB Rwy 16, Original

\*\*\* effective June 29, 1976:

Burlington (Mt. Vernon), WA—Bay View Arpt., NDB Rwy 10, Original, cancelled

\*\*\* effective June 28, 1976:

St. Joseph, MO—Rosecrans Memorial Arpt., NDB Rwy 17, Amdt. 4  
St. Joseph, MO—Rosecrans Memorial Arpt., NDB Rwy 35, Amdt. 24

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective September 9, 1976:

Colorado Springs, CO—City of Colorado Springs Muni. Arpt., ILS Rwy 35, Amdt. 29

\*\*\* effective August 26, 1976:

Santa Maria, CA—Santa Maria Public Arpt., ILS Rwy 12, Amdt. 3  
Billings, MT—Billings Logan Int'l Arpt., ILS Rwy 9, Amdt. 20  
Pierre, SD—Pierre Muni. Arpt., ILS Rwy 31, Amdt. 2  
Watertown, SD—Watertown Muni. Arpt., ILS Rwy 35, Amdt. 3

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective September 9, 1976:

Colorado Springs, CO—City of Colorado Springs Muni. Arpt., RADAR-1, Amdt. 12

\*\*\* effective August 26, 1976:

Denver, CO—Jeffco Arpt., RADAR-1, Amdt. 3

\*\*\* effective August 19, 1976:

Chicago, IL—Chicago O'Hare Int'l Arpt., RADAR-1, Amdt. 29

\*\*\* effective June 28, 1976:

Wichita, KS—Wichita Mid-Continent Arpt., RADAR-1, Amdt. 4

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective August 26, 1976:

Portland, OR—Portland Int'l Arpt., RNAV Rwy 10R, Original



Portland, OR—Portland Int'l Arpt., RNAV Rwy 10L, Original, cancelled

\* \* \* effective August 19, 1976:

Ft. Madison, IA—Ft. Madison Muni. Arpt., RNAV Rwy 16, Original

Ft. Madison, IA—Ft. Madison Muni. Arpt., RNAV Rwy 34, Original

\* \* \* effective July 22, 1976:

Washington, DC—Dulles Int'l Arpt., RNAV Rwy 12, Amdt. 5

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on July 1, 1976.

JAMES M. VINES,

Chief,

Aircraft Programs Division.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 76-19798 Filed 7-9-76; 8:45 am]

## CHAPTER II—CIVIL AERONAUTICS BOARD SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-957, Amdt. 2; Docket No. 28799]

### PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS Revision of Reporting Requirements for CAB Form 298-C

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., July 6, 1976.

By Notice of Proposed Rulemaking EDR-293, dated January 27, 1976,<sup>1</sup> the Board gave notice that it had under consideration an amendment to Part 298 of its Economic Regulations (14 CFR Part 298) to revise the CAB Form 298-C report by streamlining the reporting requirements for Schedule T-1, clarifying the reporting instructions for Schedules A-1 and T-1, and eliminating Schedule T-2.

The only comment in response to the rulemaking notice was received from the Reuben H. Donnelley Corporation (Donnelley) which took no position with regard to the proposed rule but used this vehicle to give the Board its views on another proposed revision to Form 298-C.<sup>2</sup>

Accordingly, the Board has determined to adopt the proposed amendments with certain modifications to the text and exhibits hereinafter discussed. Except to the extent modified herein, the tentative findings set forth in EDR-293 are incorporated in this rule and made final.

First, we have decided to define the term "on-line origin-destination," which appears frequently throughout the regulation, to mean the points at which a passenger enters and leaves the system of an air carrier on a one-way trip or on each of the directional parts of a round, circle, or open-jaw trip, ignoring

intermediate points of intra-line transfer.

We are also making refinements to the proposed definitions of "revenue ton-mile" and "revenue ton-miles available," editorial revisions to three data items of Schedule A-1, a change in the title of Schedule T-1 to "Report of Revenue Traffic by On-Line Origin and Destination," and clarification of the instructions pertaining to the use of codes on Schedule T-1. These minor changes are for clarification purposes and should assist greatly in more clearly indentifying the information which is to be reflected on the revised Schedules A-1 and T-1.

Since we have determined that Schedule T-2 is not necessary for any regulatory purpose, reporting carriers need not file that schedule with their report scheduled to be filed on August 10, 1976. In order to allow sufficient time for reporting carriers to receive copies of the revised formats for Schedules A-1 and T-1, the use of these new formats will not be required prior to the report due on November 10, 1976.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 298 of the Economic Regulations (14 CFR Part 298), effective August 11, 1976, as follows:

1. Amend § 298.2 *Definitions*, by revising paragraph (d), redesignating paragraphs (n), (o), (p), (q), (r), (s) and (t) as (o), (p), (q), (r), (s), (t) and (v) and by adding new paragraphs (n) and (u) to read as follows:

(d) "Aircraft-hours" means the airborne hours of aircraft computed from the moment an aircraft leaves the ground until it touches the ground at the end of a flight stage.

(n) "On-line origin-destination" means the points at which a passenger enters and leaves the system of an air carrier on a one-way trip or on each of the directional parts of a round, circle, or open-jaw trip, ignoring intermediate points of intra-line transfer.

Schedule No.	Schedule title	Filing frequency	Due dates
	Certification	Quarterly	May 10, Aug. 10, Nov. 10, Feb. 10
A-1	Report of Aircraft Operated; Flight and Traffic Statistics in Scheduled Operations by Commuter Air Carriers.	do	Do.
T-1	Report of Revenue Traffic by On-Line Origin and Destination	do	Do.

NOTE.—Due dates falling on a Saturday, Sunday, or national holiday will become effective on the 1st following working day.

(c) The information included in each schedule shall cover only flights performed pursuant to published schedules or contracts with the U.S. Postal Service for the transportation of mail. The appropriate numeric carrier code and data code as established by the Bureau of Accounts and Statistics shall be inserted in the space provided in the heading of each schedule. The information on these schedules shall be typed or neatly printed.

(q) "Revenue passenger-mile" means one revenue passenger transported one mile. Revenue passenger-miles are computed by multiplying the aircraft miles flown on each flight stage by the number of revenue passengers carried on that flight stage.

(r) "Revenue seat-miles available" means the aircraft-miles flown on each flight stage multiplied by the number of seats available for sale on that flight stage.

(s) "Revenue ton-mile" means one ton of revenue traffic transported one mile. Revenue ton-miles are computed by multiplying the aircraft-miles flown on each flight stage by the number of pounds of revenue traffic carried on that flight stage and converted to ton-miles by dividing total revenue pound-miles by 2000 pounds.

(t) "Revenue ton-miles available" means the aircraft-miles flown on each flight stage multiplied by the number of pounds of aircraft capacity available for use on that stage and converted to ton-miles by dividing total pound-miles available by 2000 pounds.

(u) "Scheduled service" means transport service operated over routes pursuant to published flight schedules or pursuant to mail contracts with the U.S. Postal Service.

2. Revise paragraphs (b), (c), (d), (e) and (g) of § 298.61 and delete and reserve paragraph (f) to read as follows:

§ 298.61 *Reporting of scheduled operations by commuter air carriers.*

(b) Three copies of each schedule in the CAB Form 298-C report and the certification of the officer in charge of the carrier's accounts executed in triplicate (the cover sheet of Form 298-C) shall be filed with the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428, in accordance with the following list so as to be received on or before the due date specified on that list.

(d) Schedule A-1 shall describe the aircraft used in scheduled service or mail service by the carrier, and shall report total flight and traffic statistics in scheduled operations by commuter air carriers. Each carrier shall identify the type of traffic carried during the period by checking the appropriate box or boxes in the heading of the schedules.

(1) Column (1) of the "Report of Aircraft Operated" section of this schedule shall set forth the aircraft registration

<sup>1</sup> 41 FR 4602, January 30, 1976 (Docket 28799).

<sup>2</sup> EDR-292, 41 FR 1764, January 12, 1976 (Docket 27911).



number of each aircraft operated in scheduled service during the quarter.

(2) Column (2) shall set forth the type and model of each aircraft listed in column (1).

(3) Column (3) shall set forth the capacity in passenger seats of each aircraft operated in scheduled passenger service. Crew seats should not be counted.

(4) Column (4) shall set forth the carrier's best estimate in pounds as to the total capacity available for cargo in aircraft operated in scheduled all-cargo or all-mail service. Cargo capacity shall not be reported for aircraft used in scheduled passenger service unless the aircraft is also used in scheduled nonpassenger service. If a passenger aircraft is used in scheduled nonpassenger service, report the cargo capacity with all passenger seats in place or with all passenger seats removed, depending on the manner in which it is predominantly used in scheduled nonpassenger service.

(5) The "Flight and Traffic Statistics in Scheduled Operations by Commuter Air Carriers" section of this schedule shall set forth the named flight and traffic statistics for the reporting quarter. These statistics should cover only scheduled services and should be compiled in accordance with the instructions set forth below. Report in whole numbers; do not use decimals.

(6) Line 1 "Aircraft-Hours Flown" shall reflect the total airborne aircraft-hours flown in scheduled services during the quarter computed from the moment an aircraft leaves the ground until it touches the ground at the end of each flight stage.

(7) Line 2 "Aircraft-Miles Flown" shall reflect the total aircraft-miles operated in scheduled services during the quarter computed in airport-to-airport distances on the basis of each flight stage as actually operated whether or not performed in accordance with the scheduled service pattern.

(8) Line 3 "Number of Departures Performed" shall reflect the total number of takeoffs performed in scheduled services during the quarter, including extra-section departures and departures from nonscheduled airports as a result of deviations from the scheduled service pattern.

(9) Line 4 "Revenue Passenger-Miles" shall reflect the total revenue passenger-miles in scheduled service for the quarter. Revenue passenger-miles are computed by multiplying the aircraft-miles flown on each flight stage by the number of revenue passengers carried on that flight stage.

(10) Line 5 "Available Seat-Miles" shall reflect the total revenue seat-miles available in scheduled service for the quarter. Revenue seat-miles available are computed by multiplying the aircraft-miles flown on each flight stage by the number of passenger seats available for sale on that flight stage.

(11) Line 6 "Revenue Ton-Miles" shall reflect the total revenue ton-miles in scheduled service for the quarter. Revenue ton-miles are computed by first multiplying the aircraft-miles flown on each

flight stage by the number of pounds of revenue traffic carried on that flight stage to obtain revenue pound-miles. The total revenue pound-miles for the period are divided by 2000 pounds to convert them to revenue ton-miles for purposes of reporting on this schedule. To compute the weight of passengers and their baggage, a standard weight of 200 pounds per passenger may be used.

(12) Line 7 "Available Ton-Miles" shall reflect the total revenue ton-miles available in scheduled service for the quarter. Revenue ton-miles available are computed by first multiplying the aircraft-miles flown on each flight stage by the number of pounds of aircraft capacity available for use on that stage to obtain revenue pound-miles available. The total revenue pound-miles available for the period are divided by 2000 pounds to convert them to revenue ton-miles available for purposes of reporting on this schedule.

(e) Schedule T-1 shall set forth the revenue traffic carried by the reporting carrier by on-line origin and destination.

(1) Only data related to traffic carried in scheduled services as defined in § 298.2 shall be reported.

(2) The traffic data reported from point of on-line origin to its on-line destination point shall be the total traffic for the quarter. Each pair of origin and destination airports shall appear only once, i.e., no entry shall appear that has the same origin and destination airports as another entry.

(3) The origin and destination data shall be related to the on-line movement of traffic rather than to flight stages or flight origin and destination. For example, if a flight operates from A to B to C with 5 passengers enplaning at A, 1 deplaning and 2 enplaning at B, and 6 deplaning at C, the applicable passenger data to be reported should be as follows:

Origin airport	Destination airport	Number of passengers
A.....	B.....	1
A.....	C.....	4
B.....	C.....	2

(4) Only the ultimate origins and destinations of the traffic moving on the reporting carrier's system shall be reported. Using the example given in (3) above, the traffic report would remain the same, even if the carrier operated one flight from A to B and a different flight from B to C, as long as the passengers' on-line origins and destinations were as given in that example.

(5) Only one grand total shall be shown in the space provided after the final traffic entry. Do not use subtotals.

(6) Columns (1) and (2) shall set forth the airport codes relating to the movement of traffic from the point of origin to the point of destination. Carriers shall use the airport codes of the *Official Airline Guide* (OAG) for points listed therein. If an airport cannot be found in the OAG, the carrier shall, until otherwise instructed by the Board, insert its own code for the airport in column

(1) or (2) followed by an asterisk, and shall identify the airport and its location in the space provided at the bottom of the schedule.

(7) Columns (3), (4), and (5) shall set forth the total number of revenue passengers, pounds of cargo, and pounds of mail, respectively, transported from the point of on-line origin to the point of on-line destination.

(f) [Reserved]

(g) The information requested in Schedules A-1 and T-1 of CAB Form 298-C may be submitted on any comparable form prepared on automatic data processing equipment: *Provided, however*, That such substitute form has been approved by the Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428. Data in any approved format shall be submitted in triplicate and shall contain the same columnar headings arranged in the same sequence as the schedules called for in CAB Form 298-C.

3. Amend CAB Form 298-C by revising Schedules A-1 and T-1, as shown in Exhibit A,\* attached hereto, and by deleting Schedule T-2.

(Secs. 204(a), 407 and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 766 and 771; 49 U.S.C. 1324, 1377 and 1386.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Acting Secretary.

[FR Doc.76-20036 Filed 7-9-76;8:45 am]

# Title 21—Food and Drugs

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

### SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

#### PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

##### Oxytetracycline and Robenidine

The Food and Drug Administration approves new animal drug application (101-866V) filed by Pfizer, Inc., 235 E. 42d St., New York, NY 10017, proposing safe and effective use of a combination of oxytetracycline and robenidine added to the feed of broiler chickens as an aid in the prevention of coccidiosis and for the control of complicated chronic respiratory disease. The approval is effective July 12, 1976.

The Commissioner of Food and Drugs is amending Part 558 (21 CFR Part 558) to reflect this approval.

In accordance with § 514.11(e) (2) (ii) (21 CFR 514.11(e) (2) (ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, Monday through Friday from 9

\* Exhibit A Filed as part of the original document.



a.m. to 4 p.m., except on Federal legal holidays.

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 (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)) Commissioner (21 CFR 5.1), Part 558 is amended as follows:

1. In § 558.450, by adding new paragraph (e) (2) to read as follows:

§ 558.450 Oxytetracycline.

(e) \* \* \*

(2) Oxytetracycline may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Robenidine hydrochloride in accordance with § 558.515.

(ii) [Reserved]

2. In § 558.515, by adding new paragraph (f) (2) to read as follows:

§ 558.515 Robenidine hydrochloride.

(f) \* \* \*

(2) For broiler chickens—(i) Amount per ton. Robenidine hydrochloride, 30 grams (0.0033 percent) plus oxytetracycline, 200 grams.

(ii) Indications for use. As an aid in the prevention of coccidiosis caused by *Eimeria mivati*, *E. Brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*; for the control of complicated chronic respiratory disease (CRD or airsac infection) caused by *Mycoplasma gallisepticum* and *Escherichia coli*.

(iii) Limitations. Do not feed to laying chickens; feed continuously as sole ration; withdraw 5 days before slaughter; do not use in feeds containing bentonite; feed must be used within 50 days of date of manufacture; oxytetracycline as provided by No. 000069 of this chapter.

Effective date. This amendment shall be effective July 12, 1976.

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

Dated: July 2, 1976.

C. D. VAN HOUWELING,

Director,

Bureau of Veterinary Medicine.

[FR Doc. 76-19960 Filed 7-9-76; 8:45 am]

## CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

### PART 1303—QUOTAS

#### PART 1304—RECORDS AND REPORTS OF REGISTRANTS

##### Certification of Procurement Quota

A notice was published in the FEDERAL REGISTER on April 5, 1976 (41 FR 14398-99), proposing regulations designed to ensure that all legitimate manufacturers, who procure and use a basic class of controlled substance in Schedule I or II for the purpose of manufacturing such basic class into dosage forms or other substances, comply with the requirements of the regulations pertaining to procurement quotas.

Written comments on the proposed amendments to the regulations were received from Arenol Chemical Corp., Cord Laboratories, Inc., A. H. Robins Company, Inc., Eli Lilly and Company, and Parke, Davis & Company.

Arenol Chemical Corp. (Arenol) suggested that "(t) his problem can be more simply and completely solved by merely revising the present DEA (or BND) Form 222c to include a statement to certify that the person giving the order has a procurement quota in force to cover the amount of the order." In response, DEA has concluded that this suggestion should not be incorporated into the final regulations. The reason is that less than 1% of the total volume of order forms (DEA Form 222c) used in the United States in a given year are associated with transactions involving the distribution of bulk chemicals (in a basic class listed in Schedule I or II) from a bulk manufacturer to a dosage form manufacturer.

Cord Laboratories, Inc. commented that "(w)hen utilizing order form DEA 222c for purchasing a Schedule II controlled substance (i.e. codeine phosphate, 20,000 Grams), and applying the 'basic class' information to the Certification Form, then the information would not be consistent with the quantity referenced in the order form \* \* \*." "With respect to the Certification, which calls for \* \* \* and that the quantity of

(Name of Basic Class)

specified in the above referenced order form \* \* \*," would it not be more appropriate to also include the (salt) (sic) of the compound following the basic class name? This would, then, be consistent with the order form." In response, DEA notes that all procurement quotas which are assigned to dosage form manufacturers are expressed in terms of base, not salt. It is the responsibility of an individual or company holding a quota and wishing to procure a quantity of basic class, to check any proposed order, by converting the quantity specified in the order from salt to base, to ensure that the quantity ordered does not exceed its unused and available procurement quota for the current year. Given the nature and infrequency of this type of transaction, this will not impose any undue administrative inconvenience upon industry.

A. H. Robins Company, Inc. (Robins) questioned the proposed regulations' potential effectiveness, stating "we find it hard to understand why a firm which does not comply with the '(current)' regulations with respect to the obtaining of a procurement quota and which does not satisfy DEA's reporting requirements would find the proposed certification form to be any obstacle to procuring substances for which it does not have a quota or procuring quantities of those substances in excess of its quota." In response, DEA suggests that such a non-complying firm should consider the potential consequences of such conduct. Failure to abide by these regulations could form the basis for a charge alleging violation of 21 U.S.C. 843(a) (3) to be

brought against the non-complying purchaser (obtaining possession of a controlled substance by misrepresentation, fraud, deception, or subterfuge).

Robins echoed Arenol's suggestion that the DEA Form 222c should be amended to include the certification. For the reason stated previously, this suggestion will not be followed.

Eli Lilly and Company stated that, in view of other reporting requirements, "the proposed certification is an additional unnecessary form to be completed by the procurer, retained by the supplier, and monitored by DEA inspection personnel \* \* \*." "Federal agencies" are required to clear plans or forms for collecting information through the Office of Management and Budget (44 U.S.C. § 3509) \* \* \*. There is no indication in this proposal that DEA has submitted the proposed certification, which is in reality a new government form, to the proper reviewer for approval. Lilly requests that this be done before DEA finalizes this proposal."

In response, DEA recognizes that the structure of the proposed regulatory subsection, 21 CFR 1303.12(f), as it appeared in the previous notice, could have erroneously created an ambiguity as to whether DEA was, in fact, proposing the creation of a new form for the collection of information. It was not the intent of DEA to create a new form, and the language of the final regulation, appearing hereafter, has been modified accordingly. It must be emphasized, however, that the purpose and the intended effect of this regulation is not to create a new mechanism by which DEA may merely collect more information. The primary purpose is to require that a dosage form manufacturer who procures and uses a basic class of controlled substance listed in Schedule I or II must certify when ordering such substance "that the quantity of such basic class ordered does not exceed the (dosage form manufacturer's) unused and available procurement quota of such basic class for the current calendar year." This becomes a prerequisite for having its order filed by the bulk manufacturer to whom the order is directed. The certification is to be addressed to and retained by the bulk manufacturer (not DEA). The procedure creates, in effect, a method of industrial self-regulation. In the absence of situations which indicate abuses within the procurement quota system, DEA does not intend actively to involve itself in this self-policing relationship.

Parke, Davis & Company (Parke-Davis) stated that it "supports the Drug Enforcement Administration's efforts to achieve an efficient mechanism for monitoring the procurement of Schedule I and II controlled substances. We feel the proposed certification procedure will reduce, and possibly eliminate, the incidents of some manufacturers obtaining Schedule I or II controlled substances without having been assigned procurement quotas by the DEA. However, \* \* \*

(a)s written, the proposed procurement certification form would permit an individual manufacturer to place orders with two (2) potential suppliers of



Schedule I or II controlled substances concurrently, quoting the same procurement quota figure to each." Parke-Davis then offered alternative language for the certification, stressing "(t)hat the combination of the amount previously ordered and that currently ordered shall not exceed authorized procurement quotas."

DEA shares Parke-Davis' concern, and certainly the previously described maneuver falls clearly into the category of an intentional attempt to obtain possession of a controlled substance by misrepresentation, fraud and deception, in violation of 21 U.S.C. 843(a) (3).

Therefore, after consideration of the above-referenced comments received in response to the original notice of proposed rulemaking, no other comments having been received; pursuant to Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826); and under the authority vested in the Attorney General by Sections 301 and 501(b) of the Act (21 U.S.C. 821 and 871(b)), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28, Code of Federal Regulations, it is hereby ordered that Part 1303 and Part 1304 of Title 21 of the Code of Federal Regulations be amended as follows:

1. Section 1303.12 of Title 21, Code of Federal Regulations, is amended by the addition of a new paragraph (f) to read as follows:

**§ 1303.12 Procurement quotas.**

(f) Any person to whom a procurement quota has been issued, authorizing that person to procure and use a quantity of a basic class of controlled substances listed in Schedules I or II during the current calendar year, shall, at or before the time of giving an order to another manufacturer requiring the distribution of a quantity of such basic class, certify in writing to such other manufacturer that the quantity of such basic class ordered does not exceed the person's unused and available procurement quota of such basic class for the current calendar year. The written certification shall be executed by the same individual who signed the DEA (or BND) Form 222c transmitting the order. Manufacturers shall not fill an order from persons required to apply for a procurement quota under paragraph (b) of this section unless the order is accompanied by a certification as required under this subsection. The certification required by this subsection shall contain the following: the date of the certification; the name and address of the bulk manufacturer to whom the certification is directed; a reference to the number of the DEA (or BND) Form 222c to which the certification applies; the name of the person giving the order to which the certification applies; the name of the basic class specified in the DEA (or BND) Form 222c to which the certification ap-

plies; the appropriate schedule within which is listed the basic class specified in the DEA (or BND) Form 222c to which the certification applies; a statement that the quantity (expressed in grams) of the basic class specified in the DEA (or BND) Form 222c to which the certification applies does not exceed the unused and available procurement quota of such basic class, issued to the person giving the order, for the current calendar year; and the signature of the individual who signed the DEA (or BND) Form 222c to which the certification applies.

2. Section 1304.22 of Title 21, Code of Federal Regulations, is amended by adding a new paragraph (a) (10) to read as follows:

**§ 1304.22 Records for manufacturers.**

(10) The originals of all written certifications of available procurement quotas submitted by other persons (as required by § 1303.12(f) of this chapter) relating to each order requiring the distribution of a basic class of controlled substance listed in Schedule I or II.

This order shall be effective on August 11, 1976.

Dated: June 29, 1976.

PETER B. BENSINGER,  
Administrator,  
Drug Enforcement Administration.

[FR Doc.76-20080 Filed 7-9-76;8:45 am]

**PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES**

**Exempt Chemical Preparations**

The Administrator of the Drug Enforcement Administration has received applications pursuant to § 1308.23 of Title 21 of the Code of Federal Regulations requesting that several chemical preparations containing controlled substances be granted the exemptions provided for in § 1308.24 of Title 21 of the Code of Federal Regulations.

The Administrator hereby finds that each of the following chemical prepara-

tions and mixtures is intended for laboratory, industrial, education, or special research purposes, is not intended for general administration to a human being or other animal, and either (a) contains no narcotic controlled substances and is packaged in such a form or concentration that the package quantity does not present any significant potential for abuse, (b) contains either a narcotic or non-narcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion or concentration, that the preparation or mixture does not present any potential for abuse, or (c) the formulation of such preparation or mixture incorporates methods of denaturing or other means so that the controlled substance cannot in practice be removed, and therefore the preparation or mixture does not present any significant potential for abuse. The Administrator further finds that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of researchers, chemical analysts, and suppliers of these products.

Therefore, pursuant to section 202(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812(d)), and under the authority vested in the Attorney General by sections 301 and 501(b) of the Act (21 U.S.C. 821 and 871(b)) and delegated to the Administrator of the Drug Enforcement Administration by, and in accordance with, Regulations of the Department of Justice (Title 28 of the Code of Federal Regulations, Part O), the Administrator of the Drug Enforcement Administration hereby orders that Part 1308 of Title 21 of the Code of Federal Regulations be amended as follows:

1. Section 1308.24 (i) is amended:

a. By adding the following chemical preparations:

**§ 1308.24 Exempt chemical preparations.**

(i) \*

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Abbott Labs., Inc.	Tetrasorb E T-4 diagnostic kit	Kit: 500 tests, 100 tests, 50 tests	Apr. 23, 1976
Do	Thyroxine binding globulin, thyroxine I 125	Glass bottle: 13 ml. Plastic bottle: 250 ml.	Do.
Do	T4 RIA (PEG) diagnostic kit	Kit: 500 tests, 100 tests, 50 tests	Do.
Do	125I-Thyroxine reagent solution	Plastic bottle: 25 ml, 5 ml.	Do.
Do	Thyroxine Antiserum (sheep, rabbit or goat)	Plastic bottle: 200 ml, 20 ml.	Do.
Do	Barbital buffer 0.05 molar	Plastic bottle: 25 ml, 5 ml.	Do.
Beeton, Dickinson & Co.	Complement fixation saline	Bottle: 500 ml.	Apr. 29, 1976
Kallestad Labs, Inc.	Osmotect buffer No. C136	Vial: 7 dram, 7.4 gm per vial, 5 vials per package.	May 19, 1976
Meloy Labs., Inc.	TM Immunostat T4 test kit, No. K140, No. K146, No. K148, No. K150	Kit: 120 tests, 1,000 tests, 2,000 tests, 3,000 tests.	May 3, 1976
Do	TM Immunostat T4 antiserum	Vial: 13 ml, 100 ml.	Do.
Do	TM Immunostat T4 125-I-T4 ANS-Buffer	Bottle: 125 ml, 500 ml.	Do.
Ortho Diagnostic, Inc.	Rubinder system for detection of antibody to rubella	Kit: 100 tests.	Apr. 23, 1976
Do	4% Group O, Rh Negative Indicator erythrocytes (human).	Screw-Neck glass vial: 5 ml.	Do.



## RULES AND REGULATIONS

## b. And by deleting the following chemical preparations:

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Kallestad Labs., Inc.	Osmotect buffer No. M101	Vial: 7 dram, 7.4 gm per vial, 5 vials per package.	May 17, 1975
Meloy Labs., Inc.	TM Immunostat T4 test kit, No. K140.	Cardboard box: 8 3/4" x 5 1/4" x 2 1/4"	July 7, 1975

*Effective date:* This order is effective July 12, 1976.

Any person interested may file written comments on or objections to the order on or before September 21, 1976. If any such comments or objections raise significant issues regarding any findings of fact or conclusion of law upon which the order is based, the Administrator shall immediately suspend the effectiveness of the order until he may reconsider the ap-

plication in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, revoke or amend his original order as he determines appropriate.

Dated: July 1, 1976.

PETER B. BENSINGER,  
Administrator,

Drug Enforcement Administration.

[FR Doc. 76-20008 Filed 7-9-76; 8:45 am]



# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Customs Service

#### [ 19 CFR Part 1 ]

### CUSTOMS FIELD ORGANIZATION

#### Proposed Change in Customs Region IX

In order to provide better Customs service in the Detroit, Michigan, Customs district (Region IX), it is proposed to establish a Customs port of entry at Grand Rapids, Michigan.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 11 (41 FR 20198), Grand Rapids, Michigan, is hereby proposed as a Customs port of entry in the Detroit, Michigan, Customs district (Region IX).

The geographical limits of the proposed port of entry will include all that area beginning at the northwesternmost corner of the City of Walker, Michigan, and extending in an eastwardly direction along the northern boundaries of the City of Walker, the City of Grand Rapids, Grand Rapids Township, and Ada Township, all in Michigan, to the northeasternmost point of Ada Township, then proceeding in a southerly direction along the eastern boundaries of Ada Township and Cascade Township, Michigan, to the southeasternmost point of Cascade Township, then proceeding in a westerly direction along the southern boundaries of Cascade Township, the City of Kentwood, and the City of Wyoming, all in Michigan, to the southwesternmost corner of the City of Wyoming, then proceeding in a northerly direction along the boundary line between Kent County and Ottawa County, Michigan to the northwesternmost corner of the City of Walker, Michigan.

Prior to the adoption of the foregoing proposal, consideration will be given to any relevant data, views, or arguments which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than August 11, 1976.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

Dated: July 1, 1976.

DAVID R. MACDONALD,  
Assistant Secretary of the Treasury.  
[FR Doc. 76-20010 Filed 7-9-76; 8:45 am]

### Internal Revenue Service

#### [ 26 CFR Parts 1, 31 ]

### INCOME AND EMPLOYMENT TAXES

#### Treatment of Original Issue Discount Realized by Nonresident Alien Individuals or Foreign Corporations

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by August 26, 1976. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9).

Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request in writing, to the Commissioner by August 26, 1976. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in sections 1441(c)(8) (85 Stat. 527; 26 U.S.C. 1441(c)(8)) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

DONALD C. ALEXANDER,  
Commissioner of Internal Revenue.

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Employment Tax Regulations (26 CFR Part 31). The Income Tax Regulations are being amended in order to conform such regulations to the provisions of section 313 of the Revenue Act of 1971 (Pub. L. 92-178, 85 Stat. 526), relating to the taxation of original issue discount to nonresident alien individuals and foreign corporations. The Employment Tax Regulations are being amended to make technical corrections and to provide a rule for withholding on remuneration for services of nonresident aliens performed in a previous taxable year.

The Tax Reform Act of 1969 (Pub. L. 91-172, 83 Stat. 487) changed previous law to provide generally that original issue discount on corporate obligations would be currently taxed as ordinary income as it ratably accrues instead of being taxed at the time of the sale, exchange, or retirement of the obligation. At the time of the passage of the Tax Reform Act of 1969, the law provided that nonresident alien individuals and foreign corporations were subject to a 30-percent tax on original issue discount received from the sale, exchange, or retirement of a bond issued after September 28, 1965, as determined under the principles of section 1232 of the Internal Revenue Code of 1954. This rule on bonds issued after September 28, 1965, had been added by the Foreign Investors Tax Act of 1966 (Pub. L. 89-809, 80 Stat. 1539). The law relating to the taxation of original issue discount attributable to obligations held by nonresident aliens or foreign corporations was not changed by the 1969 Act to reflect the newly enacted ratable inclusion provisions. This caused confusion with respect to the treatment of original issue discount of nonresident alien individuals and foreign corporations.

Section 313 of the Revenue Act of 1971 amended sections 871 and 881 effective for taxable years beginning after December 31, 1966; it also amended sections 1441 and 1442 effective with respect to payments occurring after March 31, 1972. Under these amendments the tax imposed by the 1966 Act is retained for obligations issued after September 28, 1965, and before April 1, 1972, but new rules of taxation are adopted for obligations issued after March 31, 1972, including rules for ratable taxation of original issue discount on obligations on which stated interest is also payable. The amendments to sections 1441 and 1442 give the Treasury special authority to



provide for the application of the withholding tax to original issue discount.

Under the 1971 Act original issue discount on non-interest bearing obligations issued after March 31, 1972, with an original maturity of more than 6 months is to be taxed at 30 percent to the foreign holder only upon sale, exchange, or retirement of the obligation. However, in the case of such obligations issued after March 31, 1972, which are interest-bearing, both the interest payment and a ratable portion of the original issue discount are to be taxed to the foreign holder at the rate of 30 percent at the time of the interest payment. The 1971 Act also excluded from the 30-percent tax original issue discount on such obligations issued after March 31, 1972, with original maturities of 6 months or less and held by non-resident alien individuals or foreign corporations. The conference report noted, however, that the amendment was not intended to imply how bonds held for 6 months or less are treated for tax purposes when held by United States persons.

The proposed amendments to the Income Tax Regulations provide a method for the determination of the amount of tax which will be imposed on nonresident alien individuals, foreign partnerships, and foreign corporations and the amount and manner of withholding of the tax at source.

Section 1.871-7 of the Income Tax Regulations provides rules for determination of the amount of tax imposed on nonresident alien individuals not engaged in a U.S. trade or business. Section 1.871-7 has been amended in the accompanying proposed regulations by the addition of a new paragraph (c) (1) (ii), describing the amounts of original issue discount which are taxable under section 871(a) (1) (C), and a new paragraph (c) (4), describing in detail the manner of applying section 871(a) (1) (C). The new rules make clear that section 871(a) (1) (C) applies to amounts of original issue discount whether or not the obligation is a capital asset in the hands of the taxpayer and whether or not the obligation was issued by a government or political subdivision thereof, or by a corporation or any other person. Accordingly, § 1.871-7(b) has been amended in the accompanying proposed regulations to specifically exclude from the term "interest" original issue discount (as defined in section 1232(b)) derived from bonds, notes, or other evidences of indebtedness whether or not they are capital assets in the hands of the taxpayer and whether or not they were issued by a government or political subdivision thereof, or by a corporation or any other person. Corresponding amendments have also been made to § 1.881-2 of the Income Tax Regulations which applies to taxation of foreign corporations not engaged in trade or business in the United States.

Section 1.1441-2 of the Income Tax Regulations, which provides rules for determining the items of income of foreign persons which are subject to withholding of tax at 30 percent, is

amended to exclude original issue discount (as described in § 1.871-7(b) (2)) from the term "interest" and specifically include original issue discount, subject to the rules of new § 1.1441-3(c) (6), in the definition of "other income" subject to withholding.

Section 1.1441-3 of the Income Tax Regulations has been amended by the addition of a new paragraph (c) (6) which gives guidance to withholding agents with respect to the mechanics of withholding on original issue discount. Withholding will be required whether the evidence of indebtedness is a capital asset in the hands of the taxpayer or whether it was held by the taxpayer more than 6 months.

Withholding will also be required whether the evidence of indebtedness was issued by a government or political subdivision thereof, or by a corporation or any other person. However, withholding with respect to obligations not issued by a government or political subdivision thereof, or by a corporation will only be required for payments occurring after the 30th day following publication of the Treasury decision.

By TIR-877, dated December 27, 1966, the Internal Revenue Service announced that, until regulations concerning the withholding of tax under section 1441 or section 1442 on amounts subject to tax under section 871(a) (1) (C) or section 881(a) (3), as added by the 1966 Act, are adopted, only the original issuers of the bond or other evidence of indebtedness would be required to withhold the tax. This position was also adopted in Rev. Rul. 68-333, 1968-1 C.B. 390.

Proposed paragraphs (c) (6) (i) (A) and (B) provide for withholding with respect to evidences of indebtedness issued after September 28, 1965, and before April 1, 1972, which are subject to tax under section 871(a) (1) (C) (i). Under proposed paragraph (c) (6) (i) (A) only original issuers are required to withhold in the case of payments occurring before the 31st day following publication of the Treasury decision in this case. This position is consistent with TIR-877 and Rev. Rul. 68-333. Under proposed paragraph (c) (6) (i) (B) all United States persons are required to withhold in the case of payments occurring after the 30th day following publication of the Treasury decision in this case. Withholding in the future is restricted to United States persons because of the administrative difficulty of enforcing withholding with respect to sales and exchanges between foreign persons.

Proposed paragraph (c) (6) (i) (C) provides for withholding with respect to evidences of indebtedness issued after March 31, 1972, which are subject to tax under section 871(a) (1) (C) (ii). Under proposed paragraph (c) (6) (i) (C) all United States persons are required to withhold in the case of payments occurring after March 31, 1972. Again, withholding is restricted to United States persons because of the administrative difficulty of enforcing withholding with respect to sales and exchanges between foreign persons. Payment of the

tax under section 871(a) (1) (C) is required in all cases by the filing of a return by the taxpayer. Corresponding rules would also apply in the case of original issue discount to which section 881(a) (3) applies.

The amendments of §§ 1.871-1 and 1.1441-3(e) are technical in nature.

In view of the foregoing considerations, the Income Tax Regulations and the Employment Tax Regulations are hereby amended as follows:

#### INCOME TAX REGULATIONS

PARAGRAPH 1. Section 1.871 is amended by revising section 871(a) (1) (A) and (C) and the historical note to read as follows:

#### § 1.871 Statutory provisions; tax on nonresident alien individuals (after amendment by Foreign Investors Tax Act of 1966).

Sec. 871. Tax on nonresident alien individuals—(a) Income not connected with United States business—30 percent tax—(1) Income other than capital gains. \* \* \*

(A) Interest (other than original issue discount as defined in section 1232 (b)), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income.

(C) In the case of—

(i) Bonds or other evidences of indebtedness issued after September 28, 1965, and before April 1, 1972, amounts which under section 1232(a) (2) (B) are considered as gain from the sale or exchange of property which is not a capital asset, and, in the case of corporate obligations issued after May 27, 1969, and before April 1, 1972, amounts which would be so considered but for the fact the obligations were issued after May 27, 1969,

(ii) Bonds or other evidences of indebtedness issued after March 31, 1972, and payable more than 6 months from the date of original issue (without regard to the period held by the taxpayer), amounts which under section 1232(a) (2) (B) would be considered as gain from the sale or exchange of property which is not a capital asset but for the fact such obligations were issued after May 27, 1969, and

(iii) The payment of interest on an obligation described in clause (ii), an amount equal to the original issue discount (but not in excess of such interest less the tax imposed by subparagraph (A) thereon) accrued on such obligation since the last payment of interest thereon, and

[Sec. 871 as amended by secs. 40(a) and 41 (a), Technical Amendments Act 1958 (72 Stat. 1638, 1639); sec. 2(b), Act of April 22, 1960 (Pub. Law 86-437, 74 Stat. 79); sec. 110 (b), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 535); secs. 113(b) and 201(d) (12), Rev. Act 1964 (78 Stat. 24, 32); sec. 103(a), Foreign Investors Tax Act 1966 (80 Stat. 1547); sec. 313 (a) and (b), Rev. Act 1971 (85 Stat. 526)]

PAR. 2. Section 1.871-1 is amended by revising the caption of paragraph (b) and redesignating paragraph (d) as paragraph (c), as follows:

#### § 1.871-1 Classification and manner of taxing alien individuals.



(b) *Nonresident alien individuals.*(c) *Effective date.*

PAR. 3. Section 1.871-7 is amended by revising paragraphs (b) and (c) to read as follows:

**§ 1.871-7 Taxation of nonresident alien individuals not engaged in U.S. business.**

(b) *Fixed or determinable annual or periodical income.*—(1) *In general.* The tax of 30 percent imposed by section 871(a)(1) applies to the gross amount received from sources within the United States as fixed or determinable annual or periodical gains, profits, or income. Specific items of fixed or determinable annual or periodical income are enumerated in section 871(a)(1)(A) as interest (other than original issue discount described in paragraph (b)(2) of this section), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments, but other items of fixed or determinable annual or periodical gains, profits, or income are also subject to the tax, as, for instance, royalties, including royalties for the use of patents, copyrights, secret processes and formulas, and other like property. As to the determination of fixed or determinable annual or periodical income, see paragraph (a) of § 1.1441-2. For special rules treating gain on the disposition of section 306 stock as fixed or determinable annual or periodical income for purposes of section 871(a), see section 306(f) and paragraph (h) of § 1.306-3.

(2) *Original issue discount.* As used in paragraph (b)(1) of this section, the term "original issue discount" means original issue discount within the meaning of section 1232(b) on any bond, debenture, note, certificate, or other evidence of indebtedness. For this purpose, it is immaterial (i) whether the evidence of indebtedness is a capital asset in the hands of the taxpayer within the meaning of section 1221, (ii) whether it was held by the taxpayer more than 6 months, or (iii) whether it was issued by a government or political subdivision thereof, or by a corporation or any other person.

(c) *Other income and gains.*—(1) *Items subject to tax.* The tax of 30 percent imposed by section 871(a)(1) also applies to the following gains received during the taxable year from sources within the United States:

(i) Gains described in section 402(a)(2), relating to the treatment of total distributions from certain employees' trusts; section 403(a)(2), relating to treatment of certain payments under certain employee annuity plans; and section 631(b) or (c), relating to treatment of gain on the disposal of timber, coal, or iron ore with a retained economic interest;

(ii) *In the case of—*

(A) Bonds or other evidences of indebtedness issued after September 28, 1965, and before April 1, 1972, amounts which, by applying the principles of section 1232(a)(2)(B), are considered as

gain from the sale or exchange of property which is not a capital asset and, in the case of corporate obligations issued after May 27, 1969, and before April 1, 1972, amounts which, by applying the principles of section 1232(a)(2)(B), would be considered as gain from the sale or exchange of property which is not a capital asset but for the fact the obligations were issued after May 27, 1969.

(B) Bonds or other evidences of indebtedness issued after March 31, 1972, which are payable more than 6 months from the date of original issue (without regard to the period held by the taxpayer), amounts which, by applying the principles of section 1232(a)(2)(B), are considered as gain from the sale or exchange of property which is not a capital asset and, in the case of corporate obligations, amounts which, by applying the principles of section 1232(a)(2)(B), would be considered as gain from the sale or exchange of property which is not a capital asset but for the fact such obligations were issued after May 27, 1969, and

(C) The payment of interest on an obligation described in paragraph (c)(1)(ii)(B) of this section, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon, except that the tax imposed by reason of this paragraph (c)(1)(ii)(C) may not exceed the amount of such interest payment less the tax imposed thereon under the rules of paragraph (b) of this section;

(iii) Gains on transfers described in section 1235, relating to certain transfers of patent rights, made on or before October 4, 1966; and

(iv) Gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, or other like property, or of any interest in any such property, to the extent the gains are from payments (whether in a lump sum or in installments) which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged, or from payments which are treated under 871(e) and § 1.871-11 as being so contingent.

(2) *Nonapplication of 183-day rule.* The provisions of section 871(a)(2), relating to gains from the sale or exchange of capital assets, and paragraph (d)(2) of this section do not apply to the gains described in this paragraph; as a consequence, the taxpayer receiving gains described in paragraph (c)(1) of this section during a taxable year is subject to the tax of 30 percent thereon without regard to the 183-day rule contained in such provisions.

(3) *Determination of amount of gain.* The tax of 30 percent imposed upon the gains described in paragraph (c)(1) of this section applies to the full amount of the gains and is determined (i) without regard to the alternative tax imposed by section 1201(b) upon the excess of the net long-term capital gain over the net short-term capital loss; (ii) without regard to the deduction al-

lowed by section 1202 in respect of capital gains; (iii) without regard to section 1231, relating to property used in the trade or business and involuntary conversions; and (iv) whether or not any property from which the gains are derived is a capital asset in the hands of the taxpayer.

(4) *Special rules applicable to original issue discount.*—(i) *In general.* Section 871(a)(1)(C) and paragraph (c)(1)(ii) of this section apply, subject to the other limitations prescribed therein and in this paragraph (c)(4), to all bonds or other evidences of indebtedness which are issued at a discount within the meaning of paragraph (b)(2) of this section. Thus, in applying section 871(a)(1)(C), the provisions of section 1232(a)(2)(B) are deemed to apply to assets which are not capital assets, to obligations which are not held by the taxpayer for more than 6 months, and to obligations not issued by a corporation or by a government or political subdivision thereof.

(ii) *Sale, exchange, or retirement of bond issued before April 1, 1972.* Section 871(a)(1)(C)(i) and paragraph (c)(1)(ii)(A) of this section apply only to amounts derived from the sale, exchange, or retirement of a bond or other evidence of indebtedness, whether or not interest-bearing, which was issued after September 28, 1965, and before April 1, 1972, and which, at the time of such sale, exchange, or retirement, had been held by the taxpayer more than 6 months. In applying section 871(a)(1)(C)(i), the provisions of section 1232(a)(2)(B) are deemed to apply to bonds or other evidences of indebtedness which were issued by a corporation after May 27, 1969, and before April 1, 1972.

(iii) *Sales, exchange, or retirement of bond issued after March 31, 1972.* Section 871(a)(1)(C)(ii) and paragraph (c)(1)(ii)(B) of this section apply only to amounts derived from the sale, exchange, or retirement of a bond or other evidence of indebtedness, whether or not interest-bearing and whether or not held by the taxpayer more than 6 months, which was issued after March 31, 1972, and is payable more than 6 months from the date of original issue. In applying section 871(a)(1)(C)(ii), the provisions of section 1232(a)(2)(B) are deemed to apply to bonds or other evidences of indebtedness which, at the time of the sale, exchange, or retirement, had been held by the taxpayer not more than 6 months and to bonds or other evidences of indebtedness which were issued by a corporation after May 27, 1969. Pursuant to section 1232(a)(2)(D) and § 1.1232-3(e), section 871(a)(1)(C)(ii) and paragraph (c)(1)(ii)(B) of this section do not apply to any amount previously includible in gross income. Thus, for example, any amount treated under paragraph (c)(4)(v) of this section as included in gross income in respect of original issue discount on which tax has been imposed under section 871(a)(1)(C)(iii) and paragraph (c)(1)(ii)(C) of this section at the time of an interest payment on an obligation shall not again be subject to tax under section 871(a)(1)(C)(ii) and paragraph



(c) (1) (ii) (B) of this section when such obligation is sold, exchanged, or retired.

(iv) *Interest payments on bonds issued after March 31, 1972.* Section 871(a) (1) (C) (iii) and paragraph (c) (1) (ii) (C) of this section apply only when an interest payment is received on an interest-bearing bond or other evidence of indebtedness to which section 871(a) (1) (C) (ii) and paragraph (c) (1) (ii) (B) of this section apply. In addition to the 30-percent tax imposed on such interest under section 871(a) (1) (A) and paragraph (b) of this section, an additional 30-percent tax is imposed under section 871(a) (1) (C) (iii) and paragraph (c) (1) (ii) (C) of this section on the original issue discount accrued on such bond or other evidence of indebtedness since the last payment of interest thereon, as determined under paragraph (c) (4) (vi) of this section, except that such additional tax may not exceed the amount of the interest payment less the 30-percent tax imposed on such interest under section 871(a) (1) (A) and paragraph (b) of this section.

(v) *Treatment of discount as includible in gross income.* (A) For purposes of applying paragraph (c) (4) (iii) of this section with respect to any bond or other evidence of indebtedness, an amount shall be treated as having been included in gross income which is equal to the amount obtained by dividing the amount of the additional 30-percent tax imposed under section 871(a) (1) (C) (iii) and paragraph (c) (1) (ii) (C) of this section on the accrued original issue discount on such bond or other evidence of indebtedness by 30 percent. If the additional 30-percent tax on such accrued original issue discount is reduced by an income tax convention to which the United States is a party, the amount which shall be treated as having been included in gross income shall be the amount of such reduced additional tax divided by such reduced rate of tax. If no tax is imposed under section 871(a) (1) (C) (iii) and paragraph (c) (1) (ii) (C) on the accrued original issue discount by reason of an exemption from tax under an income tax convention to which the United States is a party, the full amount of the accrued original issue discount which is so exempt from tax shall be treated as having been included in gross income.

(B) Pursuant to the principles of section 1232(a) (3) (E) and § 1.1232-3A(c), the basis of the bond or other evidence of indebtedness in the hands of the holder thereof shall be increased by an amount with respect to such bond or other evidence of indebtedness which is treated as having been included in gross income pursuant to this paragraph (c) (4) (v).

(vi) *Accrual of original issue discount.* For purposes of paragraph (c) (4) (iv) of this section, the original issue discount accrued on a bond or other evidence of indebtedness since the last payment of interest is an amount equal to the ratable monthly portion of original issue discount, determined by applying the principles

of section 1232(a) (3) (A) and § 1.1232-3A(a) (2), multiplied by the sum of the number of complete months and any fractional part of a month occurring since the later of (A) the last payment of interest on the bond or other evidence of indebtedness or (B) the day on which the taxpayer purchased (within the meaning of § 1.1232-3A(a) (4)) such bond or other evidence of indebtedness.

(vii) *Illustrations.* The application of this paragraph (c) (4) may be illustrated by the following examples:

*Example (1).* On January 1, 1973, R, a non-resident alien individual using the calendar year as the taxable year and the cash receipts and disbursements method of accounting, purchases at original issue, for cash of \$7,600, M Corporation's 10-year, 5-percent bond which has a stated redemption price of \$10,000 and an original issue date of January 1, 1973. Under the terms of the bond M is to make interest payments of \$250 on June 30 and December 31 of each year. On July 1, 1973, R receives his first interest payment of \$250, and tax of \$75 ( $\$250 \times 30\%$ ) is imposed thereon under section 871(a) (1) (A) and paragraph (b) of this section. By applying the principles of section 1232(a) (3) (A) the ratable monthly portion of original issue discount is \$20 ( $\$10,000 - \$7,600 \div 120$ ), and the amount accrued from the date of purchase is \$120 ( $\$20 \times 6$ ). The tax imposed under section 871(a) (1) (C) (iii) and paragraph (c) (1) (ii) (C) of this section is \$36 ( $\$120 \times 30\%$ ), but not to exceed \$175 ( $\$250 - \$75$ ). Accordingly, a total tax of \$111 ( $\$75 + \$36$ ) is imposed under section 871(a) (1) (A) and (C) (iii) upon the receipt of interest by R.

*Example (2).* Assume the same facts as in example (1). Assume further that on December 31, 1973, M makes an interest payment of only \$40. On this \$40 payment of interest a tax of \$12 ( $\$40 \times 30\%$ ) is imposed under section 871(a) (1) (A) and paragraph (b) of this section. By applying the principles of section 1232(a) (3) (A), the ratable monthly portion of original issue discount is \$20, and the amount accrued from the last payment of interest on June 30, 1973, is \$120 ( $\$20 \times 6$ ). The tax imposed under section 871(a) (1) (C) (iii) and paragraph (c) (1) (ii) (C) of this section is \$36 ( $\$120 \times 30\%$ ), but not to exceed \$28 ( $\$40 - \$12$ ). Accordingly, a total tax of \$40 ( $\$12 + \$28$ ) is imposed under section 871(a) (1) (A) and (C) (iii) upon the receipt of interest by R. The amount of original issue discount which is treated as included in R's gross income by reason of the interest payment on December 31, 1973, is \$93.33 ( $\$28 \div 30\%$ ). The \$26.67 balance of the original issue discount ( $\$120 - \$93.33$ ) will be subject to tax under section 871(a) (1) (C) (iii) and paragraph (c) (1) (ii) (B) of this section when the M bond is sold, exchanged, or retired.

*Example (3).* (a) Assume the same facts as in example (2). Assume further that on July 1, 1974, M makes an interest payment of \$250 to R and that immediately thereafter R sells the bond to a U.S. citizen for \$8,000. At no time during 1974 is R present in the United States. The assumption is also made that, at the time of original issue, there was no intention to call the bond before maturity. On this \$250 payment of interest a tax of \$75 ( $\$250 \times 30\%$ ) is imposed under section 871(a) (1) (A) and paragraph (b) of this section. By applying the principles of section 1232(a) (3) (A), the ratable monthly portion of original issue discount is \$20, and the amount accrued from the last payment of interest on December 31, 1973, is \$120 ( $\$20 \times 6$ ). The tax imposed in 1974 under section 871(a) (1) (C) (iii) and paragraph (c) (1) (ii)

(C) of this section is \$36 ( $\$120 \times 30\%$ ), but not to exceed \$175 ( $\$250 - \$75$ ).

(b) The bond was held by R for 18 full months before it was sold. The number of complete months from the date of issue to date of maturity is 120 (10 years). The original issue discount on the bond is \$2,400 ( $\$10,000$  less  $\$7,600$ ), as determined under section 1232(b). Accordingly, the proportionate part of the original issue discount attributable to the period of R's ownership is \$360 ( $\$2,400 \times 18/120$ ), which is the maximum amount includible by R as ordinary income. On the sale of the bond R realizes total gain of \$66.67 ( $\$8,000 - [\$7,600 + \$120 + \$93.33 + \$120]$ ). Of this amount, \$26.67 ( $\$360 - [\$120 + \$93.33 + \$120]$ ) is subject to tax under section 871(a) (1) (C) (ii) and paragraph (c) (1) (ii) (B) of this section, and the tax thereon under such provisions is \$8 ( $\$26.67 \times 30\%$ ).

(c) Accordingly, in 1974 a total tax of \$119 ( $\$75 + \$36 + \$8$ ) is imposed under section 871(a) (1) (A) and (C) (ii) and (iii) upon the interest, accrued original issue discount, and gain realized by R from the M bond. The remaining gain of \$40 ( $\$66.67 - \$26.67$ ) is treated as long-term capital gain which is not subject to tax under section 871(a) (1).

PAR. 4. Section 1.881 is amended by revising section 881(a) (1) and (3) and the historical note to read as follows:

**§ 1.881 Statutory provisions; tax on income of foreign corporations not connected with United States business.**

SEC. 881 Tax on income of foreign corporations not connected with United States business—(a) *Imposition of tax.*

(1) Interest (other than original issue discount as defined in section 1232(b)), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income,

(3) In the case of—

(A) Bonds or other evidences of indebtedness issued after September 28, 1965, and before April 1, 1972, amounts which under section 1232(a) (2) (B) are considered as gain from the sale or exchange of property which is not a capital asset, and, in the case of corporate obligations issued after May 27, 1969, and before April 1, 1972, amounts which would be so considered but for the fact the obligations were issued after May 27, 1969.

(B) Bonds or other evidences of indebtedness issued after March 31, 1972, and payable more than 6 months from the date of original issue (without regard to the period held by the taxpayer), amounts which under section 1232(a) (2) (B) would be considered as gain from the sale or exchange of property which is not a capital asset but for the fact such obligations were issued after May 27, 1969, and

(C) The payment of interest on an obligation described in subparagraph (B), an amount equal to the original issue discount (but not in excess of such interest less the tax imposed by paragraph (1) thereon) accrued on such obligation since the last payment of interest thereon, and

[Sec. 881 as amended by sec. 104 (a), Foreign Investors Tax Act 1966 (80 Stat. 1555); sec. 313 (a) and (c), Rev. Act 1971 (85 Stat. 526)]

PAR. 5. Section 1.881-2 is amended by revising paragraphs (b) and (c) to read as follows:



# § 1.831-2 Taxation of foreign corporations not engaged in U.S. business.

(b) *Fixed or determinable annual or periodical income.*—(1) *In general.* The tax of 30 percent imposed by section 881(a) applies to the gross amount received from sources within the United States as fixed or determinable annual or periodical gains, profits, or income. Specific items of fixed or determinable annual or periodical income are enumerated in section 881(a)(1) as interest (other than original issue discount described in paragraph (b)(2) of this section), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments, but other items of fixed or determinable annual or periodical gains, profits, or income are also subject to the tax, as, for instance, royalties, including royalties for the use of patents, copyrights, secret processes and formulas, and other like property. As to the determination of fixed or determinable annual or periodical income, see paragraph (a) of § 1.1441-2. For special rules treating gain on the disposition of section 306 stock as fixed or determinable annual or periodical income for purposes of section 881(a), see section 306(f) and paragraph (h) of § 1.306-3.

(2) *Original issue discount.* As used in paragraph (b)(1) of this section, the term "original issue discount" means original issue discount within the meaning of section 1232(b) on any bond, debenture, note, certificate, or other evidence of indebtedness. For this purpose, it is immaterial (i) whether the evidence of indebtedness is a capital asset in the hands of the taxpayer within the meaning of section 1221, (ii) whether it was held by the taxpayer more than 6 months, or (iii) whether it was issued by a government or political subdivision thereof, or by a corporation or any other person.

(c) *Other income and gains.*—(1) *Items subject to tax.* The tax of 30 percent imposed by section 881(a) also applies to the following gains received during the taxable year from sources within the United States:

(i) Gains described in section 631 (b) or (c), relating to the treatment of gain on the disposal of timber, coal, or iron ore with a retained economic interest;

(ii) In the case of—

(A) Bonds or other evidences of indebtedness issued after September 28, 1965, and before April 1, 1972, amounts which, by applying the principles of section 1232(a)(2)(B), are considered as gain from the sale or exchange of property which is not a capital asset and, in the case of corporate obligations issued after May 27, 1969, and before April 1, 1972, amounts which, by applying the principles of section 1232(a)(2)(B), would be considered as gain from the sale or exchange of property which is not a capital asset but for the fact the obligations were issued after May 27, 1969,

(B) Bonds or other evidences of indebtedness issued after March 31, 1972,

which are payable more than 6 months from the date of original issue (without regard to the period held by the taxpayer), amounts which, by applying the principles of section 1232(a)(2)(B), are considered as gain from the sale or exchange of property which is not a capital asset and, in the case of corporate obligations, amounts which, by applying the principles of section 1232(a)(2)(B), would be considered as gain from the sale or exchange of property which is not a capital asset but for the fact such obligations were issued after May 27, 1969, and

(C) The payment of interest on an obligation described in paragraph (c)(1)(ii)(B) of this section, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon, except that the tax imposed by reason of this paragraph (c)(1)(ii)(C) may not exceed the amount of such interest payment less the tax imposed thereon under the rules of paragraph (b) of this section; and

(iii) Gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, or other like property, or of any interest in any such property, to the extent the gains are from payments (whether in a lump sum or in installments) which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged, or from payments which are treated under section 871(e) and § 1.871-11 as being so contingent.

(2) *Determination of amount of gain.* The tax of 30 percent imposed upon the gains described in paragraph (c)(1) of this section applies to the full amount of the gains and is determined (i) without regard to the alternative tax imposed by section 1201 (a) upon the excess of the net long-term capital gain over the net short-term capital loss; (ii) without regard to section 1231, relating to property used in the trade or business and involuntary conversions; and (iii) whether or not any property from which the gains are derived is a capital asset in the hands of the taxpayer.

(3) *Special rules applicable to original issue discount.* For special rules and examples to be applied for purposes of determining the 30-percent tax on amounts described in section 881(a)(3) and paragraph (c)(1)(ii) of this section, see paragraph (c)(4) of § 1.871-7.

PAR. 6. Section 1.1441 is amended by revising so much of section 1441 (b) as immediately precedes paragraph (1) thereof, by adding a new paragraph (8) to section 1441 (c), and by revising the historical note, as follows:

## § 1.1441 Statutory provisions; withholding of tax on nonresident aliens.

Sec. 1441. Withholding of tax on nonresident aliens. . . .

(b) *Income items.* The items of income referred to in subsection (a) are interest (other than original issue discount as defined in section 1232(b)), dividends, rent,

salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, gains described in section 402(a)(2), 403(a)(2), or 631 (b) or (c), amounts subject to tax under section 871(a)(1)(C), gains subject to tax under section 871(a)(1)(D), and gains on transfers described in section 1235 made on or before October 4, 1966. The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are—

## (c) *Exceptions.* . . .

(8) *Original issue discount.* The Secretary or his delegate may prescribe such regulations as may be necessary for the deduction and withholding of the tax on original issue discount subject to tax under section 871 (a)(1)(C) including rules for the reduction and withholding of the tax on original issue discount from payments of interest.

[Sec. 1441 as amended by sec. 544 (f), Mutual Security Act 1954 (added by sec. 11(a), Mutual Security Act 1956 (70 Stat. 563)); sec. 40(b), Technical Amendments Act 1958 (72 Stat. 1638); sec. 110(d), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 536); sec. 302(c), Rev. Act 1964 (78 Stat. 146); sec. 103(h), Foreign Investors Tax Act 1966 (80 Stat. 1553); sec. 505(b), Tax Reform Act 1969 (83 Stat. 634); sec. 313 (a) and (d), Rev. Act 1971 (85 Stat. 526). (Sec. 544(f), Mutual Security Act 1954, was repealed by sec. 11(b)(1), Mutual Security Act 1957 (71 Stat. 365), with the proviso that sec. 1441 was not affected by the repeal.)]

PAR. 7. Section 1.1441-2 is amended by revising paragraph (a)(1) and by adding a new paragraph (b)(2)(ii), as follows:

## § 1.1441-2 Income subject to withholding.

(a) *Fixed or determinable annual or periodical income.* (1) The gross amount of fixed or determinable annual or periodical income is subject to withholding. Section 1441(b) specifically includes in such income interest, dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments; but other kinds of income are included, as, for instance, royalties. For purposes of the preceding sentence, the term "interest" includes interest on certain deferred payments, as provided in section 483 and the regulations thereunder. Effective with respect to payments occurring after March 31, 1972, the term "interest", as used in section 1441(b) and this paragraph (a)(1), does not include any original issue discount on any bond, debenture, note, certificate, or other evidence of indebtedness, as described in § 1.871-7(b)(2). The term "fixed or determinable annual or periodical" income is merely descriptive of the character of a class of income. If an item of income falls within the class of income contemplated by the statute, it is immaterial whether payment of that item is made in a series of payments or in a single lump sum. Thus, for example, \$5,000 in royalty income would come within the meaning of the term, whether paid in 10 payments of \$500 each or in one payment of \$5,000.

(b) *Other income subject to withholding.* . . .



(2) *Payments in taxable years of recipients beginning after December 31, 1966.* \* \* \*

(ii) Amounts subject to the 30-percent tax under section 871(a)(1)(C) and § 1.871-7(c)(1)(ii), or section 881(a)(3) and § 1.881-2(c)(1)(ii), relating to—

(A) Gains realized on the sale, exchange, or retirement of certain bonds or other evidences of indebtedness which are issued after September 28, 1965, and

(B) Original issue discount ratably accrued on certain interest-bearing bonds or other evidences of indebtedness which are issued after March 31, 1972, and are payable more than 6 months from the date of original issue, but only to the extent and in the manner provided by § 1.1441-3(c)(6);

PAR. 8. Section 1.1441-3 is amended by revising the caption of paragraph (c), by adding a new subparagraph (6) to paragraph (c), and by revising paragraph (e)(2), as follows:

**§ 1.1441-3 Exceptions and rules of special application.**

(c) *Interest and original issue discount.* \* \* \*

(6) *Original issue discount.*—(i) *In general.* (A) In the case of payments occurring before (the 31st day following publication of the Treasury decision), withholding is required under § 1.1441-1 by the original issuer of any bond or other evidence of indebtedness issued after September 28, 1965, and before April 1, 1972, upon any gain realized by the holder on the sale, exchange, or retirement of such bond or other indebtedness, whether or not interest-bearing, to the extent that such gain is subject to tax under section 871(a)(1)(C)(i) and § 1.871-7(c)(1)(ii)(A), or under section 881(a)(3)(A) and § 1.881-2(c)(1)(ii)(A).

(B) In the case of payments occurring after (the 30th day following publication of the Treasury decision), withholding is required under § 1.1441-1 by a United States person upon any gain realized by the holder on the sale, exchange, or retirement of any bond or other evidence of indebtedness, whether or not interest-bearing, issued after September 28, 1965, and before April 1, 1972, to the extent that such gain is subject to tax under section 871(a)(1)(C)(i) and § 1.871-7(c)(1)(ii)(A), or under section 881(a)(3)(A) and § 1.881-2(c)(1)(ii)(A).

(C) In the case of payments occurring after March 31, 1972, withholding is required under § 1.1441-1 by a United States person upon any gain realized by the holder on the sale, exchange, or retirement of any bond or other evidence of indebtedness, whether or not interest-bearing, issued after March 31, 1972, and payable more than 6 months from the date of original issue, to the extent that such gain is subject to tax under section 871(a)(1)(C)(ii) and § 1.871-7(c)(1)(ii)(B), or under section 881(a)(3)(B) and § 1.881-2(c)(1)(ii)(B), and

(D) In the case of payments occurring after March 31, 1972, withholding is required under § 1.1441-1 upon interest paid on any bond or other evidence of indebtedness issued after March 31, 1972, and payable more than 6 months from the date of original issue, to the extent that tax may be withheld from such interest upon accrued original issue discount subject to tax under section 871(a)(1)(C)(iii) and § 1.871-7(c)(1)(ii)(C), or under section 881(a)(3)(C) and § 1.881-2(c)(1)(ii)(C).

(ii) *Evidences of indebtedness subject to withholding.* Withholding is required under paragraph (c)(6)(i) of this section on any bond, debenture, note, certificate, or other evidence of indebtedness taxable under section 871(a)(1)(C) and § 1.871-7(c)(1)(ii) and section 881(a)(3) and § 1.881-2(c)(1)(ii), except for payments occurring before (the 31st day following publication of the Treasury decision) on evidences of indebtedness issued by a person other than a government or political subdivision thereof, or by a corporation. Withholding is required under paragraph (c)(6)(i) of this section on any bond, debenture, note, certificate, or other evidence of indebtedness issued by a person other than a government or political subdivision thereof, or by a corporation only with respect to payments occurring after (the 30th day following publication of the Treasury decision). Thus, withholding is required in all cases whether the evidence of indebtedness is a capital asset in the hands of the taxpayer within the meaning of section 1221 or whether it was held by the taxpayer more than 6 months, and withholding is also required with respect to payments occurring after (the 30th day following publication of the Treasury decision) whether the evidence of indebtedness was issued by a government or political subdivision thereof, or by a corporation or any other person.

(iii) *Statement by bond holder.* In the case of an amount described in paragraph (c)(6)(i) of this section, if the withholding agent does not know the amount subject to tax under section 871(a)(1)(C) or 881(a)(3), or the amount of tax under such section, he is required to deduct and withhold such amount as may be necessary to assure that the tax withheld will not be less than the tax imposed under such section. The withholding agent may, unless he has reason to believe to the contrary, rely on the statement of the person entitled to the income as to the amount which is subject to withholding or as to the amount of tax required to be withheld. The statement of such person must be filed with the withholding agent in duplicate and must show the name, address, and identifying number, if any, of the taxpayer, and contain a computation, in accordance with § 1.871-7(c)(4), of the amount of tax imposed under section 871(a)(1)(C) or 881(a)(3). The statement must be signed by the taxpayer with a written declaration that it is made under the penalties of perjury.

No particular form is prescribed for this statement. The duplicate copy of each statement filed during any calendar year pursuant to this paragraph (c)(6)(ii) must be forwarded by the withholding agent with, and attached to, the Forms 1042S required by paragraph (c) of § 1.1461-2 with respect to such amount for such calendar year. Appropriate adjustment, if any, will be made by the payee's filing of a claim for refund, together with appropriate supporting evidence, in accordance with paragraph (h) of this section.

(iv) *Definition of United States person.* The term "United States person", as used in this paragraph (c)(6), has the meaning assigned to it by section 7701(a)(30) except that it also includes any withholding agent (within the meaning of section 1465 and the regulations thereunder) required to deduct and withhold tax under chapter 3 upon interest on any obligation of the United States, a State or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any such government.

(e) *Personal exemption.* \* \* \*

(2) (i) In the determination of the tax to be withheld at the source under § 1.1441-1 from remuneration paid for labor or personal services performed within the United States by a nonresident alien individual, the benefit of the deduction for personal exemptions provided in section 151, to the extent allowable under section 873(b)(3) and the regulations thereunder, shall be allowed, prorated upon a daily basis for the period during which labor or personal services are performed within the United States by the alien individual. The benefit of the deduction for such personal exemptions shall also be allowed in the determination of the tax of 14 percent to be withheld at the source under § 1.1441-1 and paragraph (c) of § 1.1441-2 from amounts paid after March 4, 1964, to nonresident alien individuals who are temporarily present in the United States as nonimmigrants under subparagraph (F) (relating to the admission of students into the United States) or subparagraph (J) (relating to the admission of teachers, trainees, specialists, etc., into the United States) of section 101(a)(15) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15) (F) or (J), and such personal exemptions shall be prorated upon a daily basis for the period during which the described nonresident alien student or scholar receives the payments. In the case of taxable years beginning before January 1, 1970, the proration is on a basis of \$1.70 per day for each exemption to which the nonresident alien individual is entitled. In the case of taxable years beginning after December 31, 1969, the proration of one personal exemption on a daily basis shall be the amount of the personal exemption provided in section 151 for the taxpayer's taxable year divided by 360.

(ii) Thus, if A, a married nonresident alien individual without dependents is



paid remuneration in 1966 subject to withholding under § 1.1441-1 for performing personal services during a stay of 100 days in the United States in such year, the amount of \$170 will be allocated as the portion of the deduction to be allowed against the remuneration for personal services performed within the United States during that period; and withholding at 30 percent shall be applied against the balance, if any, of the remuneration. If, for example, the total remuneration paid to A for that period is \$2,000, a total tax in the amount of \$549  $(\$2,000 - \$170 \times 0.30)$  is required to be withheld under § 1.1441-1. However, if A is a resident of Canada or Mexico, and his spouse has no gross income which is subject to income tax under chapter 1 of the Code, and is not the dependent of another taxpayer subject to such tax, an amount of \$340 will be allocated as the portion of the deduction to be allowed against the remuneration for personal services performed within the United States. Thus, in such case, a total tax in the amount of \$498  $(\$2,000 - \$340 \times 0.30)$  is required to be withheld under § 1.1441-1.

(iii) As to what constitutes remuneration for labor or personal services performed within the United States see section 861(a)(3) and the regulations thereunder.

PAR. 9. Section 1.1442 is amended by revising section 1442 (a) and the historical note to read as follows:

**§ 1.1442 Statutory provisions; withholding of tax on foreign corporations.**

Sec. 1442. Withholding of tax on foreign corporations—(a) General rule. In the case of foreign corporations subject to taxation under this subtitle, there shall be deducted and withheld at the source in the same manner and on the same items of income as is provided in section 1441 or section 1451 a tax equal to 30 percent thereof, except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein. For purposes of the preceding sentence, the references in section 1441(b) to sections 871(a)(1) (C) and (D) shall be treated as referring to sections 881(a)(3) and (4), the reference in section 1441(c)(1) to section 871(b)(2) shall be treated as referring to section 842 or section 882(a)(2), as the case may be, the reference in section 1441(c)(5) to section 871(a)(1) (D) shall be treated as referring to section 881(a)(4), and the reference in section 1441(c)(8) to section 871(a)(1) (C) shall be treated as referring to section 881(a)(3).

[Sec. 1442 as amended by sec. 104(c), Foreign Investors Tax Act 1966 (80 Stat. 1557); sec. 313(e), Rev. Act 1971 (85 Stat. 528)]

**EMPLOYMENT TAX REGULATIONS**

PAR. 10. Section 31.3401(a)(6) is revised to read as follows:

**§ 31.3401(a)(6) Statutory provisions; definitions; wages; remuneration for services of certain nonresident alien individuals (remuneration paid after December 31, 1966).**

Sec. 3401. Definitions—(a) Wages. For purposes of this chapter, the term "wages"

means all remuneration \* \* \* for services performed by an employee for his employer \* \* \* except that such term shall not include remuneration paid—

(6) For such services, performed by a nonresident alien individual, as may be designated by regulations prescribed by the Secretary or his delegate; or

[Sec. 3401(a)(6) as amended by sec. 110(g)(1), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 537); sec. 313(d)(2), Social Security Amendments 1965 (79 Stat. 384); sec. 103(k), Foreign Investors Tax Act 1966 (80 Stat. 1554)]

PAR. 11. Section 31.3401(a)(6)-1 is amended by adding a new paragraph (f) to read as follows:

**§ 31.3401(a)(6)-1 Remuneration for services of nonresident alien individuals paid after December 31, 1966.**

(f) *Remuneration for services of aliens performed in a previous taxable year.* Remuneration paid to a nonresident alien individual during a taxable year for services performed within the United States during a previous taxable year is excepted from wages and hence is not subject to withholding if such individual is not engaged in a trade or business in the United States in such succeeding taxable year and uses the cash receipts and disbursements method of accounting. Thus, for example, assume that R, a nonresident alien individual who uses the calendar year as the taxable year and the cash receipts and disbursements method of accounting is present in the United States from June 1, 1972, to December 20, 1972, performing personal services therein for which he receives in 1972 remuneration of \$13,000 which constitutes wages within the meaning of § 31.2401(a)-1. Assume further that R leaves the United States on December 20, 1972, and that in 1973, during which R is not engaged in trade or business in the United States, he receives \$2,000 additional remuneration for the services performed in the United States during 1972. Under the circumstances, the \$2,000 received in 1973 does not constitute wages within the meaning of § 31.3401(a)-1 but is subject to withholding under section 1441 and § 1.1441-1 of this chapter (Income Tax Regulations). See § 1.1441-4 (b) of this chapter. See also example (3) in § 1.864-3(b) of this chapter.

PAR. 12. Section 31.3401(a)(6)A is amended by revising the heading, by revising section 3401(a)(6)(C), and by revising the historical note, as follows:

**§ 31.3401(a)(6)A Statutory provisions; definitions; wages; remuneration for services of certain nonresident alien individuals (remuneration paid before January 1, 1967).**

Sec. 3401. Definitions—(a) Wages. \* \* \*

(6) \* \* \* (C) An individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, if such remuneration is exempt, under section 1441(c)(4)(B), from deduction and withholding under section

1441 (a), and is not exempt from taxation under section 872(b)(3); or

[Sec. 3401(a)(6) as amended by sec. 110(g)(1), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 537); sec. 313(d)(2), Social Security Amendments 1965 (79 Stat. 384); as in effect before amendment by sec. 103(k), Foreign Investors Tax Act 1966 (80 Stat. 1554)]

[FR Doc. 76-20072 Filed 7-9-76; 8:45 am]

**[ 26 CFR Parts 1, 301 ]**

**EARNED INCOME**

**Tax Credit**

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by August 26, 1976. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rulemaking is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by August 26, 1976. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

DONALD C. ALEXANDER,

Commissioner of Internal Revenue.

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 43 of the Internal Revenue Code of 1954 and to the Regulations on Procedure and Administration (26 CFR Part 301) under section 6401(b) of the Code conforming them to section 204 of the Tax Reduction Act of 1975 (89 Stat. 30) (hereinafter referred to as "the Act"). These amendments apply only for taxable years beginning in 1975.



Section 204(a) of the Act adds to the Code a new section 43 which provides for a credit against the tax imposed by chapter 1 for the taxable year in an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed \$4,000. In the case of individuals with incomes in excess of \$4,000, the amount of the credit for the taxable year is reduced by 10 percent of the amount by which the greater of the individual's adjusted gross income or earned income exceeds \$4,000.

An individual is eligible for the credit only if he maintains a household (within the meaning of section 214(b)(3)) in the United States which is the principal place of abode for himself and one or more of his children with respect to whom he is entitled to claim additional exemption deductions for dependents under section 151(e)(1)(B). An individual is not eligible for the credit if he is entitled to exclude amounts from his gross income by application of section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possessions of the United States).

Earned income is defined as wages, salaries, tips, other employee compensation, and net earnings from self-employment. Earned income is generally eligible for the credit only if it is includible in the eligible individual's gross income for the taxable year in which the credit is claimed. Amounts received as a pension or an annuity, amounts of income of a nonresident alien individual which are not connected with a United States trade or business, and amounts excluded from gross income under section 105 (relating to amounts received under accident and health plans) are not included within the definition of earned income. Further, earned income shall be reduced by any net loss in earnings from self-employment. Section 43 provides for earned income to be computed without regard to any applicable community property laws.

In order to receive the credit, married individuals must file joint returns unless they are treated as not married under section 143(b) of the Code. Further, except in the case of short taxable years closed by reason of the death of the eligible individuals, the credit may only be claimed for a taxable year containing 12 months.

The credit allowed by section 43 is a refundable credit. Thus, eligible individuals are entitled to receive a refund equal to the amount of the credit reduced by any tax due. Section 204(b)(1) of the Act amends section 6401(b) to provide for refund of such amount.

The amendments made to section 43 by section 2(c) of the Revenue Adjustment Act of 1975 (89 Stat. 971) have not been incorporated into this document. However, § 1.43-2 has been reserved for regulations relating to the extension of the earned income credit for 1976.

#### PROPOSED AMENDMENTS TO THE REGULATIONS

In order to conform the Income Tax Regulations (26 CFR Part 1) to section

43 of the Internal Revenue Code of 1954 and the Regulations on Procedure and Administration (26 CFR Part 301) to section 6401(b) of the Code, as added or amended by section 204 of the tax Reduction Act of 1975 (89 Stat. 30), such regulations are amended as follows:

#### INCOME TAX REGULATIONS

PARAGRAPH 1. The following new sections are added immediately after § 1.42-1.

#### § 1.43 Statutory provisions; earned income.

Sec. 43. *Earned income*—(a) *Allowance of credit*. In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed \$4,000.

(b) *Limitation*. The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds \$4,000.

(c) *Definitions*. For purposes of this section—

(1) *Eligible individual*. The term "eligible individual" means an individual who, for the taxable year—

(A) Maintains a household (within the meaning of section 214(b)(3)) in the United States which is the principal place of abode of that individual and of a child of that individual with respect to whom he is entitled to claim a deduction under section 151(e)(1)(B) (relating to additional exemption for dependents), and

(B) Is not entitled to exclude any amount from gross income under section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possessions of the United States).

(2) *Earned income*. (A) The term "earned income" means—

(i) Wages, salaries, tips, and other employee compensation, plus

(ii) The amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)).

(B) For purposes of subparagraph (A)—

(i) Except as provided in clause (ii), any amount shall be taken into account only if such amount is includible in the gross income of the taxpayer for the taxable year.

(ii) The earned income of an individual shall be computed without regard to any community property laws.

(iii) No amount received as a pension or annuity shall be taken into account, and

(iv) No amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account.

(d) *Married individuals*. In the case of an individual who is married (within the meaning of section 143), this section shall apply only if a joint return is filed for the taxable year under section 6013.

(e) *Taxable year must be full taxable year*. Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

(Sec. 43 as added by sec. 204(a), Tax Reduction Act 1975 (89 Stat. 30).)

#### § 1.43-1 Earned income credit for taxable years beginning in 1975.

(a) *Allowance of credit*. Subject to the limitations of paragraph (b) of this section, in the case of an eligible individual (as defined in paragraph (c)(1) of this section), there shall be allowed as a credit against the tax imposed by chapter 1 for the taxable year, an amount equal to 10 percent of so much of the earned income (as defined in paragraph (c)(2) of this section) for the taxable year as does not exceed \$4,000.

(b) *Limitations*—(1) *Amount of credit*. The amount of the credit allowed by section 43 and paragraph (a) of this section for the taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of the excess over \$4,000 of the greater of—

(i) The adjusted gross income (within the meaning of section 62 and the regulations thereunder) of the individual for the taxable year, or

(ii) The earned income (as defined in paragraph (c)(2) of this section) of the individual for the taxable year.

Thus, if the individual has adjusted gross income or earned income of \$8,000 or more, he will not be entitled to the credit.

(2) *Married individuals*. No credit shall be allowed by section 43 and paragraph (a) of this section in the case of an eligible individual who is married (within the meaning of section 143 and the regulations thereunder) unless such individual and his spouse file a single return jointly for the taxable year (see section 6013 and the regulations thereunder relating to joint returns of income tax by husband and wife). The requirements of the preceding sentence shall not apply to an eligible individual who is not considered as married under section 143(b) and the regulations thereunder (relating to certain married individuals living apart).

(3) *Length of taxable year*. No credit shall be allowed by section 43 and paragraph (a) of this section in the case of a taxable year covering a period of less than 12 months. However, the rule of the preceding sentence shall not apply to a taxable year closed by reason of the death of the eligible individual.

(c) *Definitions*—(1) *Eligible individual*. For purposes of this section, an eligible individual is an individual who meets the following requirements of this subparagraph.

(i) (A) For the entire taxable year, the individual maintains a household (within the meaning of section 214(b)(3) and § 1.214A-1(d)) in the United States, which household for the taxable year is the principal place of abode of that individual and of one or more of the children of that individual with respect to whom he is entitled to claim a deduction under section 151(e)(1)(B) and the regulations thereunder (relating to additional exemptions for dependents). The rules of §§ 1.152-1(b) and 1.214A-1(d)(1) shall apply in determining whether such household is the principal place of abode of that individual and of one or more of his children. In addition, and only for purposes of determining a child's prin-



principal place of abode under this paragraph, in the case of a child who is adopted during the taxable year (including a child who is placed with that individual during the taxable year by an authorized placement agency for legal adoption pursuant to a formal application filed by that individual with the agency) or who becomes that individual's stepchild or foster child during the taxable year, such household is only required to be the child's principal place of abode during that portion of the taxable year when he is that individual's child.

(B) The rules of (A) of this subdivision are illustrated by the following provisions which relate to members of the Armed Forces. A member of the United States Armed Forces who maintains his household outside the United States for any part of the taxable year is not an eligible individual. However, if he maintains his household within the United States for the entire taxable year and he is only temporarily absent therefrom by reason of military service and such household is the principal place of abode both of himself and of his child with respect to whom he is entitled to claim a deduction under section 151(e)(1)(B), then he will be an eligible individual if he meets the requirements of paragraph (c)(i) of this section.

(ii) For the entire taxable year, the individual is not entitled to exclude any amount from gross income under section 911 and the regulations thereunder (relating to earned income from sources without the United States) or section 931 and the regulations thereunder (relating to income from sources within the possessions of the United States).

(2) *Earned income.* For purposes of this section, earned income means—

(i) Wages, salaries, tips, other employee compensation, and

(ii) Net earnings from self-employment (within the meaning of section 1402(a) and the regulations thereunder), which are includible in the eligible individual's gross income for the taxable year in which the credit is claimed. However, earned income shall be computed without regard to any community property laws which may otherwise be applicable. Earned income shall be reduced by any net loss in earnings from self-employment. Earned income shall not include amounts received as a pension or an annuity, an amount to which section 871(a) and the regulations thereunder apply (relating to income of nonresident alien individuals not connected with United States business), or an amount excluded from gross income under section 105 and the regulations thereunder (relating to amounts received under accident and health plans).

(d) *Example.* The application of this section is illustrated by the following example. For purposes of this example, assume that the eligible individual's adjusted gross income is equal to his earned income and that he does not receive a pension or an annuity, or an amount to which section 871(a), 911, or 931 applies.

*Example.* A and B (married individuals) maintain a household within the United States which is their principal place of abode and the principal place of abode of their two dependent children with respect to whom they are entitled to claim additional exemption deductions under section 151(e)(1)(B). A and B are calendar year taxpayers and, for 1975, they file a joint return. A and B have a total earned income of \$7,500 (computed without regard to any community property laws) and have adjusted gross income of less than \$7,500. The earned income credit of \$50 is determined as follows:

Basic credit (10% of \$4,000 under paragraph (a) of this section)	\$400
Less: Reduction under paragraph (b)(1) of this section:	
Earned income for taxable year	\$7,500
Less	4,000
Excess earned income over \$4,000	3,500
10% of excess (\$3,500)	350
Total credit	50

(e) *Effective dates.* The credit allowed by section 43 and paragraph (a) of this section shall apply only for taxable years beginning after December 31, 1974, and before January 1, 1976.

§ 1.43-2 *Earned income credit for taxable years beginning in 1976.* [Reserved]

#### REGULATIONS ON PROCEDURE AND ADMINISTRATION

##### § 301.6401 [Amended]

PAR. 2. Section 301.6401 is amended as follows:

(1) Subsection (b) is amended by inserting ", 43 (relating to earned income credit)," before "and 667(b)" and by striking out "and 39" and inserting in lieu thereof ", 39, and 43)".

(2) The historical note is amended to read as follows:

[Sec. 6401 as amended by sec. 809(d)(6), Excise Tax Reduction Act 1965 (79 Stat. 165); sec. 331(c), Tax Reform Act 1969 (83 Stat. 598); sec. 204(b)(1), Tax Reduction Act 1975 (89 Stat. 31)]

##### § 301.6401-1 [Amended]

PAR. 3. Subparagraph (2) of § 301.6401-1(a) is amended by inserting "43 (relating to earned income credit)," before "and 667(b)" and by striking out "and 39" and inserting in lieu thereof ", 39, and 43)".

[FR Doc. 76-20071 Filed 7-9-76; 8:45 am]

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### [50 CFR Part 17]

#### BALD EAGLE

#### Proposed Modification of Endangered Status in Conterminous 48 States

The Director, United States Fish and Wildlife Service, hereby issues a notice of proposed rulemaking which would modify the listed Endangered status of Bald Eagle. The subspecific name *Haliaeetus leucocephalus leucocephalus* no longer would appear on the list of Endangered Wildlife. Instead, the species *Haliaeetus leucocephalus* would be listed as Endangered throughout the conterminous 48 States of the United States, except in Washington, Oregon, Minnesota, Wisconsin, and Michigan, where the species would be listed as Threatened.

#### BACKGROUND

The Bald Eagle formerly occurred throughout North America, with 40° north latitude being designated for convenience purposes as the boundary between the breeding ranges of the southern subspecies *Haliaeetus leucocephalus leucocephalus* and the northern subspecies *Haliaeetus leucocephalus alascanus*. The southern subspecies was first listed as Endangered in the FEDERAL REGISTER of March 11, 1967. At that time the northern subspecies was not listed, primarily because the Alaskan population of that subspecies was considered to be doing well. Confusion has resulted from this listing measure because there is no clear line of demarcation separating the two subspecies, and birds of both subspecies freely wander into each other's breeding range during non-breeding periods.

The Endangered Species Act of 1973 (16 U.S.C. 1531-1543) provides for the listing of species or subspecies in particular parts of their range, even though they might not be Endangered or Threatened in other parts. Pursuant to this provision, and in the interest of overcoming the existing confusion, it is proposed to simply list the species *Haliaeetus leucocephalus* as Endangered in that part of the range of the species which is in the conterminous 48 States, except in Washington, Oregon, Minnesota, Wisconsin, and Michigan, where the species would be listed as Threatened. The proposed listing of the Bald Eagle as Endangered in some areas and Threatened in others expresses biological conditions in these respective areas. Practically speaking, however, the eagle would receive the same total protection in all of these areas under the Endangered Species Act of 1973, as it already does under the Bald Eagle Protection Act of 1940 (16 U.S.C. 668-668d). The additional protective provisions of Section 7 of the Endangered Species Act would apply equally in all areas.

Section 4(a) of the Endangered Species Act of 1973 states that the Secretary of the Interior or the Secretary of Commerce may determine a species to be an Endangered species or a Threatened species because of any of five factors. These factors and their application to the Bald Eagle in the conterminous 48 States are as follows.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The breeding range of the Bald Eagle has been considerably reduced in recent years, partly through widespread loss of suitable habitat. Human activities, such as logging, housing developments, and recreation have directly destroyed many nesting sites and have made others unattractive to the birds. Losses have been especially severe in the lower Great Lakes region, New York, and New England. In the Upper Great Lakes region of Minnesota,



Wisconsin, and Michigan, and on the Pacific Coast of Washington and Oregon, eagle populations currently appear to be maintaining themselves. Even in these regions, however, numbers are relatively small and habitat is vulnerable.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Shooting continues to be the leading cause of direct mortality in adult and immature Bald Eagles, accounting for about 40 to 50 percent of birds picked up by field personnel.

3. *Disease or predation.* Not applicable.

4. *The inadequacy of existing regulatory mechanisms.* The Bald Eagle already is protected throughout the United States by the Bald Eagle Protection Act (16 U.S.C. 668-668d). The habitat protective provisions of the Endangered Species Act of 1973, however, do not currently apply to the Bald Eagle in the northern part of the conterminous 48 States.

5. *Other natural or manmade factors affecting its continued existence.* Organochlorine pollutants are still contributing to reproductive failure in some nesting areas, especially in the Northeast. Only a single nesting pair of eagles remains in New York, where once the species was common, and this pair failed to produce offspring in 1974. The 33 pairs in Maine produced 14 young in 1974 for a success ratio of only 0.38 young per active territory. This was the lowest of any of the major populations in the country.

#### EFFECT OF THE PROPOSED RULEMAKING IF FINALIZED

The effects of this proposed rulemaking, if finalized, include, but are not necessarily limited to, those discussed below.

Endangered Species regulations already published in Part 17 of Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered Species. The regulations referred to above, which pertain to Endangered Species, are found at § 17.21 and pertain to Bald Eagle populations that are proposed as Endangered. For the convenience of the reader they are reprinted below:

#### SUBPART C—ENDANGERED WILDLIFE

##### § 17.21 Prohibitions.

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the

United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

*Example.* A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

For those populations of the Bald Eagle proposed as Threatened, all of the above provisions apply. In addition,

\*\*\* any employee or agent of the Service, of the National Marine Fisheries Service,

or of a State conservation agency which is operating under a Cooperative Agreement with the Service or with the National Marine Fisheries Service, in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened Species under certain circumstance. Such permits involving Endangered Species are available for scientific purposes or to enhance the propagation or survival of the species; permits involving Threatened species are available for scientific purposes, or the enhancement of propagation or survival, or zoological exhibitions, or educational purposes, or management by State conservation agencies, or for special purposes consistent with the purposes of the Act. In some instances, permits may be issued for either an Endangered or a Threatened species during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

The determination herein proposed would also make the Bald Eagle in the 48 conterminous States eligible for the consideration provided by Section 7 of the Act. That section reads as follows:

#### INTERAGENCY COOPERATION

Section 7. The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Although no "Critical Habitat" has yet been determined for the Bald Eagle, the other provisions of Section 7 will be applicable for the Bald Eagle throughout the 48 conterminous States.

#### CRITICAL HABITAT

At this time no Critical Habitat (pursuant to Section 7 of the Endangered Species Act of 1973) is proposed for the Bald Eagle. The Fish and Wildlife Service, however, does intend to determine Critical Habitat for the species as soon as substantial data have been compiled. In this regard, persons with pertinent information are invited to send the same to the Director.

#### PUBLIC COMMENTS SOLICITED

The Director intends that finally adopted rules be as responsive as possible



to the conservation of Endangered and Threatened species; he therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposed rules.

Final promulgation of the regulations on the Bald Eagle and on critical habitat will take into consideration the comments received by the Director. Such comments and any additional information received, may lead the Director to adopt final regulations that differ from this proposal. The Director has under preparation an environmental assessment concerning this matter.

## SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received no later than September 10, 1976, will be considered. Comments received will be available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW, Washington, D.C.

This notice of proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-43; 87 Stat. 884).

Dated: July 2, 1976.

LYNN A. GREENWALT,  
Director, Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend § 17.11 by deleting "Eagle, Southern bald; *Haliaeetus leucocephalus leucocephalus*." It also is proposed to amend § 17.11 by adding the following:

**§ 17.11 Endangered and Threatened wildlife.**

Species		Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution			
Eagle, Bald	<i>Haliaeetus leucocephalus</i>	USA (48 conterminous States except Washington, Oregon, Minnesota, Wisconsin, and Michigan).	North America	Entire range	E	N/A
Eagle, Bald	<i>Haliaeetus leucocephalus</i>	USA (Washington, Oregon, Minnesota, Wisconsin, and Michigan).	do	do	T	N/A

[FR Doc.76-20013 Filed 7-9-76;8:45 am]

## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## [7 CFR Part 52]

## TOMATO PASTE

## United States Standards for Grades

Notice is hereby given that the United States Department of Agriculture is considering an amendment to the United States Standards for Grades of Tomato Paste (7 CFR 52.5041-52.5051) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended, 7 U.S.C. 1624).

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same in duplicate by December 31, 1976, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submittals made pursuant to this notice will be available for public review at the Office of the Hearing Clerk during regular business hours (7 CFR, 1.27(b)).

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

## STATEMENT OF CONSIDERATION LEADING TO THE PROPOSED AMENDMENT

The current United States Standards for Grades of Tomato Paste have been in effect since 1970.

During the last several years, the United States Department of Agriculture has conducted formal studies designed to accumulate data which would establish the relationships between visual and instrumental evaluations of the colors of tomato products. During 1974 and 1975, these studies were concerned pri-

marily with the colors of tomato paste, and were conducted in collaboration with the University of California at Davis and the Cannery League of California.

As a result of these studies, it was established that certain approved colorimeters (which had been properly calibrated and standardized) would give readouts that could be converted into numerical values of the colors of tomato paste that closely approximated the numerical values assigned when the same tomato paste was visually evaluated for color by members of an expert panel.

The accuracy and applicability of the methodology and conversion equations were verified during processing runs and confirmation tests conducted among packers of tomato paste during the 1975 processing season in California.

Because of the apparent interchange between the two methods of accurately evaluating the color of tomato paste, the Cannery League of California has requested the United States Department of Agriculture to amend the United States Standards for Grades of Tomato Paste to allow for the instrumental evaluation of the color of the product.

The Department, after careful consideration, concurs with the request. The reasons are as follows:

(1) The use of colorimeters to determine color values provides objectivity when making evaluations.

(2) The use of colorimeters provides repeatability of results and helps to minimize human visual errors such as eye fatigue, poor color discrimination, and/or subjective evaluations.

(3) Either a visual or instrumental method of the evaluation of the color of tomato paste is permitted.

(4) Precise lighting conditions which are absolutely necessary for accurate

visual color evaluations are eliminated; provided, of course, that the colorimeter that is used is properly calibrated and standardized. This is essential when using colorimeters.

The amendment proposed is:

In Part 52, Subpart—United States Standards for Grades of Tomato Paste, § 52.5048 Color, is amended to read as follows:

**§ 52.5048 Color.**

(a) *General.* The amount of red in tomato paste is determined by comparing the color of the product, diluted with water to between 8 percent and 9 percent, inclusive, of natural tomato soluble solids, with that produced by spinning a combination of the following Munsell color discs:

- Disc 1—Red (5R 2.6/13) (glossy finish).
- Disc 2—Yellow (2.5YR 5/12) (glossy finish).
- Disc 3—Black (N1) (glossy finish).
- Disc 4—Grey (N4) (mat finish).

Such comparison is made under a diffused light source of approximately 250 foot-candle (candela) intensity and having a spectral quality approximating that of daylight under a moderately overcast sky, and a color temperature of 7,500° Kelvin  $\pm 200^\circ$ , with the light source directly over the disc and diluted product, observation is made at an angle of 45° and at a distance of 12 or more inches from the product.

(b) *Availability of color reference.* The colors referred to in this section are available from the approved supplier under a license from the U.S. Department of Agriculture:

Munsell Color Co., 2441 North Calvert St., Baltimore, MD 21218.

(c) *Grade A classification.* Tomato paste that has a good color may be given a score of 45 to 50 points. "Good color"



means a bright, typical, red tomato paste color. Such color, when the product is diluted and observed as specified in this section, is as red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

65 percent of the area of Disc 1; 21 percent of the area of Disc 2; and 14 percent of the area of either Disc 3 or Disc 4; or 7 percent of the area of Disc 3 and 7 percent of the area of Disc 4, whichever most nearly matches the appearance of the diluted sample.

(d) *Use of colorimeters.* Values that may be used for conversion to a numerical score point color evaluation of the product, diluted to 8.5 percent ( $\pm 0.1$  percent) natural tomato soluble solids, may be determined by any colorimetric system approved by the United States Department of Agriculture.

(1) The values derived with the approved colorimetric system shall be resolvable into a calculated numerical score point by use of an appropriate conversion formula that has been approved by the USDA.

(2) Any calculated numerical score of 45 points for a diluted product shall be equivalent to a visually evaluated color score of 45 points produced under the conditions specified in paragraph (c) of this section. Proportionately higher calculated numerical scores may be assigned to diluted products which show more redness.

(e) *Grade C classification.* Tomato paste that has at least a fairly good color may be given a score of 40 to 44 points. Tomato paste that falls into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly good color" means a typical red tomato paste color which may be slightly dull or may have a slightly brownish cast. Such color, when the product is diluted and observed as specified in this section, is as red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

53 percent of the area of Disc 1; 28 percent of the area of Disc 2; and 19 percent of the area of either Disc 3 or Disc 4; or  $9\frac{1}{2}$  percent of the area of Disc 3 and  $9\frac{1}{2}$  percent of the area of Disc 4, whichever most nearly matches the appearance of the diluted sample.

(f) *Use of colorimeters.* Values that may be used for conversion to a numerical score point color evaluation of the product, diluted to 8.5 percent ( $\pm 0.1$  percent) natural tomato soluble solids, may be determined by any colorimetric system approved by the United States Department of Agriculture.

(1) The values derived with the approved colorimetric system shall be resolvable into a calculated numerical score point by use of an appropriate conversion formula that has been approved by the USDA.

(2) Any calculated numerical score of 40 points for a diluted product shall be equivalent to a visually evaluated color score of 40 points produced under the

conditions specified in paragraph (f) of this section. Proportionately higher calculated numerical scores may be assigned to diluted products which show more redness.

(g) *Substandard Classification.* Tomato paste that fails to meet the requirements of paragraph (e) or (f) of this section may be given a score of 0 to 39 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

Dated: July 7, 1976.

DONALD E. WILKINSON,  
Administrator.

[FR Doc.76-20061 Filed 7-9-76; 8:45 am]

#### [ 7 CFR Part 905 ]

### ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

#### Proposed Grade and Size Requirement

This notice invites written comment relative to a proposed amendment of Grapefruit Regulation 76 (§ 905.563; 40 FR 42317, 49785, 54420, 58446; 41 FR 15829, 18673, 19965, 23184, 24575). The proposed amendment would increase specified grade and size requirements applicable to domestic and export shipments of Florida grapefruit for the period August 16 through September 26, 1976. The proposed action is designed to maintain orderly marketing and provide consumers with an ample supply of acceptable-quality fruit.

The proposed amendment was recommended by the Shippers Advisory Committee and Growers Administrative Committee, established pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), which regulate the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who submit written data, views, or arguments for consideration in connection with the proposed amendment published herein shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than August 4, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

This proposed action reflects the Committees' appraisal of the prospective demand for Florida grapefruit by fresh market outlets. The minimum grade and size requirements proposed herein for seeded and seedless grapefruit are designed to prevent the handling of lower grade or smaller size grapefruit when more than ample supplies of the more desirable grades and sizes of grapefruit are available to serve consumers' needs.

Under the proposal, the provisions of paragraph (a) and subparagraphs (1)

through (4) thereof and paragraph (b) and subparagraphs (1) and (3) thereof of § 905.563 (Grapefruit regulation 76; 40 FR 42317, 49785, 54420, 58446; 41 FR 15829, 18673, 19965, 23184, 24575) are revised to read as follows:

#### § 905.563 Grapefruit Regulation 76.

*Order.* (a) During the period August 16, 1976, through September 26, 1976, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 1;

(2) Any seeded grapefruit, grown in the production area, which are of a size smaller than  $3\frac{1}{16}$  inches in diameter, except that a tolerance for seeded grapefruit smaller than such minimum diameter shall be permitted as specified in § 51.761 of the United States Standards for Grades of Florida Grapefruit;

(3) Any seedless grapefruit, grown in the production area, which do not grade at least Improved No. 2; or

(4) Any seedless grapefruit, grown in the production area, which are of a size smaller than  $3\frac{3}{16}$  inches in diameter, except that a tolerance for seedless grapefruit smaller than such minimum diameter shall be permitted as specified in § 51.761 of the United States Standards for Grades of Florida Grapefruit.

(b) During the period August 16, 1976, through September 26, 1976, no handler shall ship to any destination outside the continental United States other than to Canada or Mexico:

(1) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 1;

(2) \* \* \*

(3) Any seedless grapefruit, grown in the production area, which do not grade at least Improved No. 2; or

(4) \* \* \*

Dated: July 6, 1976.

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

[FR Doc.76-19974 Filed 7-9-76; 8:45 am]

#### [ 7 CFR Part 944 ]

### GRAPEFRUIT

#### Proposed Grade and Size Requirements

This notice invites written comment relative to a proposed amendment of Grapefruit Import Regulation 16 (§ 944.112; 40 FR 42529, 49787; 41 FR 15829, 18674, 19965, 23186, 24577). The proposed amendment would increase grade and size requirements applicable to imported grapefruit during the period August 16 through September 26, 1976. The proposed requirements are the same as those being proposed for grapefruit produced in Florida and regulated pursuant to Marketing Order No. 905.

All persons who desire to submit written data, views, or arguments in connection with the proposed amendment should



tion with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than August 4, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

**Order.** In § 944.112 (Grapefruit Regulation 16; 40 FR 42529, 49787; 41 FR 15829, 18674, 19965, 23186, 24577) the provisions of paragraph (a) are amended to read as follows:

**§ 944.112 Grapefruit Regulation 16.**

(a) During the period August 16, 1976, through September 26, 1976, the importation into the United States of any grapefruit is prohibited unless such grapefruit is inspected and meets the following requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 1 and be of a size not smaller than  $3\frac{1}{16}$  inches in diameter, except that a tolerance for seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in § 51.761 of the United States Standards for Grades of Florida Grapefruit; and

(2) Seedless grapefruit shall grade at least Improved No. 2 and be of a size not smaller than  $3\frac{1}{16}$  inches in diameter, except that a tolerance for seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in § 51.761 of the United States Standards for Grades of Florida Grapefruit. ("Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.)

Dated: July 6, 1976.

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

[FR Doc. 76-19975 Filed 7-9-76; 8:45 am]

**[ 7 CFR Part 947 ]**

**IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY**

**Proposed Handling Limitations**

This proposal, designed to promote orderly marketing of Oregon-California potatoes, would require inspection of fresh market shipments to keep undesirable low quality potatoes from being shipped to consumers.

Consideration is being given to the issuance of the handling regulation hereinafter set forth, which was recommended by the Oregon-California Potato Committee, established pursuant to Marketing Agreement No. 114 and Order

No. 947, both as amended (7 CFR Part 947). This program regulates the handling of Irish potatoes grown in the designated production area and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The recommendations of the Oregon-California Potato Committee reflect its appraisal of the composition of the 1976 crop and prospective market conditions and are consistent with the marketing policy it unanimously adopted. Shipments are expected to begin July 15 so the proposed regulation would become effective as near that date as possible.

Total supplies in 1976-77 may be slightly more than in 1975-76. Intended planted fall acreage is forecast at 1,117,200 acres, about 4 percent more than in 1975. Prospective plantings in Oregon excluding Malheur County were 50,500 acres, 16 percent more than the acreage planted in 1975. Estimated prospective plantings in Modoc and Siskiyou Counties in California were 18,600 acres or 1 percent more than in 1975.

The grade, size, quality, maturity and pack requirements proposed herein would be necessary to prevent potatoes of low quality, or undesirable sizes from being distributed into fresh market channels. They would benefit producers and consumers by standardizing and improving the quality of the potatoes shipped from the production area, thereby promoting orderly marketing and effectuating the declared policy of the act.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

A specified quality of potatoes would be exempt from maturity requirements in order to permit growers to make test diggings without loss of the potatoes so harvested.

Shipments would be permitted to certain special purpose outlets without regard to minimum grade, size, cleanliness, maturity, pack and inspection requirements, provided that safeguards were met to prevent such potatoes from reaching unauthorized outlets.

Certified seed would be so exempt, subject to the safeguard provisions only when shipped from the district where grown. Certified seed is no longer inspected when packed.

Shipments for use as livestock feed within the production area or to specified adjacent areas would likewise be exempt; a limit to the destinations of such shipments would be provided so that their use for the purpose specified would be reasonably assured. Shipments of potatoes between Districts 2 and 4 for planting, grading, and storing would be exempt from requirements because these two areas have no natural division. Other districts are more clearly separated and do not have this problem. For the same reason, potatoes grown in District 5 may be shipped without regard to the aforesaid requirements to the Counties of Adams, Benton, Franklin and Walla Walla in the State of Washington, and

Malheur County, Oregon, for grading and storing. Since no purpose would be served by regulating potatoes used for charity purposes, such potatoes are exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. While the standard quality requirements are desired in foreign markets smaller sizes are more acceptable. Therefore, different requirements for export shipments are proposed.

All persons who desire to submit written data, views, or arguments in connection with this proposal should file the same in duplicate with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than July 23, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

1. **Termination of regulations:** Handling regulation § 947.334 effective August 5, 1975, through October 15, 1976 (40 FR 29727 and 32730) shall be terminated upon the effective date of this section.

**§ 947.334 [Revoked]**

2. Section 947.335 is added to read as set forth below.

**§ 947.335 Handling regulation.**

During the effective period herein through October 15, 1977, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c), (d), (e), and (f) of this section or unless such potatoes are handled in accordance with paragraphs (g), (h), or (i) of this section.

(a) **Grade requirements.** All varieties—U.S. No. 2, or better grade, except that potatoes designated U.S. Commercial shall meet all of the requirements and tolerances of U.S. No. 1, except that they may be no more than "slightly dirty."

(b) **Size requirements.** All varieties— $1\frac{1}{8}$  inches minimum diameter except potatoes from District No. 5 shall be 2 inches minimum diameter or 4 ounces minimum weight. However, potatoes for export may be  $1\frac{1}{2}$  inches minimum diameter.

(c) **Cleanliness requirements.** All varieties and grades—As required in the United States Standards for Grades of Potatoes, except that U.S. Commercial may be no more than "slightly dirty."

(d) **Maturity (skinning) requirements.** (1) All varieties—no more than "moderately skinned."

(2) Not to exceed a total of 100 hundredweight of potatoes may be handled during any seven day period without meeting these maturity requirements. Prior to shipment of potatoes exempt from the above maturity requirements, the handler shall obtain from the committee a Certificate of Privilege.

(e) **Pack.** Potatoes packed in 50-pound cartons shall be U.S. No. 1 grade or better, except that potatoes that fail to



meet the U.S. No. 1 grade only because of hollow heart and/or internal discoloration may be shipped provided the lot contains not more than 10 percent damage by hollow heart and/or internal discoloration, as identified by U.S.D.A. Color Photograph E (Internal Discoloration—U.S. No 2—Upper Limit), POT-CP-9, May, 1972, or not more than 5 percent serious damage by internal defects.

(f) *Inspection.* (1) Except when relieved by paragraphs (g), (h) or (i) of this section, no person shall handle potatoes without first obtaining inspection from an authorized representative of the Federal-State Inspection Service.

(2) For the purpose of operation under this part, unless exempted from inspection by the provisions of this section, each required inspection certificate is hereby determined, pursuant to § 947.60 (c) to be valid for a period of not to exceed 14 days following completion of inspection as shown on the certificate. The validity period of an inspection certificate covering inspected and certified potatoes that are stored in mechanically refrigerated storage within 14 days of the inspection shall be 14 days exclusive of the number of days that the potatoes were held in refrigerated storage.

(3) Any lot of potatoes previously inspected pursuant to § 947.60(b) is not required to have additional inspection under § 947.60(b) after regrading, resorting, or repacking such potatoes, if the inspection certificate is valid at the time of regrading, resorting, or repacking of the potatoes.

(g) *Special purpose shipments.* The minimum grade, size, cleanliness, pack, maturity and inspection requirements set forth in paragraphs (a), (b), (c), (d), (e), and (f) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(1) Certified seed, subject to applicable safeguard requirements of paragraph (h) of this section.

(2) Livestock feed: However, potatoes may not be handled for such purposes if destined to points outside of the production area, except that shipments to the Counties of Benton, Franklin and Walla Walla in the State of Washington and to Malheur County, Oregon, may be made, subject to the safeguard provisions of paragraph (h) of this section.

(3) Planting in the district where grown, except that potatoes for this purpose grown in District No. 2 or District No. 4 may be shipped between those two districts.

(4) Grading or storing, under the following provisions:

(i) Between districts within the production area for grading or storing if such shipments meet the safeguard requirements of paragraph (h) of this section.

(ii) Potatoes grown in District No. 2 or District No. 4 may be shipped for grading or storing between those two Districts without regard to the safeguard requirements of paragraph (h) of this section.

(iii) Potatoes grown in District No. 5 may be shipped for grading and storing

to points in the Counties of Adams, Benton, Franklin and Walla Walla in the State of Washington, or to Malheur County, Oregon, without regard to the safeguard provisions of paragraph (h) of this section.

(5) *Charity: Provided,* That shipments for charity may not be resold if they do not meet the requirements of the marketing order: *And further provided,* That shipments in excess of 5 hundredweight per charitable organization shall be subject to the safeguard provisions of paragraph (h) of this section.

(6) Starch manufacture.

(7) Canning, freezing, prepeeling, and "other processing," as hereinafter defined (including storage for such purposes).

(h) *Safeguards.* (1) Each handler making shipments of certified seed outside the district where grown pursuant to paragraph (g) shall obtain from the committee a Certificate of Privilege, and shall furnish a report of shipments to the committee on forms provided by it.

(2) Each handler making shipments of potatoes pursuant to paragraphs (g) (2), (4) (i), and (5) (g) of this section shall obtain a Certificate of Privilege from the committee, and shall report shipments at such intervals as the committee may prescribe in its administrative rules.

(3) Each handler making (g) shipments pursuant to paragraph (7) of this section may ship such potatoes only to persons or firms designated as manufacturers of potato products by the committee, in accordance with its administrative rules.

(i) *Minimum quantity exemption.* Any person may handle not more than 19 hundredweight of potatoes on any day without regard to the inspection requirements of § 947.60 and to the assessment requirements of § 947.41 of this part except no potatoes may be handled pursuant to this exemption which do not meet the requirements of paragraphs (a), (b), (c), (d) and (e) of this section. This exemption shall not apply to any part of a shipment which exceeds 19 hundredweight.

(j) *Definitions.* (1) The terms "U.S. No. 1," "U.S. Commercial," "U.S. No. 2," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Grades of Potatoes (§§ 51.1540-51.1566 as amended February 5, 1972 (37 F.R. 2745)) including the tolerances set forth therein.

(2) The term "slightly dirty" means potatoes that are not damaged by dirt.

(3) The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 United States Standards for Grades of Peeled Potatoes (§§ 52.2421-52.2433 of this title).

(4) The term "other processing" has the same meaning as the term appearing in the act and includes, but is not re-

stricted to, potatoes for dehydration, chips, shoestrings, or starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or applying material to prevent oxidation does not constitute "other processing."

(5) Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 114, as amended, and this part.

Dated: July 6, 1976.

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

[FR Doc. 76-19973 Filed 7-9-76; 8:45 am]

#### [ 7 CFR Part 948 ]

#### IRISH POTATOES GROWN IN COLORADO—AREA NO. 3

#### Quality Standards and Market Shipment Inspection

This proposal, designated to promote orderly marketing of Colorado Area No. 3 potatoes, would impose minimum quality standards and would require inspection of fresh market shipments to keep undesirable low quality potatoes from being shipped to consumers.

Consideration is being given to the issuance of a handling regulation, hereinafter set forth, which was unanimously recommended by the Colorado Area No. 3 Committee, established pursuant to Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR Part 948). This program regulates the handling of Irish potatoes grown in the State of Colorado and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The recommendations of the committee reflect its appraisal of the composition of the 1976 crop in Area No. 3 and of the marketing prospects for this season. Harvesting for fresh shipment is expected to begin in early August so the regulation should become proposed hereinafter are similar to those which have been issued during past seasons. They would be necessary to prevent potatoes of lesser maturities, less desirable sizes, or low quality from being distributed in fresh market channels. They would also provide consumers with good quality potatoes consistent with the overall quality of the crop.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments would be permitted to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards were met to prevent such potatoes from reaching unauthorized



outlets. Certified seed would be exempt because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed would likewise be exempt. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments would be exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Potatoes for prepeeling would be handled without regard to maturity requirements since skinning of such potatoes would be of no consequence.

All persons who desire to submit written data, views, or arguments in connection with this proposal may file the same, in duplicate, with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than July 21, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposed regulation is as follows:

**§ 948.375 Handling regulation.**

During the period August 1, 1976, through June 30, 1977, no person shall handle any lot of potatoes grown in Area No. 3 unless such potatoes meet the requirements of paragraphs (a), (b) and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d), (e), or (f) of this section.

(a) *Grade and size requirements*—All varieties, U.S. No. 2, or better grade, 1½ inches minimum diameter or 4 ounces minimum weight. However, Size B may be handled if U.S. No. 1 or better grade.

(b) *Maturity (skinning) requirements*—All varieties. For U.S. No. 2 grade, not more than "moderately skinned," and for all other grades, not more than "slightly skinned."

(c) *Inspection*. (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purpose of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed five days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(d) *Special purpose shipments*. (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of potatoes for:

- (i) Livestock feed;
- (ii) Charity;

(iii) Canning, freezing, and "other processing" as hereinafter defined; and

(iv) Certified seed potatoes (§ 948.6).

(2) The maturity requirements set forth in paragraph (b) of this section shall not be applicable to shipments of potatoes for prepeeling.

(e) *Safeguards*. Each handler making shipments of potatoes pursuant to paragraph (d) of this section shall,

(1) Prior to shipment, apply for and obtain a Certificate of Privilege from the committee.

(2) Furnish the committee such reports and documents as required, including certification by the buyer or receiver on the use of such potatoes, and

(3) Bill each shipment directly to the applicable buyer or receiver.

(f) *Minimum quantity*. For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes per day without regard to the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment of over 1,000 pounds of potatoes.

(g) *Definitions*. The terms "U.S. No. 1," "U.S. No. 2," "Size B," "moderately skinned" and "slightly skinned," shall have the same meaning as when used in the United States Standards for Grades of Potatoes (§§ 51.1540-51.1566 of this title) including the tolerances set forth therein. The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in a prepeeling plant by washing, removing the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 (United States Standards for Grades of Peeled Potatoes, §§ 52.2421-52.2433 of this title). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing."

(h) *Applicability to imports*. Pursuant to section 8e of the act and § 980.1, "Import regulations" (7 CFR 980.1), round white varieties of Irish potatoes, except certified seed potatoes, imported into the United States during the period August 1, 1976, through June 4, 1977, shall meet the minimum grade, size, quality, and maturity requirements specified in paragraphs (a) and (b) of this section.

Dated: July 6, 1976.

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

[FR Doc. 76-19972 Filed 7-9-76; 8:45 am]

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**[ 33 CFR Part 40 ]**

**[ CGD 75-130 ]**

**CADETS OF THE COAST GUARD**

**Proposal Regarding Appointment**

The Coast Guard is considering revising the regulations contained in Part 40 of Title 33, Code of Federal Regulations, concerning appointment of cadets for the Coast Guard Academy.

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments to the Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Each person or organization submitting a comment should include their name and address, identify this notice (CGD 75-130), and give reasons for any recommendations made.

Comments received before August 27, 1976, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination in room 8117, Department of Transportation, Nassif Building, 400 Seventh St. SW, Washington, D.C. This proposal may be changed in light of comments received.

No hearing is contemplated, but one may be held at a time and place set in a later notice in the FEDERAL REGISTER, if requested by a person or organization desiring to comment orally at a public hearing and raising a genuine issue.

The proposed changes in the specific requirements for eligibility are made in order to better explain the educational requirements for application to the Coast Guard Academy.

The proposal sets out the deadline for submission of applications and sets out a procedure for exceptions to the deadline.

The proposal incorporates the American College Testing Program (ACT) as an alternative examination to the Scholastic Aptitude Test (SAT). Many of those applying for appointment to the Academy also apply to other institutions and are required to take the ACT for admission. In these cases, taking the SAT in addition to the ACT becomes an inconvenience and an extra expense for the applicant. There are methods of effecting conversions consistently between SAT and ACT scores. Other service academies already use both tests.

The requirement for a personal interview will be deleted. Personal interviews are optional and are not a required part of the application.

The proposal sets out a reporting date to the Academy of June or July. The procedure for reimbursement for travel to the Academy has been clarified. Reimbursement is made after the cadet reports to the Academy and is at the current standard rate of 8 cents per mile.



Other changes are proposed to clarify the existing regulations.

In consideration of the foregoing, it is proposed that Part 40 of Title 33 of the Code of Federal Regulations be amended as follows:

#### § 40.4 [Amended]

1. In § 40.4(b), by striking the words "through the United Armed Forces Institute," in the third sentence, and inserting the words "by correspondence," in place thereof.

2. By revising § 40.4(b) (1) to read:

(b) \* \* \*

REQUIRED

(1) The subjects listed below, consisting of 6 units, are mandatory and are required for eligibility:

	Units
Mathematics (to include algebra, plane or coordinate geometry, or their equivalents in courses such as those suggested by the Commission on Mathematics of the College Entrance Examination Board)-----	3
English 1, 2, and 3-----	3
Total-----	6

3. In § 40.4(b) (2), by adding the word "economics" at the end of the listing for Social Studies; and by adding the words "physical geography" at the end of the listing for Physical Science.

4. By revising § 40.4(b) (3) to read:

(b) \* \* \*

(3) A total of not more than two units will be accepted from other subjects recognized by the applicant's secondary school in its regular program of study.

5. In § 40.4(b) (4), by striking the words "Solid Geometry" and inserting the words "further work in Geometry and elementary functions" in place thereof.

6. In § 40.4(c), by striking the word "Commandant" in the second sentence and inserting the word "Superintendent" in place thereof.

#### § 40.10 [Amended]

7. In § 40.10, by adding the word "Academy" after the words "Coast Guard" in the second sentence; and by striking the third sentence and inserting the words "Except as provided in § 40.11 (c), the application must be postmarked not later than December 15," in place thereof.

8. By revising § 40.11 to read as follows:

#### § 40.11 Annual competitive examination.

(a) The annual nationwide competitive examination is either the Scholastic Aptitude Test (SAT) administered by the College Entrance Examination Board (CEEB), or the ACT Assessment (ACT) administered by the American College Testing Program.

(b) Only those SAT and ACT scores from regularly scheduled administra-

tions prior to and inclusive of the December administration of the year of application will be used. Applicants failing to comply with these testing regulations will not be considered in the competition.

(c) Any exception to the established testing dates and the application postmark date may be granted by the Superintendent if all the required examination scores are submitted in time to be considered in the regular applicant processing schedule.

(d) All expenses connected with the candidate's appearance before examiners and medical boards are borne by the candidate. The SAT or ACT examination fee is borne by the candidate.

9. By revising § 40.12 (c), (d), (i), and (j) to read as follows:

#### § 40.12 Annual competition for appointment.

(c) *Selection instruments.* The instruments used in the selection are the competitive examination, the supplementary testing, and the transcripts, evaluations, and questionnaires furnished by each candidate.

(d) *Submission and consideration of test scores.* A candidate's SAT or ACT score is submitted to the Coast Guard when the candidate takes either of the tests within the required time frame and indicates on the CEEB registration card or ACT Assessment registration folder that the Coast Guard Academy is to receive the results. Except as provided in § 40.11(a), consideration of the test scores will only be granted to those candidates whose applications to the Coast Guard for participation in the competition for appointment are postmarked not later than 15 December of the year of the application. The Coast Guard will advise applicants of their individual standing on the competitive examination approximately ten weeks after the date of the December testing. Those candidates who do not qualify on the examination will not receive further consideration for appointment.

(i) The final marks of each candidate are computed by averaging the standard weighted scores provided through the test marks and the Cadet Candidate Evaluation Board rating.

(j) *Offering of appointments.* Candidates will be offered appointments in the order of their final marks until the vacancies for the year have been filled. A candidate who fails to receive an appointment may compete again in subsequent years without prejudice, provided the age and physical qualifications are met.

10. By revising § 40.13 (b) and (c) to read as follows:

#### § 40.13 Appointment as cadet, U.S. Coast Guard.

(b) Candidates who are eligible for appointment and who have passed the required physical examination will receive appointments as cadets in the

United States Coast Guard and will be sent instructions to report to Coast Guard Academy in June or July.

(c) After reporting to the Coast Guard Academy, a cadet will be reimbursed for the actual mileage from home to the Academy at the rate of 8 cents per mile.

(14 U.S.C. 182, 632 and 633; 49 U.S.C. 1655 (b) (1); 49 CFR 1.46(b).)

Dated: July 7, 1976.

W. P. BUTLER,  
Captain, U.S. Coast Guard,  
Acting Chief, Office of Personnel.  
[FR Doc. 76-20015 Filed 7-9-76; 8:45 am]

#### [33 CFR Part 110]

[CGD 76-44]

#### FIVE MILE RIVER, NORWALK AND DARIEN, CONNECTICUT

##### Proposed Special Anchorage Area

The Coast Guard is considering amending the anchorage regulations by establishing a Special Anchorage Area in the Five Mile River, in the vicinity of Norwalk and Darien, Connecticut. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights. The Chairman of the Five Mile River Commission, authorized by the Connecticut State Legislature, has applied for the designation of this Special Anchorage Area to complement the Five Mile River Commission's navigational safety regulations deemed necessary for the control of moorings and for safe and orderly navigation in the area.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments concerning the proposal to the Commander, Third Coast Guard District, Governors Island, New York, New York 10004. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD-76-44), and give reasons for any recommended change in the proposal. Copies of all written comments will be available for examination by interested persons at the office of the Commander, Third Coast Guard District.

The Commander, Third Coast Guard District will forward all comments received before August 27, 1976, and his recommendation to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on the proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed to amend Part 110 of Title 33 of the Code of Federal Regulations by adding a new § 110.55a to read as follows:

#### § 110.55a Five Mile River, Norwalk and Darien, Conn.

The water area of the Five Mile River beginning at a point on the southeast



shore of Butler Island at latitude 41°03'27.5" N., longitude 73°26'52" W.; thence following the shoreline northerly along the westerly side of Five Mile River to the highway bridge at Route 136 (White Bridge); thence easterly along the southerly side of the highway bridge to the easterly side of Five Mile River; thence following the shoreline southerly along the easterly side of Five Mile River to a point on the southwest shore at Rowayton at latitude 41°03'30" N., longitude 73°26'47" W.; thence 242° to the point of beginning, except those areas within the designated project channel as shown by dotted lines on the Five Mile River on Chart No. 12368 (formerly C and GS Chart No. 221) issued by National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

NOTE: Under an Act of the Connecticut State Legislature the harbor superintendent, appointed by the Five Mile River Commission, may control moorings and navigation including preventing vessels from anchoring in the federal project channel.

(Sec. 1, 30 Stat. 98, as amended, sec. 6(g) (1)(B), 80 Stat. 937; (33 U.S.C. 180, 49 U.S.C. 1655(g) (1)(B)), 49 CFR 1.46(c) (2)).

Dated: July 6, 1976.

A. F. FUGARO,  
Rear Admiral, U.S. Coast Guard,  
Chief, Office of Marine Environment and Systems.

[FR Doc.76-20014 Filed 7-9-76;8:45 am]

#### Federal Aviation Administration

##### [14 CFR Part 71]

[Airspace Docket No. 76-SO-59]

#### TRANSITION AREA

##### Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Ocracoke, N.C., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga., 30320. All communications received on or before August 11, 1976 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Ocracoke transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Ocracoke Island Airport (lat. 35°06'04" N., long. 75°57'57" W.); within 3 miles each side of the 059° bearing from the Ocracoke RBN (lat. 35°06'16" N., long. 75°57'50" W.), extending from the 5-mile radius area to 8.5 miles northeast of the RBN, excluding the portion outside the continental limits of the United States.

The proposed designation is required to provide controlled airspace protection for IFR operations at Ocracoke Island Airport. A prescribed instrument approach procedure to this airport, utilizing the Ocracoke (nonfederal) Non-directional Radio Beacon, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 30, 1976.

PHILLIP M. SWATEK,  
Director, Southern Region.

[FR Doc.76-19799 Filed 7-9-76;8:45 am]

##### [14 CFR Part 71]

[Airspace Docket No. 76-SO-60]

#### CONTROL ZONE

##### Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Bogue, N.C., control zone.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga., 30320. All communications received on or before August 11, 1976 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Bogue control zone would be designated as:

Within a 5-mile radius of MCALF Bogue Field, N.C. (latitude 34°41'25" N., longitude 77°01'48" W.). This control zone is effective during the specific dates and times estab-

lished in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

The proposed designation is required to provide controlled airspace protection of military operations at MCALF Bogue Field. Prescribed instrument approach procedures, utilizing GCA radar, are conducted at the field. Normal hours of operation are 0800 to 1600 hours, local time, Monday through Friday.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 30, 1976.

PHILLIP M. SWATEK,  
Director, Southern Region.

[FR Doc.76-19800 Filed 7-9-76;8:45 am]

##### [14 CFR Part 71]

[Airspace Docket No. 76-SO-57]

#### TRANSITION AREA

##### Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Greenville, Ky., transition area.

Interested persons may submit such written data, views or arguments as they desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga., 30320. All communications received on or before August 11, 1976 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Greenville transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Muhlenberg County Airport (Lat. 37°13'30" N., Long. 87°09'31" W.).

The proposed designation is required to provide controlled airspace protection for IFR operations at Muhlenberg County Airport. A prescribed instrument approach procedure to this airport, utilizing the Central City, Kentucky, VORTAC, is proposed in conjunction with the designation of this transition area.



This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 30, 1976.

GEORGE R. LACAILLE,  
Acting Director, Southern Region.

[FR Doc.76-19801 Filed 7-9-76;8:45 am]

#### [ 14 CFR Part 71 ]

[Airspace Docket No. 76-SO-56]

### CONTROL ZONE AND TRANSITION AREA

#### Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Hopkinsville, Ky., control zone and transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before August 11, 1976 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Hopkinsville control zone described in § 71.171 (41 FR 355) would be amended as follows: " \* \* \* within 1.5 miles each side of Campbell TACAN 053° radial, extending from the 5-mile radius zone to 5.5 miles northeast of the TACAN; \* \* \* " would be deleted. In addition, " \* \* \* the VOR \* \* \* " would be deleted and " \* \* \* the VOR; within a 5-mile radius of Sabre Army Heliport, Ft. Campbell, Ky. (lat. 36°34'14" N., long. 87°28'50" W.) \* \* \* " would be substituted therefor.

The Hopkinsville transition area described in 71.181 (41 FR 440) would be amended as follows: " \* \* \* long. 87°24'52" W.) \* \* \* " would be deleted and " \* \* \* long. 87°24'52" W.); within a 5-mile radius of Sabre Army Heliport, Ft. Campbell, Ky., (lat. 36°34'14" N., long. 87°28'50" W.) \* \* \* " would be substituted therefor.

The proposed alteration is required due to the decommissioning of the Campbell TACAN which precludes the necessity for the control zone extension predicated on the Campbell TACAN 053 radial. In addition,

alteration of the control zone and transition area is required to provide controlled airspace protection for IFR operations at Sabre Army Heliport. Instrument approach procedures to this airport, utilizing the Clarksville, Tenn., VOR, are proposed in conjunction with the alteration of the transition area and control zone.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 30, 1976.

PHILLIP M. SWATEK,  
Director, Southern Region.

[FR Doc.76-19802 Filed 7-9-76;8:45 am]

#### [ 14 CFR Part 71 ]

[Airspace Docket No. 76-WE-14]

### FEDERAL AIRWAYS

#### Proposed Establishment and Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would establish an airway from Nicol Intersection, Calif., to Mina, Nev., and alter V-230 from Nicol Intersection to Bishop, Calif.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before August 11, 1976 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this notice of proposed rulemaking should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-230, 800 Independence Avenue, SW., Washington, D.C. 20591.

The proposed amendment would establish V-230 from Friant, Calif., to Mina, Nev., and would renumber the existing V-230 between Nicol Intersection and Bishop, Calif., to V-381. V-381 would be realigned via the Bishop 337°T (320°M) radial to intersect precisely at the Nicol Intersection.

The Bishop-Mammoth Lakes resort areas have developed into year-round

recreational facilities and as a result, flight activities into the area have increased. The extension of V-230 to Mina would better serve the increased traffic operating to and from the resort areas.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 1, 1976.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

[FR Doc.76-19803 Filed 7-9-76;8:45 am]

#### [ 14 CFR Part 71 ]

[Airspace Docket No. 76-SW-39]

### TRANSITION AREA

#### Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the transition area at Oklahoma City, Okla.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before August 11, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as herein-after set forth.

In § 71.181 (41 F.R. 440), the Oklahoma City, Okla., transition area is amended by deleting:

and within a 5-mile radius of the Cimarron, Okla., Municipal Airport (latitude 35°29'15" N., longitude 97°49'00" W.).

and adding:

within 2 miles each side of the Wiley Post VOR (latitude 35°31'58.4" N., longitude 97°38'48.7" W.) 269° radial extending from the 23-mile-radius area to 7 miles west of the VOR; and within a 5-mile radius of the Cimarron, Okla., Municipal Airport (latitude 35°29'15" N., longitude 97°49'00" W.).



The additional controlled airspace is required to encompass a proposed VOR-A (Original) instrument approach procedure to Wiley Post Airport, Oklahoma City, Okla.

This amendment is proposed under the authority of § 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of § 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, TX., on July 1, 1976.

ALBERT H. THURBURN,  
Acting Director, Southwest Region.  
[FR Doc. 76-19949 Filed 7-9-76; 8:45 am]

#### [ 14 CFR Part 71 ]

[Airspace Docket No. 76-SW-38]

#### TRANSITION AREA

##### Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the transition area at Ardmore, Oklahoma.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before August 11, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available by examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as herein-after set forth.

In § 71.181 (41 FR 440), the Ardmore, Okla., transition area is amended by adding:

and within 3.5 miles each side of the 168° bearing from the Downtown Ardmore NDB (latitude 34°09'20" N., longitude 97°07'35" W.) extending from the 5-mile-radius area to 11.5 miles south of the NDB.

The additional controlled airspace is required to encompass a proposed NDB Rwy 35 instrument approach procedure to Downtown Ardmore Airport, Ardmore, Okla.

This amendment is proposed under the authority of section 307(a) of the Fed-

eral Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, TX., on June 29, 1976.

ALBERT H. THURBURN,  
Acting Director, Southwest Region.  
[FR Doc. 76-19950 Filed 7-9-76; 8:45 am]

#### [ 14 CFR Part 71 ]

[Airspace Docket No. 76-NW-19]

#### CONTROL ZONE

##### Proposed Modification

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would modify the description of the Port Angeles, Washington, control zone.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures, and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington, 98108. All communications received on or before August 11, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington, 98108.

At the present time, the Port Angeles control zone is described to exclude the airspace within a 1-mile radius of Port Angeles Coast Guard Air Station. Recently a new VOR approach procedure was authorized for helicopters landing at the Coast Guard facility. It is therefore desirable to modify the Port Angeles Control Zone to provide controlled airspace for the protection of helicopters executing the new procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes the following airspace action:

In § 71.171 (41 FR 418), amend the description of the Port Angeles control zone to read:

#### PORT ANGELES, WASHINGTON

Within a 5-mile radius of Williams R. Fairchild International Airport (Latitude 48°07'10" N, Longitude 123°29'44" W), including the airspace within 2 miles either side of the Port Angeles VOR 083° radial extending from the 5-mile radius zone to 4 miles east of the VOR. This control zone is effective during specific dates and times es-

tablished in advance by a Notice to Airmen. Effective date and time will thereafter be continuously published in the Airman's Information Manual.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Wash., on July 2, 1976.

C. B. WALK, Jr.,  
Director, Northwest Region.  
[FR Doc. 76-19951 Filed 7-9-76; 8:45 am]

#### [ 14 CFR Part 91 ]

[Docket No. 15904; Notice No. 76-15]

#### ALTITUDE ALERTING SYSTEM

##### Required Aural Warning

The Federal Aviation Administration is considering amending Part 91 of the Federal Aviation Regulations by including a provision in that section which would permit an operator to modify an existing alerting system to eliminate the required aural warning, activated upon approaching a preselected altitude in ascent or descent, and require instead that the aural warning only occur when deviation above and below that preselected altitude occurs.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before October 12, 1976, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Section 91.51 of the Federal Aviation Regulations provides in pertinent part that no person may operate a turbojet-powered U.S. registered civil airplane unless that airplane is equipped with an approved altitude alerting system or device which must be able to alert the pilot, upon approaching a preselected altitude in either ascent or descent, by a sequence of both aural and visual signals in sufficient time to establish level flight at that preselected altitude.

ATA petitioned to amend § 91.51(b) (1) of the regulations by including an additional provision in the section which would permit an operator to eliminate the required aural warning, activated upon approaching a preselected altitude in ascent or descent, and require instead that the aural warning only occur when a deviation from a preselected altitude occurs.

ATA believes that such an amendment would reduce the problems associated



with the altitude alerting systems currently installed in airline aircraft by giving operators the option of either (1) utilizing the altitude alerting system as now set forth in § 91.51 or, (2) where minor modifications can be made to an existing system, delete the requirement for an aural warning upon approaching a preselected altitude and require instead that an aural warning occur only when a deviation from preselected altitude occurs.

ATA claims that such an option would result in a cockpit environment where the flight crew would not expect or hear an altitude alert warning if the flight were flown correctly. ATA states that this modification would greatly reduce the number of aural warnings that are now directed at some flight crews, enhance the effectiveness of the altitude alerting systems, and increase the level of safety intended by the original FAA requirements for the altitude alerting installation.

Section 91.51, as adopted August 22, 1968, allowed the aviation industry to accomplish the altitude alerting objective by any appropriate system or device. The FAA believed that safety would be improved by encouraging development of systems that not only meet the intent of the rule but also include additional safety features. FAA Advisory Circular 91-22A provides guidelines for the design, installation, and evaluation of altitude alerting systems, and emphasizes that the rule permits industry to accomplish the altitude alerting objective by any appropriate system or device.

The FAA believes that after approximately six years of operations with the various altitude alerting devices the airlines have sufficient experience to evaluate the systems and to enable ATA to present a reasoned petition to the FAA for amendment of § 91.51.

The aural signal now sounds during the altitude acquisition phase of flight for each preselected setting of the altitude alerter. This requirement, combined with the numerous clearances for change of flight altitudes associated with turbojet operations, causes the flight crew to be exposed to the aural signal to the extent that their reaction to the signal may become conditioned indifference. In order to make the alerting signal more effective the FAA believes the present aural signal requirements should be amended substantially as proposed by the ATA petition.

The FAA proposes to amend § 91.51 (b) (1) by providing a change in that section which would give an operator the option of eliminating the required aural warning which is activated upon approaching a preselected altitude in ascent or descent, and by adding a subparagraph which would require that the aural warning only occur when a deviation from a preselected altitude occurs.

These amendments are proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to revise § 91.51(b) (1) of the Federal Aviation Regulations to read as follows:

**§ 91.51 Altitude alerting system or device; turbojet-powered civil airplanes.**

(b) Each altitude alerting system or device required by paragraph (a) of this section must be able to:

- (1) Alert the pilot:
  - (i) upon approaching a preselected altitude in either ascent or descent, by a sequence of both aural and visual signals in sufficient time to establish level flight at that preselected altitude; or
  - (ii) upon approaching a preselected altitude in either ascent or descent, by a sequence of visual signals in sufficient time to establish level flight at that preselected altitude, and, when deviating above and below that preselected altitude, by an aural signal;

Issued in Washington, D.C., on June 30, 1976.

J. A. FERRARESE,  
Acting Director,  
Flight Standards Service.

[FR Doc. 76-19804 Filed 7-8-76; 8:45 am]

**FEDERAL COMMUNICATIONS COMMISSION**

**[47 CFR Part 15]**

[Docket No. 20620; RM-2426; FCC 76-598]

**WIDE-BAND SWEPT RF EQUIPMENT**

**Order Denying Petition for Reconsideration**

In the matter of the amendment of Part 15 to provide for the operation of wide-band swept RF equipment used as anti-pilferage devices.

1. Notice is hereby given of rulemaking in the above entitled matter.

2. The proceeding was instituted with the issuance of a Notice of Inquiry on October 16, 1975 (40 FR 48942) in response to a petition for rule making, RM-2426, filed on July 30, 1974, by Checkpoint Systems, Inc., Cherry Hill, N.J. 08003. This petition asks the Commission to amend its present rules to make provision for the operation of Checkpoint's RF operated, swept frequency anti-pilferage device. The various pleadings that have been received in this proceeding to date are enumerated in Appendices I and II.<sup>1</sup>

**THE CHECKPOINT PETITION**

3. Checkpoint Systems, Inc. is the manufacturer of an electronic detection system used as an anti-pilferage system in retail and department stores, libraries and other commercial establishments. The area containing the articles to be protected is arranged so that the only exit is through a gate which houses the anti-pilferage equipment. Greatly simplified, the technique employed by

<sup>1</sup> Appendices I and II filed as part of the original document.

Checkpoint (and others) is to detect a tag concealed in the protected article through the use of a RF generator that sweeps over the frequency range of operation. Checkpoint explains that when the frequency sweep encounters one of the concealed tags each of which contains a resonant printed circuit, the operator is alerted to the presence of a protected item. Normally the tag is removed or deactivated at the cashier's desk before the protected item is carried through the gate housing the anti-pilferage equipment.

4. Under the Commission's Rules, the Checkpoint system is classified as a field disturbance sensor subject to Subpart F of FCC Rules Part 15. For the frequencies used by the Checkpoint system (4-9 MHz), these rules require that the radiated energy shall not exceed a field strength of 15  $\mu$ V/m at a distance of 5 to 10 meters depending on frequency.<sup>2</sup> Checkpoint claims that its system cannot operate effectively under this requirement. It contends that a higher level of signal—100  $\mu$ V/m peak at 100 feet (=30m) is required for the efficient operation of its system, particularly in an area of high ambient noise, which, it states, is typical of the locations where its system will be installed. Checkpoint also raises the question of measurement procedure to be used in determining compliance. It points out that the Commission's present regulations were promulgated to apply to a narrow band generator which can be measured with a field strength meter using an average detector. Since its system uses a frequency sweeping technique the output is a broadband signal that cannot be properly characterized in terms of average microvolts per meter, nor can it be measured with a field strength meter using an average detector. The measurement problem is discussed at some length in the report attached as Exhibit C(3) to the Checkpoint petition.

5. Checkpoint states further that the interference potential of its equipment to communication services has been analyzed and maintains that operation under the rules it has suggested in its petition would cause no harmful interference to radio communications services operating in the frequency bands specified.<sup>3</sup> This claim is set out in paragraphs 4, 4.1, and 4.2 of Exhibit C attached to the petition and is elaborated upon in the supplement filed October 7, 1974. Checkpoint reports that this study showed that on a clear channel (i.e. with no other signals present), the signals from the Checkpoint Mark II anti-theft device were not audible on a high-quality receiver at a distance of 560 feet.

<sup>2</sup> Section 15.305(a) specifies that a field disturbance sensor may operate on any frequency provided the level of radiation does not exceed 15  $\mu$ V/m at  $\lambda/2\pi$ .

<sup>3</sup> In its petition, Checkpoint stated that the frequencies of operation of its equipment were 4.5-5.7 MHz and 6.3-7.7 MHz. The waiver granted by the Commission (see paragraph 25 of this Notice) authorized operation on 4.5-5.7 MHz and 7.4-9.9 MHz.



With a weak signal (in the order of 3-5 microvolts into the antenna) present on the channel, the signal from the Checkpoint transmitter was not significantly audible beyond 100 feet.

6. Checkpoint asserts that pilferage or shoplifting is a serious problem particularly for retail stores and libraries. It cites statistics from a variety of sources to show the magnitude of this problem. The rules it has proposed, according to Checkpoint, will permit an important advance in anti-pilferage equipment and be a major step toward overcoming this problem.

#### COMMENTS ON THE PETITION

7. Three comments were received on the Checkpoint petition: From the 3M Co., St. Paul, Minn. 55101; Knogo Corp., Westbury, N.Y.; and the Magnavox Co., Fort Wayne, Ind. 46804. Each of these parties manufactures and markets anti-pilferage equipment. Knogo uses RF frequency sweeping at about 2 MHz and its equipment is said to operate within the Commission's present rules. The 3M Co. and Magnavox each manufacture and market an anti-pilferage system particularly intended to prevent loss of books in libraries. Both of these systems use a magnetic field at frequencies below 10 kHz and do not fall within the purview of the Commission's regulations. Each of the parties agree that pilferage is a serious problem which must be countered by the best technology available. While 3M Co. and Magnavox questioned the need for the revised regulations, only Knogo opposed the institution of rule making and urged the Commission to deny the petition.

8. In its comment, the 3-M Company stated that it is supplying two book detection systems to libraries. These systems use a magnetic field at 1 kHz for detection. 3M disputes the claim that the Checkpoint equipment is more efficient and less costly to operate than the 3M equipment, and calls attention to a 1974 survey by the American Library Association (3M Exhibit B) of detection systems offered by seven different manufacturers. 3M points out that this survey lists ten systems with prices comparable with those of Checkpoint II. 3M agrees with Checkpoint about the benefits to be derived from such a system. It cites the experience of its customers (3M Exhibit A) that the installation of its book detection systems has reduced book losses by 80 percent to 95 percent at various libraries.

9. Magnavox described its Gaylord/Magnavox Book Security System in general terms but provided no technical details. From other information, it is clear that this is a magnetic system similar to the 3M system. Magnavox questions the rationale in allowing Checkpoint a waiver when technology is available to operate within the prescribed requirements. It also raises the question whether a "permanent" waiver (presumably a rule change) would give Checkpoint an unfair competitive advantage based upon the fact that other companies exerted effort and expense to meet the FCC requirements.

10. Knogo opposed the institution of rule making requested by Checkpoint. It agrees with Checkpoint's contention that there is a need for anti-pilferage equipment. However, it pointed out that at least nine companies are supplying such equipment, that the market is highly competitive and that the current supply of equipment exceeds the demand. Knogo itself is one of the suppliers. Knogo asserted further that there is nothing intrinsically new in the Checkpoint system. The swept frequency technique used by Checkpoint is almost identical to that used by Knogo since 1966 albeit the frequency of operation is different. Moreover, the operating characteristics of the Knogo equipment were selected to bring it into conformance with the applicable FCC regulations although this caused increased development expense and higher production costs. The basic thesis of the Knogo opposition appears to be that since it is possible to manufacture and operate anti-pilferage equipment within the present specifications prescribed by the Commission there is no need to relax these standards and thereby increase the potential of interference to users of the radio spectrum. Checkpoint responded to Knogo's opposition and urged the Commission to institute the requested rule making as the appropriate vehicle by which to resolve the diverse contentions and allegations.

#### COMMISSION INQUIRY

11. Having reviewed Checkpoint's petition, the comments of 3M, Magnavox and the Knogo opposition, the Commission found that there was sufficient merit in the Checkpoint proposal to argue against an outright denial as proposed by Knogo. However, the Commission could not overlook the allegation that the market was adequately served by devices that either do not require Commission authorization or comply with the present regulations and that additional regulations may not be required. To help resolve the controversy, the Commission instituted an Inquiry which asked for information about the anti-pilferage systems on the market. The Inquiry also sought information about the level of emission that was required for the efficient operation of an anti-pilferage system, the frequencies best suited for such a system, how a system using swept frequency techniques should be measured, and finally, the interference problem that anti-pilferage devices operating between 2-10 MHz might create.

12. The Commission noted that the Food and Drug Administration had sponsored an open public meeting on June 25, 1975 to air a personal hazard problem—namely that an anti-pilferage equipment could be a hazard to a person wearing an implanted cardiac pacemaker.<sup>4</sup> The Inquiry accordingly asked for informa-

tion on the effect of an anti-pilferage device on a person wearing a cardiac pacemaker who may be required to walk through the gate in which the anti-pilferage equipment is installed.

#### RESPONSES TO THE INQUIRY

13. Responses to the Inquiry were received from the following manufacturers of anti-pilferage devices: 3M Co., Knogo, Checkpoint, Sensormatic and Microlab/FXR. Each of these parties agrees that pilferage is a serious and growing problem and that the best technology must be used to combat this problem. The 3M Co. indicated that it would stand on its comment filed in response to the petition. Magnavox, which had responded to the petition, did not file a comment in response to the Inquiry. In any case, 3M and Magnavox provide equipment that operates below 10 kHz and is not subject to regulation under the Commission's Rules. Sensormatic and Microlab/FXR build and distribute equipment on 915 MHz under the special provisions for microwave equipment which permit a field of 50,000  $\mu\text{V}/\text{m}$  at 30 meters. These parties readily admit that they do not have any information to contribute concerning the technical conditions required for operation on the frequencies 2 to 10 MHz, or the interference potential of such operation.

14. It would appear that the major concern of these four parties is to protect their present market from encroachment by a newcomer. Thus, these parties argue that there is no demonstrable need for additional regulations (Microlab comment page 2) and that the Commission should not bestow a clear and unfair competitive and economic advantage upon any entity that is unwilling to comply with present rules (Microlab comment page 4). Sensormatic alleges that the increased field requested by Checkpoint is not necessary (comment page 1). In support of this allegation, Sensormatic cites the claim by Knogo that Knogo was able to bring its equipment within the 15  $\mu\text{V}/\text{m}$  at  $\lambda/2\pi$  limit and qualify for certification.

15. In its comments and various pleadings to terminate the waiver granted to Checkpoint,<sup>5</sup> Knogo makes much of the fact that its equipment is certificated. Elsewhere Knogo states that it has been supplying anti-pilferage equipment since 1966. Although certification of such equipment has been required since 1971, Knogo did not file its initial application for certification until July 5, 1974. As initially filed, the equipment was found to exceed the radiation limit of 15  $\mu\text{V}/\text{m}$  at  $\lambda/2\pi$  and could not be granted certification. Knogo modified its equipment to reduce the level of radiation and refiled for certification on March 14, 1975. Certification for the modified equipment was granted on May 23, 1975. It may be assumed that the equipment supplied prior to May 1975 has levels of radiation in excess of 15  $\mu\text{V}/\text{m}$  at  $\lambda/2\pi$ .

<sup>5</sup> See paragraph 25 of this Notice.

<sup>4</sup> 40 FR 23500 (May 30, 1975). The proceedings of this open public meeting were recorded. Questions about the availability of this record should be directed to the Food and Drug Administration, 5600 Fisher's Lane, Rockville, Md. 20852, phone (301) 427-7163.



16. Elsewhere in its comment, Sensor-matic states that it assumes that the Knogo equipment operates reliably. On the other hand, Checkpoint notes that the time tested Knogo equipment is an earlier, non-certificated equipment which exceeds the  $15 \mu\text{V/m}$  at  $\lambda/2\pi$  limit. Checkpoint notes further that the certificated Knogo equipment which was modified to reduce the level of radiation in order to meet the  $15 \mu\text{V/m}$  at  $\lambda/2\pi$  limit, has not yet proved itself in service. Sensor-matic concludes its comment by arguing that since there are anti-pilferage devices available that operate within the rules, it is not in the public interest to permit operation on frequencies and with fields contrary to the present rules.

17. There remain the comments filed by Checkpoint and Knogo. Checkpoint is offering swept frequency equipment in the range 4.5 to 9.0 MHz and is seeking more liberal operating provisions. Knogo manufactures and markets a similar equipment at 2 MHz and argues against the petition and in favor of the status quo.

18. Checkpoint has made some tests which purport to show that its Mark II equipment will not cause harmful interference. But, as Knogo contends, the tests are not sufficiently comprehensive to satisfactorily answer this question. On the other hand, Knogo holds itself out as the defender of the spectrum and speaks at length on the interference potential of the Checkpoint equipment. But Knogo's statements are full of conjecture with no specific data to substantiate its claim of possible interference to the marine or aviation service.

19. In the Notice of Inquiry in this proceeding, the Commission asked for information about the interference potential of the anti-pilferage devices operating in the 2-10 MHz region using swept frequency techniques. The Energy Research and Development Administration (ERDA) is the only party operating a communication facility that commented in this proceeding. ERDA, which operates a security communications system on frequencies between 5 and 8 MHz using digital modulation requested that approval of the devices (presumably the Checkpoint anti-pilferage equipment) be contingent on providing lock out capability to protect the frequencies 5309.5, 7701.5, and 8015 kHz used by its system. No comments were received from other persons operating radio communication facilities in the bands 4.5-5.7 MHz and 7.4-9.0 MHz. The Commission may assume therefore that interference will not be a problem to licensees in the marine and aviation services.

20. The real question that must be resolved in the proceeding is whether the operating provisions requested by Checkpoint will in fact be a source of harmful interference to radio communications or have other harmful effects on the environment (such as endangering a person wearing a cardiac pacemaker). Where no harmful effects can be shown and no gross wastage of the spectrum will result, serious consideration must be given to the petition for rule

making. This Notice is proposing to do just this.

#### THE QUESTION OF PERSONAL HAZARD

21. Filings in response to the personal hazard question were received from two manufacturers of pacemakers: Cordis Corp., Miami, Fla. 33137 and Medtronic Inc., Minneapolis, Minn. 55418. Cordis filed a statement pointing out that it is very difficult to predict pacemaker performance from a study of written technical data. It suggests that FCC ask Checkpoint (and presumably also Knogo) to test pacemakers of several manufacturers against their anti-pilferage equipment. Medtronic expresses the opinion that frequency modulated, swept RF devices have the potential to affect operational parameters of pacemakers.<sup>6</sup> It states that this problem can't be solved by manufacturers of pacemakers and calls for the development of standards for anti-pilferage equipment, but is silent on what these standards should be or who should develop the standard. In a supplement to this statement, Medtronic makes it clear that it had not tested its pacemakers against swept frequency RF systems and had no specific data concerning such systems. It further clarifies its original statement to stress that it was talking only in generalities. Medtronic subsequently submitted, as a second supplement, a copy of the report dated September 19, 1975 it had submitted to FDA, titled "Evaluation of EMI, Pacemakers-Anti-theft Devices." This report describes the test set up used by Medtronic and reports tests of the effect of a number of RF equipments, but not of RF swept frequency anti-pilferage equipment.

22. Checkpoint arranged to have Cordis, Medtronic and Arco Medical Products Co., Leechburg, Pa. 15656 test their pacemakers against Checkpoint anti-pilferage equipments and submitted reports of these measurements as supplements to its comments. Arco tested 5 models of its pacemakers and one heart-lead against a Checkpoint equipment operating at 4.4-5.7 MHz. Arco found that its equipment was not affected by the field produced by the Checkpoint equipment. It cautions however, that the findings apply only to the Arco equipment and may not apply to pacemakers by other manufacturers. Cordis states that the Checkpoint equipment they tested (6.3-7.7 MHz sweeping at 100 Hz) caused no interference to its R-wave inhibited pacemakers. Medtronic states that four models of pacers were tested against a Checkpoint Library system (5.0±0.6 MHz sweeping at 100 Hz) and a Checkpoint Retail System

<sup>6</sup> There are two basic types of pacemakers: Inhibited (or demand) pacemaker suppresses its output if natural ventricular (heart) activity is detected. A pulse is produced at its basic rate in the absence of natural ventricular activity.

Asynchronous (fixed rate) pacemaker produces pulses at a fixed rate regardless of electrical and/or mechanical activity of the heart.

(7.0±0.6 MHz sweeping at 100 Hz) and that at no time during the tests were any of the Medtronic pacemakers affected.

23. A letter was received from the Food and Drug Administration (FDA) which points out that some 150,000 persons wear pacemakers today and that the pacemakers today are significantly more compatible with the electromagnetic environment than those in the past. However, FDA stresses that there is a limit to the amount of rejection that can be built into a pacemaker. FDA points out that as a result of the June 25, 1975 meeting,<sup>7</sup> a voluntary test program is being conducted by manufacturers of pacemakers and anti-pilferage devices and that results should be available in the near future. FDA asks the Commission to consider the results of the current testing before a final decision is taken.

24. The Commission agrees that the personal hazard problem must receive careful consideration. At the same time, it notes that the tests reported to date appear to be inconclusive as to the personal hazard posed by anti-pilferage equipment using wide band RF frequency sweeping techniques. The Commission agrees that it is desirable to establish standards for the pacemakers and anti-pilferage equipment to minimize the personal hazard problem, but feels that the development of such standards is more appropriately left in the hands of the FDA. In this connection the Commission notes that the situation with respect to anti-pilferage equipment is quite similar to that of the domestic microwave oven. The FCC has regulations designed to eliminate interference and FDA—to minimize personal hazard. Each domestic microwave oven must comply with both the FCC and the FDA regulations. Approvals for the domestic microwave oven are coordinated by the two agencies to avoid the situation where the oven will be approved by one agency and disapproved by the other. The Commission anticipates that a similar arrangement will be worked out for dealing with anti-pilferage device. Accordingly, the Commission proposes to limit its regulations to deal only with the radio interference problem.

#### THE CHECKPOINT WAIVER

25. Simultaneously with its petition for rule making, Checkpoint filed a petition for waiver of the present Part 15 requirements to permit it to market its proposed system during the pendency of the rule making. The requested waiver was granted by the Commission on December 13, 1974. A request from Knogo dated December 16, 1974 for a stay of this waiver and a request for reconsideration of the waiver filed on January 20, 1975 were both denied by the Commission on February 26, 1975. On November 25, 1975 a second request for reconsideration of this waiver was filed by Knogo to which Checkpoint filed an

<sup>7</sup> See footnote 3 supra.



opposition on December 10, 1975. The latter two pleadings were made a part of this proceeding. The question of the waiver to Checkpoint has thus become hopelessly entangled with the rule making proceeding and must of necessity be treated as a part thereof. Accordingly the earlier pleadings relating to the waiver have been inserted in the record of this proceeding.

26. Knogo's November 25, 1975 pleading restates the arguments used in its petition for reconsideration filed on January 20, 1975 which had been denied by the Commission on February 26, 1975. While the arguments are elaborated, nothing new has been added. In its opposition, Checkpoint points out that the Knogo November 25, 1975 pleading is procedurally deficient under § 1.106(k) (3) of our rules. To avoid an argument over procedures, the Commission has chosen to construe the Knogo November 25, 1975 pleading as a request that the Checkpoint waiver be terminated and to consider this pleading on its merits.

27. Knogo makes four major points in its November 25, 1975 pleading. It argues that the Checkpoint waiver was granted without prior public notice. This lack, according to Knogo, works a serious hardship on similarly situated parties and is a clear abuse of administrative discretion. The Commission notes that this argument has been considered in the Commission's denial dated February 26, 1975. This argument is accordingly dismissed without further consideration as repetitious.

28. The second argument made by Knogo is that the waiver granted to Checkpoint penalizes those who comply with the Commission's regulations. Knogo argues that use of the higher field strength permits Checkpoint to manufacture and sell (or lease) its equipment more cheaply. Knogo states that it could follow Checkpoint's footsteps and redesign its equipment to operate under the same conditions granted to Checkpoint. This would involve considerable expense and would be perilous, according to Knogo, since there is no assurance that the more liberal operating conditions will ultimately be adopted. By marketing its equipment under the waiver, this is precisely the risk that Checkpoint has willingly accepted.

29. Knogo also claims that Checkpoint has not shown that it (Checkpoint) would suffer serious harm if the waiver had been denied and states that Checkpoint's parent company, Logistics Industries, could have supported Checkpoint financially until final action had been taken on the petition for rule making. Rule making proceedings of this type commonly extend over a 2 to 3 year time period. The waiver was granted to permit a newcomer to the field of providing anti-pilferage equipment to build up a business at its own risk while the rule making was pending. It is unrealistic to expect the company to stay in business for a period of 2-3 years without a saleable product while the merits of the revised rule are argued. It is sufficient that

Checkpoint assumed the risk of ultimate unfavorable action by the Commission—a risk that Knogo, to stay competitive, appears to be unwilling to assume.

30. Knogo's third point is that the waiver granted to Checkpoint is not supported by substantial evidence. In arguing this point Knogo alleges that, by granting the waiver, the Commission has undermined its rule making proceeding—that the Commission has in effect decided to amend the rules before it has looked at the facts, analyzed the situation and ascertained the public interest. This is simply not so. The petition filed by Checkpoint held out a reasonable prospect that operating under the standards proposed therein might provide the user with a more effective and lower cost anti-pilferage equipment<sup>8</sup> which would not be a source of harmful interference. The advisability of making these operating conditions available on a permanent basis is, in the public interest, being explored in detail in this proceeding. The waiver may be granted as a temporary measure on lesser evidence provided adequate safeguards are imposed to protect the user against a negative finding. This was done by requiring Checkpoint to assume the risk of ultimate unfavorable action on its petition by the imposition of two conditions in the waiver. One condition dealt with positively notifying prospective users that operation was conditional. The other related to terminating the waiver when final action is taken on the petition (RM-2426) at which time all devices sold under the waiver must be conformed to such rules as may be promulgated, and if the devices sold cannot be conformed, such devices shall be removed from use. At the same time, not being completely satisfied with Checkpoint's showing that its equipment would not be a source of harmful interference, the Commission requested information in its Notice of Inquiry, items 17(e) and 17(f), on this question.<sup>9</sup>

31. The final point made by Knogo is that Checkpoint's current operation are not in compliance with the waiver. However the argument under this point relates to Checkpoint's use of single frequency tag instead of the multiple frequency tag described in Checkpoint's patent. According to Knogo, Checkpoint is essentially furnishing a "Knogo-like" system—not a new, improved system as promised in its petition. Knogo construes this to be misrepresentation. Knogo alleges further that Checkpoint has not complied with all the terms of the waiver in that it has failed to supply a copy of the waiver letter to some of the purchasers of its equipment. In its opposition, Checkpoint questions the reliability of the survey conducted by Knogo on this question.

32. In view of the foregoing, we are not persuaded that the waiver granted

to Checkpoint on December 13, 1974 should be terminated at this time. Accordingly, Knogo's petition<sup>10</sup> that the Commission terminate this waiver, IS DENIED.

#### THE COMMISSION'S PROPOSAL

33. Having reviewed all the information before it, the Commission finds that Checkpoint's argument for more liberal operating conditions is more realistic than Knogo's argument that it can supply reliable anti-pilferage equipment within the present limit of 15  $\mu\text{V/m}$  at  $\lambda/\pi$ .<sup>11</sup> Moreover, it appears that there may be upward of 1000 Knogo equipments in operation that may be exceeding the present limit of 15  $\mu\text{V/m}$  at  $\lambda/2\pi$ . On the other hand, we are not persuaded that the full frequency sweep and the full 100  $\mu\text{V/m}$  at 30 meters requested by Checkpoint and authorized in the waiver is in fact required. The Commission, accordingly, proposes to amend Subpart F of Part 15 to make three frequencies available for anti-pilferage equipment using swept frequency techniques, namely  $2 \pm 0.3$  MHz,  $4.5 \pm 0.45$  MHz and  $8 \pm 0.6$  MHz. It proposes further to permit a field strength of 50  $\mu\text{V/m}$  at 30 meters on emissions within the bands specified and to require all emissions that fall outside these bands to be kept below 5  $\mu\text{V/m}$  at 3 meters (approximately 40dB down). Measurements shall be made with the frequency sweep stopped using an average reading field strength meter. Out of band emissions shall be checked over the frequency range 300 kHz to 300 MHz. In addition, the measurement report shall include spectrum analyzer photographs of the broadband signal emitted by such equipment. These equipments will require certification under Section 15.312 now in Part 15 Subpart F.

34. The levels proposed herein (an increase over the present 15  $\mu\text{V/m}$  at  $\lambda/2\pi$  limit) will apply to the Knogo equipment both new and old and should ease Knogo's problem of bringing its older, noncertificated equipment into compliance. At the same time, the specifications proposed herein will require Checkpoint to reduce the frequency sweep of the equipment it has sold under the December 13, 1974 waiver and to reduce the level of radiation from such equipment by approximately 6dB. In view of the outstanding waiver, the Commission will expedite action in this proceeding and anticipates that an order adopting final rules will be issued by December 1, 1976.

#### MODIFICATION OF THE CHECKPOINT WAIVER

35. Notwithstanding our denial of Knogo's request to terminate the Checkpoint waiver, we find that for the reasons given in paragraphs 33 and 34, it is in the public interest to modify the terms of the Checkpoint waiver as follows:

<sup>10</sup> The pleading in question is titled "Petition for Reconsideration of Grant of Temporary Waiver" and was filed on November 25, 1975.

<sup>11</sup> See paragraph 15 of this Notice regarding the compliance of the Knogo equipment with the 15  $\mu\text{V/m}$  at  $\lambda/2\pi$  limit.

<sup>8</sup> Knogo has in effect conceded that this may be so. See paragraph 11 of the Knogo November 25, 1975 pleading.

<sup>9</sup> The response to these questions was essentially nil. See paragraphs 18-20 of this Notice.



Item 1 of the waiver letter is revised to read:

The frequency sweep of the equipment marketed after August 1, 1976 shall be confined within the frequency bands 4.05 to 4.95 MHz or 7.4 to 8.6 MHz. Equipment marketed prior to August 1, 1976 may continue to operate with the frequency sweep specified originally subject to eventual conformance pursuant to item 7 of the waiver letter.

Item 2 of the waiver letter is revised to read:

Section 15.305a is waived to permit operation of equipment marketed after August 1, 1976 with an emission level of 50  $\mu$ V/m at 30 meters on any frequency within the bands 4.05-4.95 MHz or 7.4-8.6 MHz, and an emission level of 5  $\mu$ V/m at 3 meters on frequencies outside these bands. Equipment marketed prior to August 1, 1976 may continue to operate with the emission level specified originally subject to eventual conformance pursuant to item 7 of the waiver letter.

Item 8 of the waiver letter is revised to read:

Each purchaser or lessee of a Checkpoint System Mark II equipment shall be furnished with a copy of this letter (December 13, 1974) and a copy of this Notice of Proposed Rule Making. Further, a copy of this letter and a copy of paragraph 35 of this Notice shall be attached to the sales agreement of each purchaser or lessee of this equipment.

#### ADMINISTRATIVE PROVISIONS

36. Authority for this proceeding is contained in Section 4(i), 302, 303(g) and 303(r) of the Communications Act of 1934, as amended.

37. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before August 9, 1976, and reply comments on or before August 19, 1976. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission also may take into account other relevant information before it, in addition to specific comments invited by this Notice.

38. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 11 copies of all statements, briefs, or comments shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>12</sup>  
VINCENT J. MULLINS,  
Secretary.

Adopted: June 24, 1976.

Released: July 7, 1976.

[FR Doc. 76-20027 Filed 7-9-76; 8:45 am]

<sup>12</sup> Commissioner Lee absent. Commissioner Hooks concurring in the result.

#### [47 CFR Part 89]

[Docket No. 20846; FCC 76-803]

#### PRIVATE LAND MOBILE RADIO SYSTEMS Interconnection Policies

In the matter of amendment of Part 89 of the Commission's Rules to prescribe policies and regulations to govern "interconnection" of private land mobile radio systems with the public, switched, telephone network.

I. 1. We are initiating this inquiry and rule making to develop and prescribe specific rules<sup>1</sup> to better define and regulate "interconnection"<sup>2</sup> of private land mobile radio systems (those authorized in the Public Safety, Industrial, Land Transportation, and Citizens Radio Services) with the public, switched, telephone network (PSTN).<sup>3</sup>

2. As background, we would mention that for some time licensees in the private land mobile radio services have used the wireline facilities of the telephone companies in conjunction with the operations of their radio systems. At first, this was done solely for transmitter control purposes; but in more recent times, we have allowed licensees to "patch" or "interconnect" radio and wire line circuits to permit direct communication between mobile units of the licensees in the field and persons at PSTN telephone positions.

3. Generally, this function has been carried out through the licensee's dispatcher; and all transmitter control requirements have been met. However, with advances in technology, there have been many inquiries as to what arrangements are permissible and a number seeking authorization of "interconnected" facilities which goes beyond arrangements presently contemplated by existing rules and policies. In view of this, as indicated, we wish to better define our regulatory policies as they apply to "interconnected" systems; and this inquiry and rulemaking is directed to this purpose.

<sup>1</sup> Proposed rules reflecting the new regulatory measures are set out in the Appendix to this notice.

<sup>2</sup> As will appear from our discussion in the text, there has been some confusion in the use of the term, "interconnection". Briefly, we use the term to refer to arrangements in which radio facilities licensed in the private services are "interconnected" with the facilities of wire line telephone companies to permit "communication" between persons at telephone positions—which are part of the public, switched, telephone network—and persons with mobile radio equipment licensed or authorized in the referenced private services. Therefore, the term, as used, is not intended to include those arrangements in which wire line circuits are employed primarily for transmitter control purposes, as will be explained.

<sup>3</sup> Our reference to the public, switched, telephone network, at times abbreviated as "PSTN", is generally directed to the wire line facilities of telephone companies. However, some common carrier (telephone) circuits now employ radio links; and we do not intend to exclude these.

II. 4. As mentioned, licensees now use wire line for transmitter control purposes. In these situations, a wire line facility is leased from the telephone company under applicable tariffs. The circuit is used by the licensee to "control" his transmitter at a remote location, i.e., to turn it "on" and "off". In such cases, the system is under the direct control of the station operator or dispatcher; all applicable transmitter control requirements are met;<sup>4</sup> and we have, in short, no

<sup>4</sup> Our transmitter control requirements for the several Public Safety, Industrial, Land Transportation and Citizens Radio Services read essentially the same. However, to illustrate the pertinent provisions of these rules, we quote, here, Section 89.113.

§ 89.113 Transmitter control requirements. (a) Each transmitter shall be so installed and protected that it is not accessible to or capable of operation by persons other than those duly authorized by the licensee.

(b) A control point is an operating position which meets all of the following conditions:

(1) The position must be under the control and supervision of the licensee;

(2) It is a position at which the monitoring facilities required by this section are installed; and

(3) It is a position at which a person immediately responsible for the operation of the transmitter is stationed.

(c) Each station which is not authorized for unattended operation shall be provided with a control point, the location of which will be specified in the license. \* \* \* It will be assumed that the location of the control point is the same as the location of the transmitter unless the application includes a request for a different location described in appropriate terms as indicated in this paragraph. Authority must be obtained from the Commission for the installation of additional control points.

(d) A dispatch point is any position from which messages may be transmitted under the supervision of the person at a control point who is responsible for the operation of the transmitter. Dispatch points may be installed without authorization.

(e) At each control point, the following facilities shall be installed:

(1) A carrier operated device which will provide continuous visual indication when the transmitter is radiating, or, in lieu thereof, a pilot lamp or meter which will provide continuous visual indication when the transmitter circuits have been placed in a condition to produce radiation: \* \* \* The control point for a transmitter utilized to activate another radio station may employ a single pilot lamp or meter as an indication of activation of the local and remote transmitters;

(2) Equipment to permit the person responsible for the operation of the transmitter to aurally monitor all transmissions originating at dispatch points under his supervision;

(3) Facilities which will permit the person responsible for the operation of the transmitter either to disconnect the dispatch point circuits from the transmitter or to render the transmitter inoperative from any dispatch point under his supervision; and

(4) Facilities which will permit the person responsible for the operation of the transmitter to turn the transmitter carrier on and off at will. (Emphasis added.)



particular problem with arrangements of this kind. Accordingly, we do not believe additional regulatory measures are needed.

5. More recently, we have permitted licensees to use "dial-up" techniques as a substitute for leased lines. In arrangements of this type, the licensee, through his dispatcher, at the transmitter control point, "dials" an assigned number. This permits connection of his control point (through the PSTN) and his base station transmitter, which may be some miles away. The dispatcher is then able to activate the transmitter through the use of a coded tone sequence, and the message or "page" is then transmitted. This is permissible under existing regulatory policies as long as our control point requirements are met. We would emphasize, however, that the arrangement, as we are describing it, covers only those situations in which the transmission is originated by the licensee's dispatcher from a licensed transmitter control position; and it does not extend to cases in which the "call" is originated from mobile units of the licensee. That method of operation presents different problems; and we will discuss it later.<sup>5</sup>

6. Further, we have permitted the use of "dial-up" circuits for paging purposes. These methods are used principally by hospitals and in manufacturing plants. There, a private telephone exchange is employed to permit employees of the licensee, in the hospital or plant area, to page other employees and to transmit messages. Systems of this kind have not been free of problems. These problems have arisen primarily because monitoring of the assigned channel has been ineffective and because the employees of the licensee using the system have not been trained sufficiently in proper radio operating procedures. The result has often been to cause interference to other licensees sharing the assigned frequency in the area. Accordingly, we plan to tighten our policies and practices in such cases and require all such systems to either meet the transmitter control requirements or we will license them solely on a "secondary basis" to other licensed co-channel systems in the area. Tentative rules for this purpose are included.<sup>6</sup>

<sup>5</sup>In passing, we will mention a possible alternative method of operation that would permit mobiles to access "control points" through PSTN circuits. In this, circuitry would be employed which, upon activation by a signal from a mobile unit, would automatically "dial" the telephone number of the associated "control point" to the exclusion of all others. This would preclude access to the public wire line network, except for the purpose mentioned; and, accordingly, might serve as an alternative means for transmitter control.

<sup>6</sup>We would also mention that in the railroad industry, land mobile radio systems are often interfaced with private microwave and licensee-owned wire facilities. The practice now is for the dispatcher to connect calls from mobile units of the licensee with any telephone position in the railroad's own wire line system. Requests have been made to allow such licensees to perform this connection through the use of automatic equip-

III. 7. The foregoing arrangements deal principally with the use of leased wire for transmitter control; the use of "dial-up" circuits for essentially the same purpose; and a few instances in which we have permitted one-way signalling in private telephone exchange systems. These arrangements, while important, are not the ones which are of primary concern to us in this proceeding. Here, our main focus is on those situations in which a PSTN telephone is "interconnected" to radio facilities licensed in the private services to permit communication in radiotelephone mode, and conversely, i.e., where the "call" originates from the licensee's mobile unit and is "connected" through to a PSTN telephone position.

8. Originally, even prior to our decision in the *Carterfone* case,<sup>7</sup> through the use of the *Carterfone* or similar devices, "calls" were "patched" through "manually" by the licensee's dispatcher at the base station. This usage was restricted and limited, employed generally as an adjunct to the licensee's primary communication requirements; and the arrangements were not particularly troublesome. In recent times, however, modern equipment and techniques have become available which permit the "connection" to be made automatically at the transmitter site or elsewhere; and in some instances, this is done without effective control of the circuit by the licensee's control point operator. Thus, problems have developed which give us concern.

9. One problem is that operation in the radiotelephone mode is incompatible in basic ways with "dispatch" type use of the assigned frequencies.<sup>8</sup> The tendency,

ment, that is, at times when the dispatchers are normally not on duty, including week ends and holidays. This, of course, is not "interconnection" the sense meant, here, because the PSTN is not involved. What is in question is that, under the referenced railroad proposal, our transmitter control requirements would not be met. However, we recognize the need for arrangements of this type in that industry, and we will entertain proposals to modify existing rules in the Railroad Service to permit this. This is feasible in that it would be on a limited basis (at night, over week ends, or on holidays); that it would be part of an "internal" private communications system; and that in the Railroad Service, where frequencies are not extensively shared in one locality, arrangements of this type are not likely to cause significant interference problems to other users of the channel.

<sup>7</sup>See *Carterfone*, 13 FCC 2d 420 (1968). Cf. *Aeronautical Radio, Inc. v. A.T. & T. Co.*, 4 FCC 15 (1937).

<sup>8</sup>In the "dispatch mode", a licensed facility is generally under direct control of an "operator" positioned at the transmitter control position. This "operator" directs the "traffic" (message flow) of the system. Thus, the "dispatcher" may order Mobile Unit No. 1 to point "A" and Mobile Unit No. 2 to point "B". He (the dispatcher) may receive requests for information from mobile operators; and he responds to them. He also may put Mobiles No. 1 and No. 2 in touch with each other. Further, the mobiles are generally in touch with the dispatcher, asking for instructions or reporting difficulties and seeking direction. Further, in the "dispatch mode", mobiles are often in direct contact with one another, sometimes to enable them

we have found, is to talk longer and about subjects handled better, perhaps, through the use of land line telephone or common carrier wire line circuits available for the purpose.<sup>9</sup> This does not mean that the type of service is not important. Nor does it mean that it does not serve important and sometimes essential purposes. It does. However, we feel the circumstances under which it is to be allowed must be more controlled—more limited—simply because the spectrum available to the private services is not sufficient to support both the "dispatch" requirements of users, which are paramount, and radiotelephone usages. The latter, we feel, must be met through radio facilities authorized in the common carrier services and only on a limited basis through the use of certain specified arrangements in the private services.

10. The key to permissible arrangements, we feel, is proper control over the circuit, so that the radio system is under the direct supervision of the licensee's control point operator. Accordingly, with few exceptions, we would require all "calls" from PSTN telephone positions to be received at the transmitter control position, by the licensee's dispatcher, and to be manually connected ("patched"), if "interconnection" is to be done at all. Of course, not all "calls" should be passed through. Some messages may be better relayed by the dispatcher. Others may involve subjects better handled through the use of wire line facilities. The dispatcher would have to exercise a degree of discretion in such instances. Still other messages may be about matters which are not within the "scope" of "permissible communications" in the service in which the radio facilities in question are authorized; and these should not (and we would expect would not) be put through. Further, other "calls" may be of a priority nature, where it is highly important to complete them, and the dispatcher should have the ability to do just that.

11. Our plan of regulation as to "calls" from mobile units of the licensee is somewhat different. There, we would permit "interconnection"; but we do not propose to require the "connection" ("patch") to be manual. We would allow the "call" to be made from the licensee's mobile unit; and automatic circuitry could be employed. However, when the operator in the mobile unit comes "off hook", he must, in so doing, be connected through to the licensee's dispatcher, i.e., the "dispatcher" at the licensee's transmitter control location must be in a position to exercise absolute control over the

to carry out a joint or common project or undertaking. And the messages are usually short, at times in coded message sequences, with the entire system working as a "unit"—with all mobiles and the "dispatcher" engaging in a total cooperative, communication effort.

<sup>9</sup>In our recent proceeding in Docket No. 18262, we made adequate provision for this very purpose in allocating 40 MHz for use in "cellular" radio-telephone systems which are designed especially to meet this as a primary telecommunication requirement.



transmission. That is, the dispatcher must be able to monitor the conversation (hear both sides of it); he must be able to interrupt the "call," if circumstances require him to do so; and he must be able to override the mobile and close down the base station (or mobile relay), if there is a need to take such action, or if for some reason, such as, unauthorized usage, the dispatcher believes he should (or is required) to do so.

12. But we recognize that restrictions of the kind described may go too far. We have not taken into account those situations in which the licensee has no person in his employ devoted exclusively to system supervision; and we have not made any provision for those time periods when the dispatcher is not on duty—at nights, over weekends, and on holidays. We recognize the merit in some of these arrangements; and, while we do not see how we can accommodate all requirements for "interconnected" service, we believe there is some latitude that can be exercised. Thus, during those times when traffic is relatively low, i.e., at night, over weekends, and during holidays (those recognized nationally as "holidays"), we would apply a different rule. In such cases, we propose to permit automatic "interconnection" of "calls" received from PSTN telephone positions and those originated from the mobile units of the licensee. We will permit this to be done regardless of whether the licensee's dispatcher is on duty or not, but only at the times mentioned. However, in such situations, we would require that the mobile unit of the licensee be equipped in a way that meets our transmitter control requirements, or substantially so; and rules for this purpose are proposed. Additionally, "interconnected" communications, during those periods, would be put on a secondary, non-interference basis to primary, two-way, dispatch-type transmissions. Rules for this are proposed.

13. Finally, we are also aware of the fact that not all licensees have the means to hire an employee for dispatching, and must rely on the services of a person or persons, say, shared with other small business users. In the past, in these situations, reliance has been placed on telephone answering service personnel both for message handling and dispatching. We do not plan to prohibit this. However, we propose to allow "interconnection" only at control stations or control points used exclusively for the licensee's own purposes, substantially in accordance with previous determinations on this matter.<sup>10</sup> If these requirements are met,

then the "patch" may be made at the offices of the telephone answering service or by persons performing like functions.

IV. 14. These summarize the basic arrangements for "interconnection" we plan to allow. We realize that there have been other proposals, some made informally, for "interconnected" facilities which are not covered by those we have described.

15. Thus, we have been asked to adopt rules and policies to permit access of a licensee's base station facility from a PSTN telephone position at all times, i.e., day and night. For example, in the Taxicab Radio Service, requests have been received from taxi operators in small communities to permit them to receive "calls" from the public in their taxicabs, so that they can respond, pick up the passenger, and take him to the desired destination. This is important, in some cases, for at times taxicab operators have no dispatchers, or their dispatchers may not be on duty; and they want the capability of operating (using radio) during these times.

16. In still other situations, we have been asked to permit the use of radio facilities of a licensee at all times by personnel with "special equipment". The user of this "special equipment" would allow persons at PSTN telephone positions to "call" the base station and to activate it with tone signals or other electrical impulses. The argument is made that through the use of the "special equipment", the Commission would be assured that only "authorized" personnel of the licensee would have access to the licensed radio facilities. This, in final analysis, they say, is all that should be required, because the point of origin of the call is not the important consideration; rather, it is the nature of the call; the person originating the call (or the person to whom it is made); the purpose of the call; and the content of the message.

17. But we plan to allow none of these arrangements. While we recognize merit in all of them, we believe that their use

may not be accomplished at any station or control point common to more than one licensee or user.

Further, in our 900 MHz rule making, in Docket No. 18262, we adopted a somewhat similar limitation on "interconnection", providing:

Radio systems licensed under this subpart may be interconnected with the wire line facilities of any telephone company; *Provided, however*, Such interconnection is accomplished at a control point or control station, which is situated at a fixed location (not in a mobile unit), licensed to the user, where a person immediately responsible for the operation of the base station is on duty, and where all of the requirements of either § 89.113, 91.107, or 93.107, whichever is applicable, are met. *Provided, further*, That such interconnection may not be accomplished at any control station or control point facility licensed to, or used by, any person other than the licensee. Section 89.653 of the rules. Our plan, here, would be carried out in a similar way, under like restrictions.

decreases the ability of the licensee to control his system to a degree that is not consistent with fundamental licensee responsibility. Further, as we have mentioned, spectrum available for the private services is limited and we do not believe it would be adequate to meet these as well as the primary dispatch requirements in the Public Safety, Industrial, Land Transportation, and Citizens Radio Services. We must necessarily draw the line at some point; and we feel our proposal does this. Nevertheless, our inquiry and rule making are intended to be broad in scope and to treat all aspects of "interconnected" service, as such. Accordingly, comments of the parties on these variations are invited and will be considered in reaching a final determination in this proceeding.<sup>11</sup>

V. 18. The foregoing represents our current thinking and plans on "interconnection". As we have indicated, we want these matters explored in as much detail as possible; and we ask the parties to address themselves to this subject in their comments as fully as they can. In addition, we have developed a series of special issues; and we ask that comments include:

(a) Full information on the types of "interconnection" arrangements now in use through which licensees employ wire line telephone facilities in conjunction with the operation of private land mobile radio systems.

(b) Views on the utility (usefulness) of "interconnected" private land mobile radio systems in the conduct of functions and activities permitted in the private radio services; and the needs and requirements met through "interconnected" facilities that could not be met, if the practice were to be limited and restricted as proposed.

(c) Data, based on operating experience, to show the degree to which the use of "interconnected" facilities is, or is not, compatible with basic "dispatch" functions now carried out in the private services; and suggestions for ways to eliminate or decrease such conflicts where they exist.

(d) Comment on whether "interconnection" has greater usefulness (is more essential) in one or several of the radio services included in the Public Safety, Industrial, Land Transportation, and Citizens groups in contrast to the remaining ones. Include views on whether "interconnection" impedes effective and efficient use of channels available for assignment in these services or, conversely, achieves a measure of efficiency not otherwise possible.

(e) Descriptions (including technical specifications) of equipment now available for "interconnected" circuits and for interfacing wire line telephone facilities with radio systems licensed in the private services; and information on tech-

<sup>11</sup> We also recognize that there may be existing radio systems which may not comply with our proposed rules and policies; and we invite comments on how we should treat such operations in terms of bringing them into compliance with such new measures as may be adopted.

<sup>10</sup> Thus, flowing out of our rule-making proceeding in Docket No. 18921, we imposed a restrictive condition on interconnection of stations licensed in certain bands in the Business Radio Service, reading:

Pending decision in Docket No. 18921, the facilities authorized by this grant, if they are licensed to more than one person or are to be shared by more than one user, may not be interconnected with the wire line facilities of the telephone company, except where such interconnection is accomplished manually by an employee of the licensee or user at his office or place of business. Interconnection



niques and methods available for accomplishing "interconnection" at the present state-of-the-art.

As mentioned, comment is not limited to these subjects. Views and comments of the parties on other aspects of "interconnection" are invited; and they will be considered in the final formulation of our policies and rules to govern arrangements in this class.

19. In addition, we request miscellaneous common carriers (commonly known as radio common carriers), wire line common carriers and other parties to comment on the following issues:

(a) What the economic and business effects, of the use by private radio systems of "dial-up" telephone circuits for transmitter control, would be on their operations.

(b) What the economic and business effects, of the private radio systems having limited automatic interconnected access and off-hour completely automatic interconnected access to the public, switched, telephone network, would be on their operations.

VI. 20. This notice of inquiry and rule-making is issued pursuant to the authority contained in sections 4(i), 303, and 403 of the Communications Act of 1934, as amended.

21. Pursuant to the provisions of § 1.415 of the Commission's rules, interested parties are invited to file comments on or before September 3, 1976 and reply comments on or before October 4, 1976. All relevant and timely comments will be considered by the Commission before taking final action in this proceeding. In reaching its decision in this matter, the Commission may, in addition to the specific comments invited by this notice, also take into account other relevant information and data before it.

22. In accordance with the provisions of § 1.419 of the Commission's rules, an original and eleven copies of all statements, briefs, or comments shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M Street, N.W., Washington, D.C. 20554.

Adopted: June 25, 1976.

Released: July 7, 1976.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>12</sup>

[SEAL] VINCENT J. MULLINS,  
Secretary.

It is proposed to amend Chapter I of 47 CFR as follows:

## 89—PUBLIC SAFETY RADIO SERVICE

I. Part 89 of the Commission's Rules is amended as follows:

1. In § 89.3(a), a new definition is inserted alphabetically to read as shown:

### § 89.3 Definitions.

<sup>12</sup> Commissioner Lee absent; Commissioner Hooks concurring in the result.

**Interconnection.** The attachment of the facilities of a radio station in these services to the facilities of a wireline common carrier for the purpose of communicating between a mobile station and a party situated at a telephone position not authorized and equipped as a transmitter control point in accordance with the requirements of § 89.113.

2. In § 89.113, paragraphs (b) and (d) are amended as follows:

### § 89.113 Transmitter control requirements.

(b) A control point is an operating position which meets all of the following conditions:

(1) The position must be under the control and supervision of the licensee;

(2) It is a position at which the monitoring facilities required by this section are installed; and

(3) It is a position at which a person immediately responsible for the operation of the transmitter is stationed.

(4) Unless operation is in accordance with paragraph (e) of this section, use of a telephone, connected through the public, switched, telephone network, for transmitter control will be permitted only on the condition that such operation shall be on a secondary, non-interference basis to regular dispatch communications of co-channel licensees.

(d) A dispatch point is any position from which messages may be transmitted under the supervision of a person at a control point who is responsible for the operation of the transmitter. Dispatch points may be installed without authorization.

(1) Notwithstanding the provisions of paragraph (d) of this section, telephones in a private telephone exchange may be used as dispatch points and need not be operated under the supervision of a control point operator; *Provided, That,*

(i) Such operation is on a secondary, non-interference basis to regular dispatch communications: *And Provided further, That,*

(ii) Connection to the base station transmitter shall be made only in such a way as to preclude the use of the transmitter by any person at a telephone position which is not part of the private exchange.

3. A new § 89.162 is added to read as follows:

### § 89.162 Provisions relating to interconnection.

A station in the Public Safety Radio Services may be interconnected with the facilities of a wireline common carrier only in accordance with the following limitations:

(a) Interconnected communications shall be in accord with the permissible communications requirements specified in the applicable subpart of this part.

(b) No additional frequency will be assigned in order to enable the use of preferred methods of interconnection.

(c) Applications for stations to be connected in any way with the facilities of a wireline common carrier shall include a complete description of the equipment and methodology used to accomplish the interconnection.

(d) Interconnection may not be accomplished at any control station or control point facility licensed to, or used by, any person other than the licensee.

(e) Where communications are originated at a telephone station in the public, switched telephone network, interconnection shall be accomplished manually by a fixed control point operator.

(f) Where communications are originated by a mobile station in these services, interconnection shall be under the control and supervision of a fixed control point operator.

(g) Notwithstanding the provisions of paragraphs (e) and (f) of this section, telephone stations in the public, switched telephone network may be automatically interconnected with the facilities of a station in these services on a secondary, non-interference basis to regular dispatch communications when a fixed control point operator is not on duty: *Provided, That,*

(1) Such interconnection takes place on a weekend, a nationally recognized holiday, or on a weekday between the hours of 5:00 p.m. and 7:00 a.m. local time: *And provided further, That,*

(2) The mobile station is authorized in accordance with paragraph (h) of this section, as a control point of the interconnected base station.

(h) When a station is operated in accordance with paragraph (g) of this section, associated mobile stations or units may be authorized as control points, and shall be exempt from the requirements of § 89.113(e): *Provided, That,*

(1) The equipment utilized by the licensee at the base station to accomplish the interconnection shall be equipped with a security device which effectively precludes its use by persons not authorized by the licensee: *And provided further, That,*

(2) Where duplex capability is provided at the base station, the mobile station shall be so equipped that it may terminate an interconnected communication at any time by transmitting a signal which either disconnects the telephone-based party or disables the base station; or,

(3) Where simplex operation is employed at the base station, equipment shall be installed which limits any single transmission by a telephone-based party to 30 seconds, in turn activating equipment which will force monitoring of the operating frequency for a period not less than 3 seconds. The mobile station shall be so equipped that during this 3 second monitoring period, it may terminate an interconnected communication by transmitting a signal which either disconnects the telephone-based party or disables the base station.

[FR Doc.76-20028 Filed 7-9-76; 8:45 am]



# FEDERAL DEPOSIT INSURANCE CORPORATION

## [ 12 CFR Part 342 ]

### BANK CLEARING AGENCIES

#### Applications for Review of Actions

1. The Securities Acts Amendments of 1975 (Pub. L. 94-29), among other things, amended the Securities Exchange Act of 1934 (15 U.S.C. 78) (the "Act") to require registration of "clearing agencies" and describe a system of self-regulation by clearing agencies so registered. With respect to participants in such clearing agencies, registered clearing agencies have the authority to impose certain disciplinary sanctions, deny participation in the clearing agency, or prohibit or limit access to services provided by clearing agencies.

Under the Act, persons aggrieved by such adverse actions of the registered clearing agencies may request a stay of such action or appeal the action to the Federal regulatory agency with appropriate jurisdiction concerning the matter. The Securities and Exchange Commission and the three Federal bank regulatory agencies are the "appropriate regulatory agencies" for such appeals. Which agency is the "appropriate regulatory agency" in a particular case depends upon the class of person appealing and the class of registered clearing agency against which such appeal is taken.

In connection with requests for stays of registered clearing agency sanctions or other actions and appeals by participants or persons denied access to a registered clearing agency, the Federal Deposit Insurance Corporation is the "appropriate regulatory agency" for such appeals or stays when one of the three Federal bank regulatory agencies is the "appropriate regulatory agency" for the registered clearing agency complained against and the aggrieved person is an insured nonmember State bank.

Section 3(a)(34)(C) of the Act defines the term "appropriate regulatory agency" for this purpose as follows:

(i) The Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia when the appropriate regulatory agency for such clearing agency is not the Commission;

(ii) The Board of Governors of the Federal Reserve System in the case of a State member bank of the Federal Reserve System, a bank holding company, or a subsidiary of a bank holding company which is a bank other than a bank specified in clause (i) or (iii) of this subparagraph when the appropriate regulatory agency for such clearing agency is not the Commission;

(iii) The Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) when the appropriate regulatory agency for such clearing agency is not the Commission; and

(iv) The Commission in all other cases.

The following proposed regulations are designed to set forth appropriate procedures with respect to appeals made to

the Federal Deposit Insurance Corporation in cases where an insured nonmember State bank is aggrieved by an action of a registered clearing agency for which one of the Federal bank regulatory agencies is the "appropriate regulatory agency".

Section 342.1 would set out the coverage of the regulation and define a new term "bank clearing agency" to include all registered clearing agencies for which one of the three bank regulatory agencies is the "appropriate regulatory agency" under section 3(a)(34)(B) of the Act.

Section 342.2 would relate to applications for stays of disciplinary sanctions or summary suspensions by "bank clearing agencies". It only requires that such requests be in writing and include a statement as to why a stay should be granted. Further, it specifically states that such requests may be made by telegraph as well as by other written means.

Section 342.3 would prescribe certain procedures with respect to applications for the review of final disciplinary sanctions, denials of participation, or prohibitions or limitations of access to services imposed by bank clearing agencies. This section would establish the appropriate formal requirements for such appeals, establish certain time limitations with respect to which documents must be filed and establish a procedure for oral argument before the Corporation.

2. Upon adoption of the proposal, the new Part 342 to Title 12 Code of Federal Regulations would read as follows:

#### PART 342—APPLICATION FOR A STAY OR REVIEW OF ACTIONS OF BANK CLEARING AGENCIES

Sec.

342.1 Scope of part.

342.2 Applications for stays of disciplinary sanctions or summary suspensions by a bank clearing agency.

342.3 Applications for review of final disciplinary sanctions, denials of participation, or prohibitions or limitations of access to services imposed by bank clearing agencies.

**AUTHORITY:** Secs. 17A and 19 of the Securities Exchange Act of 1934; 15 U.S.C. 78q-1 and 78s.

#### § 342.1 Scope of part.

This part is issued by the Federal Deposit Insurance Corporation (the "Corporation") pursuant to sections 17A, 19 and 23 of the Securities Exchange Act of 1934 as amended (15 U.S.C. 78) (the "Act"). It applies to applications by banks insured by the Corporation (other than members of the Federal Reserve System) for a stay or review of certain actions by clearing agencies registered under the Act for which the Securities and Exchange Commission is not the appropriate regulatory agency under section 3(a)(34)(B) of the Act ("bank clearing agencies").

#### § 342.2 Applications for stays of disciplinary sanctions or summary suspensions by a bank clearing agency.

If any bank clearing agency imposes any final disciplinary sanction pursuant

to section 17A(b)(3)(G) of the Act, or summarily suspends or limits or prohibits its access pursuant to section 17A(b)(5)(C) of the Act, any person aggrieved thereby for which the Corporation is the appropriate regulatory agency may file with the Corporation, by telegram or otherwise, a request for a stay of imposition of such action. Such request shall be in writing and shall include a statement as to why such stay should be granted.

#### § 342.3 Applications for review of final disciplinary sanctions, denials of participation, or prohibitions or limitations of access to services imposed by bank clearing agencies.

(a) Proceedings on an application to the Corporation under section 19(d)(2) of the Act for review of any final disciplinary sanction, denial or conditioning of participation, or prohibition or limitation with respect to access to services offered by a bank clearing agency shall be governed by this section.

(b) An application for review pursuant to section 19(d)(2) of the Act shall be filed with the Corporation within 30 days after notice thereof was filed pursuant to section 19(d)(1) of the Act and received by the aggrieved person applying for review, or within such longer period as the Corporation may determine. The Executive Secretary of the Corporation shall serve a copy of the application on the bank clearing agency, which shall, within ten days after receipt of the application, certify and file with the Corporation one copy of the record upon which the action complained of was taken, together with three copies of an index to such record. The Executive Secretary shall serve upon the parties copies of such index and any papers subsequently filed.

(c) Within 20 days after receipt of a copy of the index, the applicant shall file a brief or other statement in support of his application which shall state the specific grounds on which the application is based, the particular findings of the bank clearing agency to which objection is taken, and the relief sought. Any application not perfected by such timely brief or statement may be dismissed as abandoned.

(d) Within 20 days after receipt of the applicant's brief or statement the bank clearing agency may file an answer thereto, and within 10 days of receipt of any such answer the applicant may file a reply. Any such papers not filed within the time provided by paragraphs (b), (c), or (d) of this section will not be received except upon special permission of the Corporation.

(e) On its own motion, the Corporation may direct that the record under review be supplemented with such additional evidence as it may deem relevant. Nevertheless, the bank clearing agency and persons who may be aggrieved by its actions shall be obliged to present all evidence that they deem relevant in the proceedings before the bank clearing agency, and no such person shall be entitled to present additional evidence un-



less he shows to the satisfaction of the Corporation that such additional evidence is material and that there were reasonable grounds for his failure to present such evidence in such proceedings. Any request for leave to present additional evidence shall be filed promptly so as not to delay the disposition of the proceeding.

(f) Oral argument before the Corporation may be requested by the applicant or the bank clearing agency as follows: (1) By the applicant with his brief or statement or within 10 days after receipt of the bank clearing agency's answer, or (2) by the bank clearing agency with its answer. The Corporation, in its discretion, may grant or deny any request for oral argument and, where it deems it appropriate to do so, the Corporation will consider an application on the basis of the papers filed by the parties, without oral argument.

(g) The rules of practice contained in Part 308 shall apply to review proceedings under this rule to the extent that they are not inconsistent with this section. Attention is directed particularly to § 308.20 of these regulations relating to the form of papers and number of copies to be filed.

3. All interested persons are invited to submit comments in writing on or before August 9, 1976 to Alan R. Miller, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th St., NW, Washington, D.C. 20429. All written documents will be made available for public inspection during regular business hours at the Office of the Executive Secretary, Room 6108, at the above address.

By Order of the Board of Directors, July 6, 1976.

FEDERAL DEPOSIT INSURANCE  
CORPORATION,  
ALAN R. MILLER,  
Executive Secretary.

[FR Doc. 76-19962 Filed 7-9-76; 8:45 am]

## FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 563c]

[No. 76-476]

### INSURANCE OF ACCOUNTS

#### Form and Content of Financial Statements

JUNE 30, 1976.

The Federal Home Loan Bank Board, by Resolution No. 73-1768, dated November 28, 1973, adopted § 563c.1 of the rules and regulations for Insurance of Accounts relating to the form and content of financial statements. On February 28, 1974, the Board, by Resolution No. 74-144, revised § 563c.1 to provide that its requirements be applicable to financial statements prepared for inclusion in proxy statements and offering circulars required in connection with conversions under Part 563b, and to provide for disclosure in such financial statements of certain information relevant to converted insured institutions.

Analysis of conversion applications containing financial statements prepared

in accordance with § 563c.1, discussions with professional accounting associations, and enactment of Pub. L. 93-495 (H.R. 11221), which provides, in part, that a converting Federal association may retain its Federal charter, have indicated a need to further amend § 563c.1 by replacing it with several new provisions incorporating Articles 1, 2, 3, 4, and 5 and Rule 9-02 of Article 9 of Regulation S-X, promulgated by the Securities and Exchange Commission (17 CFR Part 210), and supplementing Regulation S-X with additional requirements appropriate to savings and loan industry accounting.

Accordingly, the Board hereby proposes to amend Part 563c by revising § 563c.1, redesignating §§ 563c.2 through 563c.5 as §§ 563c.10 through 563c.13, and adding new §§ 563c.2 through 563c.9, to read as set forth below.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street, N.W., Washington, D.C. 20552, by August 10, 1976, as to whether these proposals should be adopted, rejected, or modified. Copies of all written material submitted will be available for public inspection at the above address during normal business hours.

#### Subpart A—Form and Content of Financial Statements in Offering Circulars

##### § 563c.1 Application of this subpart.

(a) This subpart states the requirements as to form and content of financial statements to be furnished by an insured institution with the following:

(1) Any proxy statement or offering circular required to be used in connection with a conversion under Part 563b of this subchapter; and

(2) Any offering circular or private placement memorandum required to be used in connection with issuance of subordinated debt securities under § 563.8-1 of this subchapter.

(b) The term "financial statements" includes all notes to the statements and related schedules.

(c) Consistent with the provisions of this subpart, financial statements furnished by an insured institution shall comply with the following provisions of Regulation S-X of the Securities and Exchange Commission (17 CFR Part 210): §§ 210.1-01 through 210.5-04 and § 210.9-02 (17 CFR 210.1-01 through 210.5-04 and 210.9-02).

##### § 563c.2 Definitions (See also 17 CFR 210.1-02).

(a) *Registrant.* The term "registrant" means an applicant, an insured institution, or any other person required to prepare financial statements in accordance with this subpart.

(b) *Significant subsidiary.* The term "significant subsidiary" means (1) a subsidiary or (2) a subsidiary and its subsidiaries, meeting any of the conditions described below based on (i) the most recent annual financial statements, including consolidated statements, of such subsidiary which would be required to be filed if such subsidiary were a registrant

and (ii) the most recent annual consolidated financial statements of the registrant being filed:

(1) The parent's and the parent's other subsidiaries' proportionate share of the total assets (after intercompany eliminations) of the subsidiary, or their investments in and advances to the subsidiary exceed one percent of the consolidated total assets.

(2) The parent's and the parent's other subsidiaries' proportionate share of the gross revenues (after intercompany eliminations) of the subsidiary exceed five percent of the consolidated gross revenues.

##### § 563c.3 Qualification of public accountant (See also 17 CFR 210.2-01).

(a) The term "qualified public accountant" means a certified public accountant or licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States who is in good standing as such under the laws of the jurisdiction where the home office of the registrant to be audited is located. Any person or firm who is suspended from practice before the Securities and Exchange Commission or other governmental agency is not a "qualified public accountant" for purposes of this section.

(b) Independence of public accountant: (See also § 571.2(c) (3) of this subchapter).

##### § 563c.4 General notes to financial statements. (See also 17 CFR 210.3-16).

(a) *Restrictions which limit the availability of reserves and undivided profits for dividend purposes.* Describe any such restrictions, indicating briefly the source, their pertinent provisions, and, where appropriate and determinable, the amount of reserves and undivided profits (1) so restricted or (2) free of such restrictions. These restrictions include absolute restrictions, such as those imposed by the Federal Home Loan Bank Board, state laws, as a result of conversion, or credit agreements, as well as restrictions which may result in additional income taxes before payment of dividends.

(b) *Income tax expense.* Describe in a footnote the method used in computing the tax bad debt deduction; include the principal present assumptions on which the registrant has relied in making or not making provisions for such taxes. Disclose whether or not consolidated returns are filed.

(c) *Provision for losses.* Describe the policies used by the registrant in providing for losses on loans and real estate. Indicate if specific provisions or a "basket" provision is used. Also state the policy with respect to capitalizing or expensing holding costs of real estate owned.

(d) *Conversion.* If the registrant is an applicant for conversion from a mutual to a capital stock company or has so converted within the last three years, describe generally the terms of such conversion and any restrictions on the operations of the registrant imposed by such conversion.



(e) *Loans receivable.* Describe the accounting policies regarding recognition of income on loans receivable. Include the policies with respect to discontinuance of interest accrual; the treatment of discounts and premiums on loans originated, purchased, or sold; and the treatment of loan fees for originations, servicing, commitments, and other fees.

**§ 563c.5 Consolidation of financial statements of a registrant and its subsidiaries engaged in diverse financial activities (See also 17 CFR 210.4-02).**

(a) If the registrant and its subsidiaries are engaged in one or more types of financial activities, e.g., banking, insurance, finance, and savings and loan activities, consolidated financial statements may be filed unless deemed inappropriate. *Provided, That*, when more than one type of financial activity is involved, separate audited financial statements for each significant financial subsidiary or each significant group of financial subsidiaries shall be presented. Savings and loan holding companies engaged in savings and loan related finance activities, as defined in § 584.2 of this chapter, are considered to be one type of financial activity for the purpose of this section.

(b) If the registrant's subsidiaries are engaged in manufacturing, merchandising or other nonfinancial activities, the financial statements of the subsidiaries shall not be consolidated with the operations of the registrant. However, the subsidiaries may be included in the consolidated financial statements if their activities are principally for the benefit of the operations of the registrant. In interpreting the significance of the subsidiaries, the registrant should consider factors in addition to those in the definition of significant subsidiary, including the primary business activities of the registrant, trends, and other pertinent matters.

**§ 563c.6 Balance sheets (See also 17 CFR 210.5-02).**

**REQUIRED ASSET CAPTIONS AND DISCLOSURES**

(a) *Investment securities.*—(1) *United States Government and Federal Agency obligations.* State, parenthetically or otherwise, the basis of determining the amount shown in the balance sheet and state the alternate of the aggregate cost or the aggregate amount on the basis of market quotations at the balance sheet date. When the original cost of securities purchased on a yield basis has been properly adjusted to reflect amortization of premium or accretion of discount since acquisition, the basis of determining their amount may be described as "at amortized cost" with appropriate footnote disclosures.

(2) *Other securities and investments.* State, parenthetically or otherwise, the basis of determining the amount shown in the balance sheet and state the alternate of the aggregate cost or the aggregate amount on the basis of market quotations at the balance sheet date. When the original cost of securities purchased

on a yield basis has been properly adjusted to reflect amortization of premium or accretion of discount since acquisition, the basis of determining their amount may be described as "at amortized cost" with appropriate footnote disclosures. Marketable equity securities, their terms either must be redeemed by the issuing enterprise or are redeemable at the option of the investor, are to be carried at the lower of their aggregate costs or market values, determined at the balance sheet date.

- (3) *Securities of affiliates.*
- (4) *"Federal Funds" sold.*
- (5) *Securities purchased under agreements to resell.*

(b) *Mortgage loans.* (1) State separately here, or in a note referred to herein, each major class, such as FHA and VA loans, conventional loans, loans to facilitate sales of real estate foreclosed, unimproved land, contracts to facilitate the sale of real estate, and loans and participations guaranteed by an agency of the Federal government. Indicate the approximate amounts pledged to secure debt.

(2) Loans to facilitate sales of association-owned real estate shall be disclosed by appropriate footnote and the substance explained clearly and precisely.

(3) State separately, or by a footnote, loans on which the registrant or its subsidiaries have other than a primary lien. By a footnote disclose briefly the substance of such loan transactions including the amounts of prior liens.

(4) State separately, or by a footnote, the amounts of Government National Mortgage Association, Federal Home Loan Mortgage Corporation and other participation notes included in mortgage loans. Indicate the range of rates and maturities of such notes.

(5) In a footnote, state separately any valuation allowances, unearned interest on consumer loans, and any other deductions used to arrive at net loans receivable. Undisbursed loan funds shall not be deducted (see § 563c.6(k)).

(c) *Other loans (Show separately any significant subcategory).* (1) Home improvement loans, both insured and uninsured.

- (2) Education loans.
- (3) Mobile home loans.
- (4) Loans secured by savings accounts.
- (5) Mortgage loans purchased under agreements to resell.
- (6) Other.

(d) *Accrued interest receivable on loans.* Show separately, with the amount of interest delinquent for 60 days or more included parenthetically on the balance sheet or disclosed in a footnote.

(e) *Valuation allowances.* Deduct from the related assets. In a separate note set forth an analysis indicating losses incurred, recoveries made, and transfers to this account during the fiscal year. (See also § 563c.7(f)).

(f) *Real estate owned.* State, parenthetically or otherwise:

- (1) The basis of determining the amount shown on the balance sheet, and
- (2) A description of each class of real estate owned which:

(i) Was acquired by foreclosure or by deed in lieu of foreclosure.

(ii) Is in judgment and subject to redemption, or

(iii) Was acquired for development or resale.

Show separately any accumulated depreciation or valuation allowances. Disclose the policy and amounts of capitalized costs, including interest.

(g) *Investments in real estate ventures.* In a note, present summarized financial statements, which may be unaudited, for each investment which is twenty (20) percent or more owned by the registrant or any of its subsidiaries or for which liabilities (including contingent liabilities) to the parent exceed ten (10) percent of the parent's net worth.

(h) *Investment in stock of the Federal Home Loan Bank.* Indicate basis for determining the amount shown in the balance sheet.

(i) *Prepayment to FSLIC Secondary Reserve.*

**REQUIRED LIABILITIES, RESERVES, AND STOCKHOLDERS EQUITY CAPTIONS AND DISCLOSURES**

(j) *Savings accounts.* Include accrued interest or dividends, if appropriate. In a note, set forth in tabular form the amounts of savings accounts by categories of interest rate. As of the date of the latest balance sheet, set forth in tabular form the amounts of such certificates maturing during each of the three years following such date and the total maturing thereafter. Also disclose the weighted average interest rate on outstanding savings at each date for which a balance sheet is presented.

(k) *Loans in process.* Include the amount of all undisbursed loan proceeds. Do not include interest, discounts, appraisal and inspection fees or any other amounts not intended as funds to be disbursed for purchase, construction, development or improvement.

(l) *Advance payments by borrowers for taxes and insurance.*

(m) *Advances from Federal Home Loan Bank.* State separately here, or in a note referred to herein, information indicating:

- (1) The aggregate amount due each year and the range of interest rates, and
- (2) Assets pledged.

(n) *Other borrowed funds.* State separately each major class of other borrowed funds (for reverse repurchase agreements, see § 563c.6(o)). Bonds, notes, debentures, and similar debt (including subordinated indebtedness) shall be reported as liabilities. Debt instruments may not be grouped with stockholders' equity under the caption "Capital." (See also captions 25 and 29 of 17 CFR 210.5-02.)

(o) *Sale and repurchase agreements.* Simultaneous sale and repurchase agreements (reverse repurchase agreements or "reverse repos") should be separately disclosed here, or by footnote. The substance of such transactions should be briefly but clearly explained and the effects of any imputation of interest explained. This includes instances where



the seller is acting as a conduit (agent) and where it is appropriate for the interest to be imputed on the basis of net cash flow.

(p) *Commitment and contingent liabilities.* In addition to the disclosures required by 17 CFR 210.5-2 (caption 34) and 210.3-16(i), the registrant shall disclose the amount of outstanding loan commitments.

(q) *Total liabilities.*

(r) *Statement of stockholders' equity* (See also § 563c.6(n)). A summary shall be given for each class of stockholders' equity set forth in the balance sheet.

#### REQUIRED CAPTIONS AND DISCLOSURES

(1) *Balance at beginning of period.* State separately the adjustments to the balance sheet at the beginning of the first period of the report for items which were retroactively applied to period(s) prior to that period. (See § 563c.7(t).)

(2) *Net income or loss from statement of operations.* See § 563c.7(v).

(3) *Other additions.* State separately, indicating clearly the nature of the nature of the transactions out of which the items arose.

(4) *Dividends.* For each class of shares, state the amount per share and in the aggregate. Show separately cash, other (specified) dividends, and the market value of stock dividends.

(5) *Other deductions.* State amounts separately, indicating clearly the nature of the transactions out of which the items arose.

(6) *Balance at end of period.* The balance at the end of the most recent period shall agree with the related statement of financial condition caption.

§ 563c.7 *Income statements.* (See also 17 CFR 210.5-03).

The following format for income statements shall be used by registrants filing under this regulation:

#### INCOME ITEMS

(a) *Interest on mortgage loans.* State the amount of interest received and/or accrued on mortgage loans. If a premium has been paid in connection with any purchased loans and such premium is being amortized periodically, such charges should be reflected here. Amortization of loan fees which may be deemed to be an adjustment of the contract rate shall be reported under this caption.

(b) *Interest on other loans.* State the amount of interest received or accrued on loans secured by savings accounts or other obligations of the institution, unsecured property improvement loans, mobile home loans, unsecured education loans, and any other loans which are not secured by real estate.

(c) *Interest and dividends on investments and deposits.* State the amount of interest received or accrued on U.S. Government and other investment securities and deposits in banks, including interest and/or dividends on deposits in savings and loan associations and stock in Federal Home Loan Banks. Include also:

(1) Periodic credits and/or debits to

investment income arising from the amortization of bond premium and/or accretion of discount; and

(2) Periodic credits and/or debits arising from the amortization of gains or losses on the sale of securities, prior to December 31, 1971, in accordance with § 563.23-2(a) and (c)(1) of this subchapter. Exclude from this caption income on investments in subsidiaries and affiliates.

(d) *Loan fee and service charges.* State the amount of acquisition credits and discounts taken into income in accordance with § 563.23-1 of this subchapter, plus all fees and charges that were not subject to deferral under the regulation. Show separately any significant items.

(e) *Income from unconsolidated subsidiaries and affiliates.* State the dividend or interest income received from the institution's investment in the capital stock, obligations (other than conforming loans), or other securities of a subsidiary or affiliate.

(f) *Income from real estate operations.* Include in this caption all revenues and expenses which arose from the ownership and operation of real estate owned. In a note, set forth the basis for the amount reported showing separately the costs of sales; gains on sales of property acquired for development; gains on sales of foreclosed properties; increases or decreases in allowances for losses; taxes, insurance, maintenance, interest and other holding costs; and rental and other income. If the amount to be reported is a net loss, it shall be included among the expenses.

(g) *Other income.* State the amount of any other income which is not reported under any of the preceding income classifications. Material, unusual or non-recurring income and profits are to be reported separately. State separately any material amounts indicating clearly the nature of the transaction out of which the items arose. Other income may be stated net of applicable expenses.

#### INCOME DEDUCTIONS

(h) *Interest on savings accounts.* Include all interest or dividends accrued on savings accounts.

(i) *Interest on borrowings.* Include all interest paid or accrued on borrowings, indicating any amounts capitalized. (See also 17 CFR 210.3-16(r)).

(j) *Compensation.* State the compensation of officers, directors and employees (fees, salaries, wages, bonuses, and other compensation), both current and deferred.

(k) *Net occupancy expense.* Include all expense of occupancy, e.g. rent, utilities, repairs and maintenance, depreciation on buildings, amortization of leasehold improvements, property taxes, maintenance and other expenses.

(l) *Advertising.* State the cost of all types of advertising activities, including the cost of giveaways and premiums.

(m) *Provision for loan losses.* In a note, set forth the basis for making such provisions (see § 563c.6(e)).

(n) *Losses from real estate operations.* (See § 563c.7(f)).

(o) *Other expenses.* State separately all items in excess of 1 percent of consolidated gross income.

(p) *Income or loss before income tax expense and applicable items under § 563c.7 (q) through (u).*

(q) *Income tax expense.* (See § 563c.12 and 17 FR 210.3-16(o)).

(r) *Minority interest in income of consolidated subsidiaries.*

(s) *Equity in earnings of unconsolidated subsidiaries and 50 percent or less owned persons.* The amount reported under this caption shall be stated net of any applicable tax provisions. State, parenthetically or in a note referred to herein, the amount of dividends received from such persons. It justified by circumstances, these items may be presented in a different position and a different manner.

(t) *Extraordinary items, less applicable tax.* State separately and disclose, parenthetically or otherwise, the tax applicable to each.

(u) *Cumulative effects of changes in accounting principles.* State separately and disclose, parenthetically or otherwise, the tax applicable to each.

(v) *Net income or loss.* The amount included under this caption shall be carried to the related subdivision of retained earnings. (See § 563c.12 (definition of "net income") and § 563c.6(r) (21)).

(w) *Earnings per share data.* Show separately:

(1) Earnings before any extraordinary items.

(2) Earnings applicable to extraordinary items, and

(3) Net earnings per share.

§ 563c.8 *Statement of changes in financial position.*

The statement of changes in financial position shall show the sources from which funds have been obtained and their application. At a minimum, the following shall be reported:

(a) *Increase of funds.* (1) Funds provided from operations showing separately net income or loss and the addition and deduction of specific items which did not require the expenditure or receipt of funds; e.g., depreciation and amortization, deferred income taxes, interest credited to savings accounts, and undistributed earnings or losses of unconsolidated persons).

(2) Loans receivable reduction:

(1) Proceeds from sale of loans.

(2) Total payments on loans.

(3) Net increase in advance payments by borrowers for taxes and insurance.

(4) Sale of assets (identifying separately items such as real estate owned, fixed assets, investment securities, etc.).

(5) Issuance of long-term debt.

(6) Increase in savings accounts.

(7) Federal Home Loan Bank advances.

(8) Borrowed money.

(9) Loan fees and discounts deferred (if collected in cash).



- (10) Decrease of cash.
- (11) Total funds provided.
- (b) *Decrease of funds.* (1) Loan originations and purchases (showing the following items separately, if material):
  - (i) Construction.
  - (ii) Purchase of property.
  - (iii) Refinance.
  - (iv) Government insured loans.
  - (v) Loans on sales of real estate owned.
  - (vi) Consumer loans.
  - (vii) Other loans.
  - (viii) Purchases of whole loans.
  - (ix) Purchases of participations.
  - (x) Less decreases in undisbursed loan proceeds.
- (2) Purchase of other assets (identifying separately items such as investment securities, fixed assets, FHLBank stock, etc.).
- (3) Additions to real estate owned.
- (i) Foreclosures.
- (ii) Investments.
- (4) Repayment of long-term debt.
- (5) Repayment of Federal Home Loan Bank advances.
- (6) Repayment of borrowed money.
- (7) Net decrease in savings accounts.
- (8) Payment of cash dividends on capital stock.
- (9) Increase in cash.
- (10) Total applications.

§ 563c.9 What schedules are to be filed.

(a) Except as otherwise expressly provided in the applicable form:

(1) Schedules I, V, VI, VIII, IX, and X shall be filed as of the dates of the most recent audited balance sheet and any subsequent unaudited balance sheet filed for each person or group; *Provided*, That any such schedule, other than Schedules I and VIII, may be omitted if:

(i) The financial statements contained therein are being filed as part of an annual or other periodic report; and

(ii) The information that would be shown in the respective columns of such schedule would reflect no changes in any issue of securities of the registrant or any significant subsidiary in excess of five percent of the outstanding securities of such issue as shown in the most recently filed annual report containing the schedule.

(2) Schedule VIII, Capital Shares, may be omitted if the above two conditions exist and any information required by column G of the schedule is shown in the related balance sheet or in a note thereto.

(3) Schedules II, III, and VII shall be filed for each period for which an income statement is required to be filed for each person or group.

(4) Schedule IV shall be filed with each balance sheet filed.

(b) When information is required in schedules for both the registrant and the registrant and its subsidiaries consolidated, it may be presented in the form of a single schedule: *Provided*, That items pertaining to the registrant are separately shown and that such single schedule affords a properly summarized presentation of the facts. If the information required by any schedule (including the notes thereto) may be shown in the related financial statement or in a note thereto without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

(c) Reference to the schedules shall be made in the appropriate captions of the financial statements. Where, pursuant to the applicable instructions, the supporting schedules do not accompany the financial statements, references to such schedules shall not be made.

(d) The schedules shall be examined by an independent accountant if the related financial statements are so examined.

(e) *Filing of certain schedules.*—(1) *Schedule I.* U.S. Treasury Securities, Securities of Other U.S. Government Agencies and Corporations, and Obligations of States and Political Subdivisions.—The schedule prescribed by § 563c.9(f) shall be filed—

(i) In support of information supplied pursuant to § 563c.8(a)(2) on a balance sheet, if the greater of the aggregate cost or the aggregate market value of investment securities based on market quotations as of the balance sheet date constitutes 5 percent or more of total assets.

(ii) In support of information supplied pursuant to § 563c.6(a)(2) on a balance sheet, if the amount at which other security investments is shown in such balance sheet constitutes 5 percent or more of total assets.

(2) *Schedule II.* See 17 CFR 210.5-04(d) (Schedule II). For purposes of this schedule, exclude in the determination of the amount of indebtedness any amounts due the registrant for mortgage loans secured by a person's residence.

(3) *Schedule III.* Investments in, Equity in Earnings of, and Dividends Received from Affiliates and Other Persons. This schedule may be omitted if the related sums on the balance sheet do not exceed one (1) percent of total assets. See 17 CFR 210.5-04(d) (Schedule III).

(4) *Schedule IV.* Slow Loans.—File with each balance sheet filed. The schedule is prescribed by § 563c.9(b).

(5) *Schedule V.* Bonds, Mortgages and Similar Debt. See 17 CFR 210.5-04(d) (Schedule IX).

(6) *Schedule VI.* Guarantees of Securities of Other Issuers. See 17 CFR 210.5-04(d) (Schedule XI).

(7) *Schedule VII.* Valuation and Qualifying Accounts and Reserves. See 17 CFR 210.5-04(d) (Schedule XII).

(8) *Schedule VIII.* Capital Shares. See 17 CFR 210.5-04(d) (Schedule XIII).

(9) *Schedule IX.* Warrants or Rights. See 17 CFR 210.5-04(d) (Schedule XIV).

(10) *Schedule X.* Other Securities.—If there are any classes of securities not included in Schedules I, V, VI, VIII, or IX, set forth in this schedule information concerning such securities corresponding to that required for the securities included in such schedules. Information need not be set forth, however, as to notes, drafts, bills of exchange, or bankers' acceptances, having a maturity at the time of issuance not in excess of one year. This schedule may be omitted if the total of these other securities does not exceed one (1) percent of total assets. The schedule is prescribed by § 563c.9(f).

(11) *Schedule XI.* Intangible Assets, Deferred Research and Development Expenses, Preoperating Expenses and Similar Deferrals. See 17 CFR 210.5-04(d) (Schedule VII).

(12) *Schedule XII.* Accumulated Depreciation and Amortization of Intangible Assets. See 17 CFR 210.5-04(d) (Schedule VIII).

(f) *Schedules.*



**SCHEDULE I.—U.S. Treasury securities, securities of other U.S. Government agencies and corporations, and obligations of States and political subdivisions**

Type and maturity grouping	Col. A Principal amount	Col. B Book value <sup>1</sup>	Col. C Market value
U.S. Treasury securities:			
Within 1 yr.			
After 1 but within 5 yr.			
After 5 but within 10 yr.			
After 10 yr.			
Total U.S. Treasury securities:			
Securities of other U.S. Government agencies and corporations:			
Within 1 yr.			
After 1 but within 5 yr.			
After 5 but within 10 yr.			
After 10 yr.			
Total securities of other U.S. Government agencies and corporations:			
Obligations of states and political subdivisions: <sup>2</sup>			
Within 1 yr.			
After 1 but within 5 yr.			
After 5 but within 10 yr.			
After 10 yr.			
Total obligations of States and political subdivisions:			

<sup>1</sup> State briefly in a footnote the basis for determining the amounts in this column.

<sup>2</sup> Include obligations of the States of the United States and their political subdivisions, agencies, and instrumentalities; also obligations of territorial and insular possessions of the United States. Do not include obligations of foreign states.

<sup>3</sup> State in a footnote the aggregate: (a) principal amount; (b) book value; and (c) market value of securities that are less than investment grade. If market value is determined on any basis other than market quotations at balance sheet date, explain.

**SCHEDULE IV.—Slow loans, as defined in sec. 561.16 of the rules and regulations for insurance of accounts**

Type	Col. A Principal outstanding	Col. B Past due pay- ments (including accrued interest)
1st mortgage loans and contracts:		
Insured or guaranteed mortgage loans:		
Mortgage loans, participations, and mortgage backed certificates insured or guaran- teed by an agency or instrumentality of the United States:		
Conventional mortgage loans:		
Single family dwelling:		
Homes, 2- to 4-dwelling units:		
Multifamily, more than 4-dwelling units:		
Other improved real estate, commercial and industrial:		
Acquisition and development of land:		
Undeveloped land:		
Participations:		
Other mortgage loans and contracts to facilitate sale of real estate owned:		
2d mortgage loans:		
Total mortgage loans:		
Other loans:		
Property improvement, alteration, or repair:		
Educational loans:		
Insured or guaranteed:		
Other than insured or guaranteed:		
Mobile home chattel paper:		
Insured or guaranteed:		
Other than insured or guaranteed:		
Equipping and secured consumer loans:		
Unsecured consumer loans:		
Other loans:		
Total other loans:		
Total slow loans:		

**SCHEDULE X.—Other securities**

Type	Col. A Amount	Col. B Book value <sup>1</sup>	Col. C Market value
Bonds, notes, and debentures <sup>2</sup> :			
Stock of the Federal Home Loan Bank, at cost:			
Other stocks <sup>3</sup> :			
Total:			

<sup>1</sup> State briefly in a footnote the basis for determining the amounts shown in this column.

<sup>2</sup> State in a footnote the aggregate amount and book value of foreign securities included.

<sup>3</sup> State in a footnote the aggregate: (a) principal amount; (b) book value; and (c) market value of bonds, notes, and debentures that are less than investment grade. If market value is determined on any basis other than market quotations at balance sheet date, explain.

<sup>4</sup> State in a footnote the aggregate market value.

**Subpart B—Other Accounting  
Requirements**

org. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

§ 563c.10-§ 563c.13 [Redesignated].

By the Federal Home Loan Bank Board.

Section 563c.2-§ 563.5 are redesignated as §§ 563c.10-563c.13.

J. J. FINN,  
Secretary.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; (12 U.S.C. 1725, 1726, 1730) Re-

[FR Doc.76-19894 Filed 7-9-76; 8:45 am]



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ANTHONY E. DESMOND,  
JAMES E. FIGENSHAW,  
CHRISTOPHER S. CROOK,  
Antitrust Division, Department of Justice,  
450 Golden Gate Avenue, Box 36046,  
Room 16432, San Francisco, California  
94102, Telephone: (415) 556-6300. At-  
torneys for the United States.

UNITED STATES DISTRICT COURT WESTERN DIS-  
TRICT OF WASHINGTON AT SEATTLE

United States of America, Plaintiff, v.  
Northwest Collision Consultants, Defendant.  
(Civil No. C75-837V Filed: July 2, 1976.)

#### Stipulation

It is stipulated by and between the under-  
signed parties, plaintiff United States of  
America, and defendant, Northwest Collision  
Consultants, by their respective attorneys,  
that:

1. The parties consent that a final judg-  
ment in the form hereto attached may be  
filed and entered by the Court upon the  
motion of either party or upon the Court's  
own motion, at any time after compliance  
with the requirements of the Antitrust Pro-  
cedures and Penalties Act (15 USC 16) and  
without further notice to any party or other  
proceedings: *Provided*, That plaintiff has not  
withdrawn its consent which it may do at  
any time before the entry of the proposed  
final judgment by serving notice thereof on  
defendant and by filing that notice with the  
Court.

2. In the event plaintiff withdraws its con-  
sent or if the proposed Final Judgment is not  
entered pursuant to this Stipulation, this  
Stipulation shall be of no effect whatever and  
the making of this Stipulation shall be with-  
out prejudice to plaintiff and defendant in  
this or any other proceeding.

Dated: July 2, 1976.

For the plaintiff, Thomas E. Kauper, As-  
sistant Attorney General, Baddia J. Rashid,  
Charles F. B. McAleer, Anthony E. Desmond,  
James E. Figenshaw, Christopher S. Crook,  
Robert J. Ludwig, Attorneys, Department of  
Justice.

For the defendant, Kane, Vandenberg &  
Hartinger, Washington Plaza Building, One  
Washington Plaza, Suite 2100, Tacoma,  
Washington 98402. G. Perrin Walker, Attor-  
ney for Defendant.

United States of America, Plaintiff, v.  
Northwest Collision Consultants, Defend-  
ant, Civil No. C75-837V. Filed: July 2, 1976.

#### Final Judgment

UNITED STATES DISTRICT COURT WESTERN DIS-  
TRICT OF WASHINGTON AT SEATTLE

Plaintiff, United States of America, hav-  
ing filed its complaint herein on December  
3, 1975, and defendant, Northwest Collision  
Consultants, having appeared by its counsel,  
and both parties by their respective at-  
torneys having consented to the making and  
entry of this Final Judgment without ad-  
mission by any party in respect to any issue;

Now, therefore, before any testimony has  
been taken herein, without trial or adjudica-  
tion of any issue of fact or law herein, and  
upon consent of the parties hereto, it is here-  
by

Ordered, adjudged and decreed, as fol-  
lows:

#### I

This Court has jurisdiction over the sub-  
ject matter of this action and of the parties  
hereto. The complaint states claims upon  
which relief may be granted against the de-  
fendant under Section 1 of the Act of Con-  
gress of July 2, 1890, as amended (15 U.S.C.  
§ 1), commonly known as the Sherman Act.

#### II

As used in this Final Judgment:

(A) "Defendant" means defendant North-  
west Collision Consultants;

(B) "Person" means any individual, part-  
nership, corporation, association, firm, or any  
other business or legal entity;

(C) "Parts" means any portion of an auto-  
mobile except the engine and its components;  
(D) "Body repair job" means the applica-  
tion of new or used parts and labor to the  
damaged bodies of automobiles for the pur-  
pose of repairing them;

(E) "Hourly rate" means the time charge  
applied to the length of time that each body  
repair job requires; and

(F) "Body repair shop" means any per-  
son engaged in the performance and sale of  
a body repair job.

#### III

The provisions of this Final Judgment shall  
apply to the defendant and to each of its  
officers, directors, agents, employees, mem-  
bers, chapters, successors and assigns, and to  
all other persons in active concert or partici-  
pation with any of them who receive actual  
notice of this Final Judgment by personal  
service or otherwise.

#### IV

Defendant is enjoined and restrained from,  
directly or indirectly:

(A) Entering into, adhering to, maintain-  
ing, or furthering any contract, agreement,  
understanding, plan, or program, to fix, es-  
tablish, or maintain (1) prices charged by  
body repair shops in the performance and  
sale of body repair jobs, (2) prices, discounts,  
markups, or other terms or conditions, at  
which new or used parts are sold by body re-  
pair shops, (3) hourly rates charged by body  
repair shops, or (4) profit margins utilized by  
body repair shops;

(B) Advocating, suggesting, urging, induc-  
ing, compelling, or in any other manner in-  
fluencing or attempting to influence any per-  
son to use or adhere to (1) any price to be  
charged by a body repair shop in the per-  
formance and sale of a body repair job, (2)  
any price, discount, markup, or other term  
or condition at which new or used parts are  
to be sold by a body repair shop, (3) any  
hourly rate to be charged by a body repair  
shop, or (4) any profit margin to be utilized  
by a body repair shop;

(C) Policing, urging, coercing, influencing,  
or attempting to influence in any manner any  
body repair shop or any other person, or  
devising or putting into effect any procedure  
(including but not limited to picketing) the  
effect of which is to fix, maintain, or stabilize  
(1) prices to be charged by a body repair  
shop in the performance and sale of a body  
repair job, (2) any price, discount, markup,  
or other term or condition at which new or  
used parts are to be sold by a body repair  
shop, (3) any hourly rate to be charged by a  
body repair shop, or (4) any profit margin  
to be utilized by a body repair shop; and

(D) Entering into, adhering to, maintain-  
ing or furthering, any contract, agreement,  
understanding, plan or program with any  
other person not to accept or attempt to  
obtain any body repair job.

#### V

Defendant is ordered and directed:

(A) Within 60 days after entry of this  
Final Judgment to serve a copy of this Final  
Judgment together with a letter identical in  
text to that attached to this Final Judgment  
as Appendix A, upon each of those persons  
who are or have been officers or members of  
defendant at any time since January 1, 1974;

(B) To serve a copy of this Final Judgment  
together with a letter identical in text to  
that attached to this Final Judgment as Ap-  
pendix A, upon all of its future members at  
such time as they become members;

(C) To collect from its members and  
destroy any printed or written materials  
distributed by defendant, including but not  
limited to the document entitled "Projected  
Operating Costs," and without regard to  
whether said materials are filled out or blank,  
which refer in any manner to (1) any price  
charged or to be charged by a body repair  
shop in the performance and sale of a body  
repair job, (2) any price, discount, markup,  
or other term or condition at which new or  
used parts are sold or are to be sold by a  
body repair shop, (3) any hourly rate charged  
or to be charged by a body repair shop, (4)  
any profit margin utilized or to be utilized by  
a body repair shop, or (5) any cost of doing  
business as a body repair shop; and

(D) To file with this Court and serve upon  
the plaintiff within sixty (60) days after the  
date of entry of this Final Judgment an  
affidavit as to the fact and manner of com-  
pliance with subsections A and C of this  
Section V.

#### VI

(A) For the purpose of determining or  
securing compliance with this Final Judg-  
ment, and for no other purpose, any duly  
authorized representative of the Department  
of Justice shall, upon written request of the  
Attorney General or the Assistant Attorney  
General in charge of the Antitrust Division,  
and on reasonable notice to defendant made  
to its principal office, be permitted, subject  
to any legally recognized privilege:

(1) Access during the office hours of de-  
fendant to all books, ledgers, accounts, cor-  
respondence, memoranda, and other records  
and documents, in the possession or under  
the control of defendant, relating to any  
matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience  
of defendant and without restraint or inter-  
ference from it, to interview officers, direc-  
tors, agents, partners, members, or employees  
of defendant, who may have counsel pres-  
ent, regarding any such matters.

(B) Defendant, upon the written request  
of the Attorney General or the Assistant  
Attorney General in charge of the Antitrust  
Division, shall submit such reports in writing  
with respect to any of the matters contained  
in this Final Judgment as may from time to  
time be requested.

No information obtained by the means pro-  
vided in this Section VI shall be divulged by  
any representative of the Department of Jus-  
tice to any person other than a duly au-  
thorized representative of the Executive  
Branch of the United States, except in the  
course of legal proceedings to which the  
United States is a party, or for the purpose  
of securing compliance with this Final Judg-  
ment, or as otherwise required by law.

#### VII

Jurisdiction is retained by this Court for  
the purpose of enabling any of the parties  
to this Final Judgment to apply to this  
Court at any time for such further orders  
and directions as may be necessary or ap-  
propriate for the construction or carrying out  
of this Final Judgment, for the modification  
of any of the provisions hereof, for the enforce-  
ment of compliance therewith, and for the  
punishment of violations thereof.

#### VIII

Entry of this Final Judgment is in the  
public interest.

United States District Judge.



## APPENDIX A

Re: Final Judgment in *United States v. Northwest Collision Consultants*, Civil No. C75-837V.

DEAR SIR: Enclosed herewith is a copy of a Final Judgment entered (Date), 1976 in *United States v. Northwest Collision Consultants*, Civil No. C75-837V. The terms of the Final Judgment require that a copy of said Judgment as well as this letter be served upon you. You should read the terms of the Final Judgment carefully and note that you as an individual are bound by its provisions. The purpose of this letter is to enable you to better understand those provisions.

The essence and intent of the Final Judgment is that no person should attempt in any way to influence the pricing or profit decisions of any other body repair shop in the performance and sale of body repair jobs. These decisions include not only the total cost or bottom line figure of body repair jobs, but also the cost of parts (including whether or not some discount is given), hourly rates, and profit margins. It is, for example, illegal and a violation of the terms of the Final Judgment to attempt to influence another person to utilize a particular profit margin in his body repair business. In this connection, you are directed to immediately return to this office all copies in your possession of any "Projected Operating Costs" sheets, whether or not these sheets have been filled out, and any other materials you have relating to the cost of doing business which have been distributed by this office.

ANTHONY E. DESMOND,  
JAMES E. FIGENSHAW,  
CHRISTOPHER S. CROOK,  
Antitrust Division, Department of Justice,  
450 Golden Gate Avenue, Box 36046,  
Room 16432, San Francisco, California  
94102, Telephone: (415) 556-6300. Attorneys for the United States.

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON AT SEATTLE

United States of America, Plaintiff, v.  
Northwest Collision Consultants, Defendant.  
(Civil No. C75-837V. Filed: July 2, 1976.)

## Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)-(h), Pub. L. 93-528 (December 21, 1974)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

## I

## NATURE AND PURPOSE OF THE PROCEEDING

On December 3, 1975, the United States filed a civil complaint under Section 4 of the Sherman Act (15 U.S.C. 4), alleging that defendant Northwest Collision Consultants, violated Section 1 of the Sherman Act (15 U.S.C. 1). The complaint alleges a combination and conspiracy in unreasonable restraint of interstate commerce, the substantial terms of which were that the defendant and various co-conspirators agreed (1) to raise, fix, and maintain hourly rates charged by body repair shops; (2) to eliminate discounts on new parts utilized in the performance of body repair jobs; and (3) to raise, fix, and maintain prices charged by body repair shops for the performance of body repair jobs.

## II

## PRACTICES AND EVENTS GIVING RISE TO THE ALLEGED VIOLATIONS OF THE ANTITRUST LAWS

In the automobile repair industry, the cost of a body repair job consists of two ingredients: (1) a charge for the parts utilized in

the repair of the damaged automobile and (2) a time charge or hourly rate applied to the length of time that each body repair job requires. The time charge or hourly rate includes not only wages paid to the employees of body repair shops, but also includes taxes, insurance, office and other administrative expenses, and a profit margin. The new parts utilized in body repair jobs are all manufactured outside the State of Washington and generally sold to new car dealers who in turn sell the parts to body repair shops.

The defendant Northwest Collision Consultants is a Washington corporation composed of body repair shops located in the Greater Seattle-Tacoma Area and other communities in Western Washington. The complaint alleges that beginning in December of 1973 and continuing through December of 1974, the defendant and its members combined and conspired to raise the total cost of body repair jobs by raising and maintaining the hourly rates charged by body repair jobs, and by agreeing to eliminate any discounts on the new parts that are necessary for the repair of the damaged automobile. The alleged effects of this combination and conspiracy were that competition among members of the defendant was restricted, prices of body repair jobs were maintained at non-competitive levels, and the owners of damaged automobiles were prevented from receiving competitive bids or competitive prices for body repair jobs.

## III

## EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment is binding upon all of defendant's members and expressly requires the defendant to serve all of its present members and all of its future members with copies of the judgment. The defendant is prohibited by the consent judgment from entering into any agreement or understanding concerning any of the following: (1) The total price or cost of a body repair job, (2) any price, discount, or mark-up at which parts are sold, (3) any hourly rate charged by a body repair shop, or (4) any profit margin utilized by a body repair shop. In addition, the consent judgment expressly prohibits the defendant from attempting to influence any body repair shop in the prices, discounts, hourly rates, and profit margins which that shop employs. The consent judgment also prohibits defendant from entering into any understanding whereby a body repair shop would not accept or attempt to obtain any body repair job. Finally, the defendant is required to collect from its members and destroy any written materials which it distributed in the past that referred to any price for a body repair job, any discount on parts, any hourly rate, any profit margin, or any cost of doing business as a body repair shop.

To assist defendant's members in understanding and abiding by all the provisions of the consent judgment, the defendant is required to send all of its present and future members a letter, the text of which is appended to the judgment.

## IV

## REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies that they would have had were the proposed consent judgment not entered. However, pursuant to section 5(a) of the Clayton Act (15 U.S.C. 15(a)), as amended, this judgment may not be used as *prima facie* evidence in private litigation.

## V

## PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment is subject to a stipulation by and between the United States and the defendant, which provides that the United States may withdraw its consent to the proposed judgment at any time until the Court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed consent judgment provides for the Court's retention of jurisdiction of this action in order, among other reasons, to permit either of the parties thereto to apply to the Court for such orders as may be necessary or appropriate for the modification of the final judgment.

As provided by section 2(b) of the *Antitrust Procedures and Penalties Act* (15 U.S.C. 16(b)), any persons wishing to comment upon the proposed judgment may, for a sixty-day period prior to the effective date of the proposed judgment, submit written comments to the United States Department of Justice, Attention Anthony E. Desmond, Chief, Antitrust Division, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102. The Department of Justice will file with the Court and publish in the *FEDERAL REGISTER* such comments and its response to them. In evaluating any and all such comments, the Department will determine whether there is any reason for withdrawal of its consent to the proposed judgment.

## VI

## DETERMINATIVE DOCUMENTS

Since there are no materials or documents which were considered determinative in formulating the proposed consent judgment, none are being filed by the United States pursuant to Section 2(b) of the *Antitrust Procedures and Penalties Act* (15 U.S.C. 16(b)).

## VII

## ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT CONSIDERED BY THE UNITED STATES

This case does not involve any unusual or novel issues of fact or law which might make litigation a more desirable alternative than entry of this consent judgment. The Department of Justice believes the substantive language in the consent judgment to be of sufficient scope and effectiveness to make litigation for relief unnecessary as the judgment provides for all of the relief requested in the Complaint. Dated: July 2, 1976

JAMES E. FIGENSHAW,  
CHRISTOPHER S. CROOK,  
Attorneys, Department of Justice.

[FR Doc.76-20055 Filed 7-9-76; 8:45 am]

### Drug Enforcement Administration NARCOTIC TREATMENT PROGRAMS Memorandum of Understanding With Food and Drug Administration

CROSS REFERENCE: For a document issued jointly by the Drug Enforcement Administration, Department of Justice, and the Food and Drug Administration, Department of Health, Education and Welfare, on a memorandum of understanding on the subject of narcotic treatment programs, see FR Doc. 76-19959,



appearing in the notices section of this issue, under the Department of Health, Education and Welfare, Food and Drug Administration.

# MANUFACTURE OF CONTROLLED SUBSTANCES

## Registration

By notice dated May 4, 1976, and published in the FEDERAL REGISTER on May 11, 1976; (41 FR 19233-34), Parke, Davis & Company, 188 Howard Avenue, Holland, Michigan 49423, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug	Schedule
Methaqualone	II
Pentobarbital	II
Methylphenidate	II
Oxycodone	II

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and 21 CFR 1301.54(e), the Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: June 29, 1976.

JERRY N. JENSON,  
Deputy Administrator,  
Drug Enforcement Administration.

[FR Doc.76-20079 Filed 7-9-76;8:45 am]

# MANUFACTURE OF CONTROLLED SUBSTANCES

## Application

Section 303(a) (1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a) (1)) states:

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes.

Pursuant to § 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on May 19, 1976, Cyclo Chemical Division, Travenol Labs., Inc., 1922 East 64th Street, Los Angeles, CA 90001, made application to the Drug Enforcement Administration to be reg-

istered as a bulk manufacturer of diphenoxylate, a basic class of controlled substance in schedule II.

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substance indicated, and any other such person, and any existing registered bulk manufacturer of diphenoxylate, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than August 19, 1976.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street, N.W., Washington, D.C. 20537.

Dated: July 2, 1976.

JERRY N. JENSON,  
Deputy Administrator,  
Drug Enforcement Administration.

[FR Doc.76-20081 Filed 7-9-76;8:45 am]

# MANUFACTURE OF CONTROLLED SUBSTANCES

## Application

Section 303(a) (1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a) (1)) states:

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes.

Pursuant to § 1301.43 of Title 21 of the Code of Federal Regulations, notice is hereby given that on May 27, 1976, Wyeth Laboratories, Inc., 611 E. Nield St., West Chester, PA 19380, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of pethidine, a basic class of controlled substances in schedule II.

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with § 1301.43(a) of Title 21 of the Code of Federal Regula-

tions, notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances indicated, and any other such person, and any existing registered bulk manufacturer of pethidine, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than August 19, 1976.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street, N.W., Washington, D.C. 20537.

Dated: June 29, 1976.

JERRY N. JENSON,  
Deputy Administrator,  
Drug Enforcement Administration.

[FR Doc.76-20082 Filed 7-9-76;8:45 am]

## Law Enforcement Assistance Administration

# NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

## Meeting

This is to provide notice of meeting of the Disorders and Terrorism Task Force of the National Advisory Committee on Criminal Justice Standards and Goals.

The Disorders and Terrorism Task Force will be meeting at the Four Seasons Motor Inn, 2886 S. Circle Drive, Colorado Springs, Colorado on July 29 and 30, 1976. The meeting will be open to the public.

Meeting Times, July 29—4 to 6:30 p.m. July 30—9 a.m. until adjournment.

Discussion will focus on the review and editing of the final chapters of the Task Force Report.

For further information, contact William T. Archey, Director, Policy Analysis Division, Office of Planning and Management, 633 Indiana Avenue, N.W., Washington, D.C.

JAY A. BROZOST,  
Attorney-Advisor,  
Office of General Counsel.

[FR Doc.76-20056 Filed 7-9-76;8:45 am]

# DEPARTMENT OF THE INTERIOR

## Geological Survey

## MID-ATLANTIC AREA

## Final Orders; (1 through 5, 7, and 12)

Notice is hereby given that pursuant to 30 CFR 250.11, the Chief, Conservation Division, U.S. Geological Survey, has approved Outer Continental Shelf (OCS) Orders for the Mid-Atlantic as set forth below. These Orders for oil and gas drilling and producing operations were published in the FEDERAL REGISTER, Vol. 40, No. 236, Monday, December 8, 1975.



with a solicitation for comments and suggestions. Comments were received from the following organizations:

Industry	States	Federal agencies
AMOCO Oil Co.	Connecticut	Bureau of Land Management Environmental Protection Agency Fish and Wildlife National Oceanic and Atmospheric Administration
Chevron Oil Co.	Delaware	
Exxon, U.S.A.	Maine	
Gulf Energy and Minerals—U.S.	Maryland	
Offshore Operators' Association	Massachusetts	
Phillips Petroleum Co.	New York	
Shell Oil Co.	Pennsylvania	
Sun Oil Co.	Virginia	

All comments were reviewed, and appropriate suggestions were included in a second draft of the Orders which was presented to representatives of the Governors of the States listed above. Additional comments and suggestions of the States were incorporated into the final version of the Orders where appropriate.

In order to inform the public of the need for new regulatory requirements and to provide adequate response to comments on the proposed regulations, we have published below a summary of all of the comments received, our rationale for accepting or rejecting the suggestions of the commenters, and the final revision of the Orders.

The Orders listed below will be effective July 1, 1976.

Order No. 1—"Marking of Wells, Platforms, and Structures".

Order No. 2—"Drilling Procedures".

Order No. 3—"Plugging and Abandonment of Wells".

Order No. 4—"Suspensions and Determination of Well Productivity".

Order No. 5—"Subsea Safety Devices".

Order No. 7—"Pollution and Waste Disposal".

Order No. 12—"Public Inspection of Records".

Order Nos. 6, 8, 9, 11, 13, 14, and 15 concerning lease development and production are being drafted and will be proposed for publication at a later date.

For the purpose of these Orders, the Mid-Atlantic Area shall include those lands subject to Federal oil and gas leasing on the OCS between 40° N. latitude and 37° N. latitude.

The final Orders are published in their entirety below. Copies of the Orders in booklet form may be obtained from the Conservation Manager, U.S. Geological Survey, Conservation Division, 1725 K Street, NW., Washington, D.C. 20244.

W. A. RADLINSKI,  
Acting Director.

#### OSC ORDER NO. 1

#### SUMMARY OF COMMENTS ON DRAFT MID-ATLANTIC OCS ORDER AND U.S. GEOLOGICAL SURVEY (USGS) DISCUSSIONS

##### PARAGRAPH NOS. 1 AND 2

**Comments.** Commenters were concerned with a difference between the platform marking requirements of the proposed Mid-Atlantic Orders and the marking requirements in the Gulf of Mexico. It was believed that the use of different formats for individual areas would cause confusion.

**USGS Rationale.** The USGS agrees with these comments and has changed paragraph Nos. 1 and 2 of the Order to reflect these recommendations.

#### PARAGRAPH NO. 4

**Comments.** A change was requested in this paragraph requiring all subsea objects to be marked in accordance with U.S. Coast Guard regulations. Other comments expressed concern that Coast Guard regulations would not be sufficient to protect fishing operations from submerged objects.

**USGS Rationale.** Since the current U.S. Coast Guard regulations do not provide for marking objects which are more than 85 feet below the surface, the Order was revised to require adequate marking of all subsea objects which could be a detriment to commercial fishing regardless of depth.

#### DEPARTMENT OF THE INTERIOR GEOLOGICAL SURVEY

##### CONSERVATION DIVISION EASTERN AREA

##### MID-ATLANTIC

##### OCS ORDER NO. 1

Effective: July 1, 1976.

#### IDENTIFICATION OF WELLS, PLATFORMS, STRUCTURES, AND SUBSEA OBJECTS

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.37.

The operator shall comply with the following requirements. All departures from the requirements specified in this Order must be approved pursuant to 30 CFR 250.12(b).

1. **Identification of Fixed Platforms or Structures.** Platforms and structures shall be identified at two diagonal corners by a sign with letters and figures not less than 30 centimetres (12 inches) in height with the following information: The name of lease operator, the area name shown on OCS Official Protraction Diagrams (or, where no name has been assigned, the Protraction Diagram number), the block number in which the platform or structure is located, and the platform or structure designation. The information shall be abbreviated as in the following example:

The Blank Oil Company operates "C" platform on Block 999 of the Salisbury Area.

The identifying sign on the platform would indicate: BOC-SAL-999-C.

2. **Identification of Nonfixed Platforms or Structures.** Floating semi-submersible platforms, bottom-setting mobile rigs, and drilling ships shall be identified by one sign with letters and figures not less than 30 centimetres (12 inches) in height affixed to the derrick so as to be visible from off the vessel and containing the following information: The name of the lease operator, the area designation based on OCS Official Leasing Maps, the block number, the OCS lease number, and the well number.

3. **Identification of Wells.** The OCS lease and well number shall be painted on, or a sign affixed to, each singly completed well. In multiple completed wells, each completion shall be individually identified at the well head. All identifying signs shall be maintained in a legible condition.

4. **Identification of Subsea Objects.** All subsea objects resulting from lease operations, and presenting a hazard to navigation or to deployment of commercial fishing devices, shall be identified with navigational markings. Such identification shall be in accordance with a design approved by the Supervisor and shall not be inconsistent with applicable U.S. Coast Guard regulations. These navigational markings shall be maintained

on-site and operable at all times so long as the obstruction remains.

HARRY A. DUPONT,  
Area Oil and Gas Supervisor.

Approved:

RUSSELL G. WAYLAND,  
Acting Chief, Conservation Division.

#### SUMMARY OF COMMENTS ON DRAFT MID-ATLANTIC OCS ORDER AND U.S. GEOLOGICAL SURVEY (USGS) DISCUSSIONS

##### OCS ORDER NO. 2

##### PREAMBLE TO THE ORDER

**Comment.** A comment was made which stated that "the Orders should state clearly what geologic and engineering information will be deemed sufficient to enable field rules to be established."

**USGS Rationale.** The Order was not revised. The determination of field rules is based on an evaluation of all geologic and engineering data. The determination is made on a case-by-case basis.

##### NEW PARAGRAPH NO. 1

**Comments.** None.

**USGS Rationale.** A new paragraph No. 1, entitled "Drilling Platform and Vessels," was added stating general requirements for compatibility of platforms and drilling vessels with the oceanographic and weather conditions of the proposed area, requesting evidence of the fitness of the drilling facility to perform the planned operations, stating requirements for pre-drilling inspection, and stating requirements for the collection and reporting of oceanographic, meteorological, and performance data. All subsequent paragraphs were renumbered.

##### PARAGRAPH NO. 2

**Comments.** Comments received generally referred to eliminating the requirement to run temperature or cement bond logs in instances where there were indications of improper cementing on surface, intermediate, and production casing strings.

**USGS Rationale.** The Order was not revised. The question of actual placement of cement is the key to the verification of cementing and the enforcement of the Order. Transportation surveys and cement bond logs are the only tools available for documenting the tops of the cement and for indicating the likelihood of adequate hydraulic seals.

##### SUBPARAGRAPH 2.B.(2)

**Comments.** It was suggested that an additional statement be added immediately following the first paragraph of 2.B.(2), stating: "The identity of the freshwater sands to be protected by this procedure will conform with those specified by the lessee under requirements of Title 30, Part 250., § 250.34 ("Drilling and Development Programs") in the prescribed submission of the "exploratory drilling plan," the "Development plan," and the "drilling application."

**USGS Rationale.** The Order was not revised. The information that would be submitted in accordance with Part 250.34 will be the subject of an additional OCS Order. The identity of freshwater sands will be determined by available information, either from State, in-house, or pub-



ished information, prior to drilling. Subsequent information determined by drilling will be used to augment this historical base. Any information concerning freshwater sands which is recorded on Applications for Permits to Drill will be available in accordance with OCS Order No. 12.

#### SUBPARAGRAPH 2.B.(2), PARAGRAPH 2

**Comments.** It was proposed that the surface casing be cemented to the ocean floor when the casing shoe is set at less than 460 metres (1,500 feet).

**USGS Rationale.** The Order was not revised. The Order as written requires that if the surface casing is set at less than 460 metres (1,500 feet), a quantity of cement is required to be used that would be sufficient to provide cement from the casing shoe to the ocean floor.

**Comment.** An additional comment under this paragraph concerned pressure testing the formation below the surface casing shoe and inquired as to what "subsequent tests" are required.

**USGS Rationale.** The Order was not revised. The pressure test specified by the Order is a minimum requirement.

**Optional subsequent pressure tests** may be performed at the operator's discretion; however, the Order requires that these subsequent pressure tests be recorded on the driller's log so that the data from all tests may be used to determine the depth and maximum mud weight to be used in drilling the intermediate hole.

#### SUBPARAGRAPH 2.B.(3)

**Comments.** Several commenters recommended deleting the third sentence in this paragraph which stipulated that the District Supervisor may require an additional casing string for the initial wells in an area or where abnormal pressures are anticipated. The commenters suggested the sentence was redundant since the Supervisor already has this authority.

**USGS Rationale.** The Order was not revised. It is believed necessary to state the District Supervisor's authority to require an additional casing string under certain conditions, i.e., anticipated abnormal pressures or in wildcat wells. By restating this authority, there can be no misunderstanding as to the type of criteria which will control its use.

**Comments.** One commenter suggested the phrase "known to contain oil" be changed to read "known to, or suspected to, contain oil."

**USGS Rationale.** The criteria and procedures described in this Section for determining the required setting depth of the conductor and surface casing would not be improved by adding "or suspected," as suggested by the commenter. The option of the District Supervisor to require an additional (a third) string of casing and to specify its exact setting depth is addressed in the first paragraph of the section. If the Supervisor has reason to believe that abnormally pressured formations may be encountered, based upon operational experience of others in the area and/or his thorough technical

review of submitted and on hand geologic, geophysical and engineering interpretations, he will exercise his option of specifying the setting depth of casing strings or require the setting of an additional casing string. On the other hand, if no advance information is available upon which to suspect the presence of a geologic hazard such as an abnormally pressured formation, the operator is still required to set casing upon encountering such a formation. The operator will use monitoring equipment such as mud weight indicators and/or pore pressure calculations to determine the presence of these formations.

#### SUBPARAGRAPH 2.C.

**Comments.** It was proposed that minimum criteria for establishing when intermediate casing must be set should be included in this paragraph.

**USGS Rationale.** In response to comments and to explicitly document the minimum criteria to be employed in determining the intermediate casing setting depth, language has been added to clarify the use of formation pressure tests.

It is recognized that additional minimum criteria for the length of a column of cement should be specific for the intermediate casing; accordingly, a sentence was added requiring at least 500 feet above the casing shoe.

#### SUBPARAGRAPH 2.F.

**Comments.** Subparagraph 2.F. was renumbered as paragraph 3 since the subject matter, Directional Surveys, is not directly related to well casing and cementing. This revision adds to the clarity of the organization of the Order. Comments regarding directional surveys in vertical wells recommended that inclination surveys be taken each 300 metres (1,000 feet) instead of each 150 metres (500 feet).

**USGS Rationale.** The Order was not revised. Obtaining inclination data at 150-metres (500 feet) intervals provides a closer control on the location of the bottom of the well. We believe that in a new drilling area this closer control is justified.

**Comments.** It was requested that dipmeter surveys be acceptable for the required inclination surveys.

**USGS Rationale.** The Order was not revised. The language of the Order would allow the use of dipmeter surveys since the data will include inclination and azimuth.

#### SUBPARAGRAPH 4.A.(1)

**Comments.** Commenters pointed out that blind shear rams are used on floating drilling vessels with subsea blowout-preventer stacks; blind rams are normally used on jack-ups, fixed platforms, and other drilling rigs.

**USGS Rationale.** Blind-shear rams are necessary only in operations where it may be required to move the vessel away from the location; drilling equipment such as a jack-up rig or a bottom setting platform, which cannot be moved from the location in an emer-

gency, the stack is located on the drilling facility; therefore, the blind-shear rams would not be needed. Paragraph 4.A.(1) was revised accordingly.

**Comments.** One commenter suggested that a minimum margin of safety be specified for blowout preventers.

**USGS Rationale.** The Order was not revised. Factors of safety are inherent in the definition of "working pressure." Blowout preventers with maximum working pressures 2,000, 3,000, and 5,000 psi are hydrotested to 200 percent of working pressure, and those with working pressures of 10,000 and 15,000 psi are hydrotested to 150 percent of working pressure in accordance with API Standard 6A.

#### SUBPARAGRAPH 4.A.(1) (a)

**Comments.** It was suggested that the paragraph be rewritten for clarity and to provide two separate pumping systems. One system to be either electric or air pump powered; the second system would include an independent source of air, an independent electrical system, or a nitrogen reserve. The reserve system must contain sufficient energy to close all blowout preventers and hold them closed.

**USGS Rationale.** By inserting the word "other," the Order permits an alternate power source for charging the accumulator backup system.

#### SUBPARAGRAPH 4.A.(1) (e)

**Comments.** Some commenters considered that the requirement for three adjustable chokes in the choke manifold was excessive.

**USGS Rationale.** The Order was not revised. The intent of requiring a minimum of three chokes is to allow for destructive erosion caused by the abrasive effect of produced sand. When the chokes are staged with one manually adjustable choke and one hydraulically adjustable choke in series, the other adjustable choke is available as a spare in the event of erosion of the first-stage choke.

**Comments.** Commenters were also concerned about the piping arrangement which directed flow from the BOP choke manifold to production facilities or storage and indicated that this can be a dangerous practice.

**USGS Rationale.** This recommendation is concurred with by the USGS, and the paragraph has been changed accordingly.

#### SUBPARAGRAPH 4.A.(1) (g)

**Comments.** There were several objections to automatic actuation of annular-type blowout preventers. Further, the addition of an automatic actuating installation would unduly complicate the control system.

**USGS Rationale.** The original intent of this requirement was to provide a backup system for the actuation of annular type preventers. The revision clearly states this intent. We acknowledge the statement of the commenter that there are no proven automatic actuation systems. The new wording requires an alternate means of closure and



permits the choice of the latest technology to be used.

#### SUBPARAGRAPH 4.A.(1) (h)

*Comments.* It was suggested that this paragraph be revised for clarity.

*USGS Rationale.* The wording of this paragraph was changed to make it clear that the piping upstream of and including the choke manifold must have a pressure rating at least equal to that required of the blowout preventers. The new wording permits the operator the option of using a blowout preventer with a higher pressure than required and using piping to match the required working pressure.

#### SUBPARAGRAPH 4.A.(2) (b)

*Comments.* Commenters recommended that the phrase "full-opening drill string safety valve" be changed to "an essentially full opening drill string safety valve."

*USGS Rationale.* The words "an essentially" were added to the description of the full-opening drill string safety valve requirement to allow for safety valve designs which require internal diameters to be reduced less than the ID of the tool joints to meet the strength requirements. The slight reduction in cross sectional area would not reduce the flow capacity significantly.

#### SUBPARAGRAPH 4.A.(2) (c)

*Comments.* Concern was expressed regarding the use of a "socket-type full-opening safety valve," and pointed out the advantages of the drill string safety valve over the socket-type tool.

*USGS Rationale.* Further study by the USGS of this valve has indicated that its required use may not be an additional safety feature as the socket-type full-opening valve is cumbersome, requires two to three men to install, and cannot be run through the blowout preventers. A better procedure would be to install the drill string safety valve. The Order was revised accordingly.

#### SUBPARAGRAPH 4.B

*Comments.* It was recommended that the diverter system lines be reduced from 15 to 10 centimetres (6" to 4") on the basis that the smaller size diverter line has been used in another OCS area.

*USGS Rationale.* The Order was not revised. Comparing the unexplored Mid-Atlantic Area to the mature Gulf of Mexico Area is not recognized as a valid argument. Because of the uncertainties associated with the formation pressures and fluid delivery rates in a frontier Area such as the Mid-Atlantic, it is not unreasonable to add a degree of safety by requiring that a diverter system be equivalent in cross section area to two 15-centimetre lines.

A new sentence was added to the end of this paragraph that requires the operator to make all seismic data and any interpretation of geologic hazards available to the Supervisor. This requirement will insure that the Supervisor has this key information available before approving shallow casing setting depths.

#### SUBPARAGRAPH 4.D.(1)

*Comments.* Change "blind shear rams" to "blind rams" to be consistent with subparagraph 4.A.(1).

*USGS Rationale.* Same rationale as subparagraph 4.A.(1).

#### SUBPARAGRAPH 4.E.(1)

*Comments.* Same as subparagraph 4.D.(1).

*USGS Rationale.* Same rationale as subparagraph 4.A.(1).

#### SUBPARAGRAPH 4.F.(1)

*Comments.* Objections were made on the requirement to pressure-test the blowout preventers from each control station once each week because such procedures may cause excessive wear on the sealing elements.

*USGS Rationale.* Paragraph 4.F.(1) (c) was revised by replacing the phrase "from each control station," with "while conducting drilling operations." This wording more clearly expresses the requirement for a weekly pressure test. The operation of the alternate control station is verified during the actuation test required by paragraph (2) (as revised).

#### SUBPARAGRAPH 4.F.(2)

*Comments.* One comment suggested rewording the first and second sentences of this paragraph.

*USGS Rationale.* This paragraph was revised to include the requirement to actuate pipe rams once each day and to actuate the blind rams while out of the hole once each trip.

The wording of the requirements for functional testing and checking the control station (primary and remote) was changed to improve understanding and provide for daily checks. These requirements are considered minimum safe operating practices.

#### SUBPARAGRAPH 5.A.

*Comments.* It was suggested that the third paragraph under 5.A be deleted, since the pressure at which fluids should be bled off the top of the casing string during a well control operation depends on a number of factors.

*USGS Rationale.* The Order was not revised. The intent and the language of this paragraph do not specify a rigid rule as to when pressure should be bled from the casing. The requirement is to have this information readily available to the driller to avoid errors by applying excessive pressure to the casing.

#### SUBPARAGRAPH 5.B.

*Comments.* A revision of the second sentence of this paragraph was requested to provide for exceptions to derrick floor indicators.

*USGS Rationale.* Language was added to this paragraph to set minimum requirements regarding mud-test equipment, mud tests, and frequency of tests. While these requirements are considered minimum, safe operating practices, the requirements of testing in conformance with API RP 13B will also provide a consistent reporting format.

#### SUBPARAGRAPH 5.B.(4)

*Comments.* Comments suggested that the gas-detection indicator on the derrick floor be replaced by a continuous telephone connection between the derrick floor and the mud logging unit.

*USGS Rationale.* The Order was not revised. The requirement for a derrick floor indicator for the gas-detection equipment is to provide a backup system for the telephone communication system with the mud logging compartment. The derrick floor indicator is to alert the driller immediately of the presence of gas in the mud returns. The telephone communication system is a supplement to the first signal of the presence of gas.

#### SUBPARAGRAPH 5.C

*Comment.* One comment suggested that the approved minimum quantities of drilling mud should either be listed or referred to in the operating Orders.

*USGS Rationale.* This paragraph was revised to state the minimum quantities of mud required.

*Comments.* Objections were made to the requirement of stating in the Application for Permit to Drill the minimum quantities of mud material, including weighting materials, to be maintained at the drill site for emergency use.

*USGS Rationale.* Although it is recognized that amounts of mud may vary during different drilling operations, submission of this data in advance of drilling will allow both the operators and the Geological Survey to agree on proposed mud quantities. This will prevent any misunderstanding as to the Geological Survey requirements for each well.

If, during an inspection of operations, it is indicated that insufficient quantities of mud are on location, operations may be suspended until this situation is rectified.

#### PARAGRAPH No. 6

Paragraph No. 4 was renumbered to be paragraph No. 6 and was revised to state the responsibility of the operator for 24-hour supervision of operations and the requirement for weekly blowout-preventer drills.

#### PARAGRAPH No. 7

All comments regarding hydrogen sulfide have been considered and included as appropriate in U.S. Geological Survey Outer Continental Shelf Standard No. 1.

Section 5, Hydrogen Sulfide (renumbered Section 7), was revised to reference U.S. Geological Survey Outer Continental Shelf Standard No. 1 (GSS-OCS-1), "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment."

#### PARAGRAPH No. 8

A new Paragraph No. 8, "Critical Operations and Curtailment Plans," was added. The requirement for submission of documented critical operations and curtailment plans has been added to insure adequate planning on the operator's part and to provide the Supervisor with the necessary information to assist and



coordinate emergency actions. This revision was generated internally and not as a response to comments.

DEPARTMENT OF THE INTERIOR GEOLOGICAL SURVEY

CONSERVATION DIVISION EASTERN AREA

MID-ATLANTIC

OCS ORDER NO. 2

Effective: July 1, 1976.

DRILLING PROCEDURES

This Order is established pursuant to the authority prescribed in 30 CFR 250.11. All exploratory and development wells drilled for oil and gas shall be drilled in accordance with 30 CFR 250.34, 250.41, 250.91, and the provisions of this Order which shall continue in effect until field drilling rules are issued. When sufficient geologic and engineering information is obtained through exploratory drilling, operators may make application or the Area Supervisor may require an application for the establishment of field drilling rules. After field drilling rules have been established by the Area Supervisor, development wells shall be drilled in accordance with such rules.

All wells drilled under the provisions of this Order shall have been included in an exploratory or development plan for the lease as required under 30 CFR 250.34. Each Application for Permit to Drill (Form 9-331C) shall include all information required under 30 CFR 250.91, and shall include a notation of any proposed departures from the requirements of this Order. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

The operator shall comply with the following requirements. All applications for approval under the provisions of this Order shall be submitted to the appropriate District Supervisor. References in this Order to approvals, determinations, or requirements are to those given or made by the Area Supervisor or his delegated representative.

1. *Drilling platforms and vessels.* A. All drilling platforms and drilling vessels shall be capable of withstanding the oceanographic and meteorological conditions for the proposed area of operations. The operator must furnish evidence of the fitness of the drilling platform or vessel to perform the planned drilling operation at the proposed drilling location. Applications for drilling from mobile drilling platforms and drilling vessels shall include the following:

- (1) Design, drawings, equipment specifications, and performance data.
- (2) Operational criteria and a critical operations plan as described in Section 8 of this Order.
- (3) Environmental conditions expected.
- (4) Current classification or certification of fitness with operational limitations.

B. Prior to commencing operations, all drilling platforms and drilling vessels shall be given a complete inspection by a representative of the U.S. Geological Survey to insure compliance with OCS Orders and regulations.

C. Operators shall collect and report oceanographic, meteorological, and performance data during the period of operations. The type of information and the method of collecting shall be set forth in the proposed plan of operations.

2. *Well casing and cementing.* All wells shall be cased and cemented in accordance with the requirements of 30 CFR 250.41(a) (1), and the Application for Permit to Drill shall include the casing design safety factors for collapse, tension, and burst. In cases

where cement has filled the annular space back to the ocean floor, the cement may be washed out or displaced to a depth not exceeding 12 metres (40 feet) below the ocean floor to facilitate casing removal upon well abandonment. For the purpose of this Order, the several casing strings in order of normal installation are drive or structural, conductor, surface, intermediate, and production casing.

For the surface, intermediate, and production casing strings, if there are indications of improper cementing such as lost returns, cement channelling, or mechanical failure of equipment, the operator shall recement or make the necessary repairs and run a temperature or cement bond log to verify that the casing has been adequately cemented.

The design criteria for all wells shall consider all pertinent factors for well control, including formation fracture gradients and pressures and casing setting depths. All casing, except drive pipe, shall conform to the specifications contained in "API Spec 5A—Thirty-second Edition, March 1973—Casing, Tubing, and Drill Pipe," as amended by supplement 2, March 1975, or other supplements thereto as approved by Area Supervisor, shall be new pipe or reconditioned used pipe that has been tested to insure that it will meet API specifications for new pipe.

A. *Drive or structural casing.* This casing shall be set by drilling, driving, or jetting to a minimum depth of 30 metres (100 feet) below the ocean floor or to such depth, approved by the Supervisor, required to support unconsolidated deposits and to provide hole stability for initial drilling operations. If this portion of the hole is drilled, the drilling fluid shall be of a type that is in compliance with the liquid disposal requirements of OCS Order No. 7, and a quantity of cement sufficient to fill the annular space back to the ocean floor shall be used.

B. *Conductor and surface casing.* Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons or other potential hazards and water depths.

(1) *Conductor casing.* This casing shall be set at a depth in accordance with paragraph 2B(3) below. A quantity of cement sufficient to fill the annular space back to the ocean floor shall be used.

(2) *Surface casing.* This casing shall be set at a depth in accordance with paragraph 2B(3) below and cemented in a manner necessary to protect all freshwater sands and provide well control until the next string of casing is set.

This casing shall be cemented with a quantity sufficient to fill the calculated annular space to at least 460 metres (1,500 feet) above the surface casing shoe and at least 60 metres (197 feet) inside the conductor casing or as approved by the District Supervisor. After drilling a maximum of 30 metres (100 feet) below the surface casing shoe, a pressure test shall be obtained to aid in determining a formation fracture gradient either by testing to formation leak-off or by testing to a predetermined equivalent mud weight. The results of this test and any subsequent tests of the formation shall be recorded on the driller's log and used to determine the depth and maximum mud weight to be used in drilling the intermediate hole.

(3) *Conductor and surface casing setting depths.* These strings of casing shall be set at the depth specified below, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations:

*Provided, however,* That the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. For those wells which may encounter abnormal pressure or conditions and for the initial wells in an area, the District Supervisor may prescribe an additional casing string and the exact setting depths. Except as otherwise may be prescribed, conductor casing setting depths shall be between 90 metres (295 feet) and 300 metres (984 feet) (TVD below ocean floor), and surface casing setting depths shall be between 300 metres (984 feet) and 1,400 metres (4,592 feet) (TVD below ocean floor).

Engineering, geophysical, and geologic data used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

C. *Intermediate casing.* One or more strings of intermediate casing shall be set when required by anticipated abnormal pressure, mud weight, sediment, and other well conditions. The proposed setting depth for intermediate casing will be based on the pressure tests of the exposed formation immediately below the surface casing shoe or on subsequent pressure tests. If, before reaching the proposed setting depth, the mud weight has been increased to within 0.06 kg/dm<sup>3</sup> (0.5 ppg) of the equivalent mud weight of the most recent pressure test of the formation below the surface casing shoe, the operator shall discontinue drilling and set an intermediate casing string.

A quantity of cement sufficient to cover and isolate all hydrocarbon zones and to isolate abnormal pressure intervals from normal pressure intervals shall be used. Sufficient cement shall be used to provide annular fill-up to a minimum of 150 metres (492 feet) above the zones to be isolated or 150 metres (492 feet) above the casing shoe in cases where zonal coverage is not required. If a liner is used as an intermediate string, the cement shall be tested by fluid entry or pressure test to determine whether a seal between the liner top and next larger string has been achieved. The test shall be recorded on the driller's log. When such liner is used as production casing, it shall be extended to the surface and cemented to avoid surface casing being used as production casing.

D. *Production casing.* This string of casing shall be set before completing the well for production. It shall be cemented in a manner necessary to cover or isolate all zones which contain hydrocarbons, but in any case, a calculated volume sufficient to fill the annular space at least 150 metres (492 feet) above the uppermost producible hydrocarbon zone must be used. When a liner is used as production casing, the testing of the seal between the liner top and the next larger string shall be conducted as in the case of intermediate liners. The test shall be recorded on the driller's log.

E. *Pressure-testing of casing.* Prior to drilling the plug after cementing, all casing strings, except the drive or structural casing, shall be pressure-tested as shown in the table below. The test pressure shall not exceed the internal yield pressure of the casing. The surface casing shall be tested with water in the top 30 metres (100 feet) of the casing. If the pressure declines more than 10 percent in 30 minutes, or if there is other indication of a leak, corrective measures shall be taken until a satisfactory test is obtained.



Casing	Minimum surface pressure
Conductor ----	1400 kilopascals (kPa) (203 psi).
Surface -----	6900 kPa (1000 psi).
Intermediate, and	10,400 kPa (1508 psi) or 5
Liner, and	kPa/m (0.22 psi/ft.),
Production --	whichever is greater.

After cementing any of the above strings, drilling shall not be commenced until a time lapse of eight hours under pressure for conductor casing string or 12 hours under pressure for all other strings. Cement is considered under pressure if one or more float valves are employed and shown to be holding the cement in place or when other means of holding pressure are used. All casing pressure tests shall be recorded on the driller's log.

3. *Directional Surveys.* Wells are considered vertical if inclination does not exceed three degrees from the vertical. Inclination surveys shall be obtained on all vertical wells at intervals not exceeding 150 metres (492 feet) during the normal course of drilling.

Wells are considered directional if inclination exceeds three degrees from the vertical. Directional surveys giving both inclination and azimuth shall be obtained on all directional wells at intervals not exceeding 150 metres (492 feet) during the normal course of drilling and at intervals not exceeding 30 metres (100 feet) in all angle change portions of the hole.

On both vertical and directional wells, directional surveys giving both inclination and azimuth shall be obtained at intervals not exceeding 150 metres (492 feet) prior to, or upon, setting surface or intermediate casing, liners, and at total depth.

Composite directional surveys shall be filed with the District Supervisor. The interval shown will be from the bottom of conductor casing, or, in the absence of conductor casing, from the bottom of drive or structural casing to total depth. In calculating all surveys, a correction from true north to Universal Transverse Mercator-Grid north shall be made after making the magnetic to true north correction.

4. *Blowout prevention equipment.* Blowout preventers and related well-control equipment shall be installed, used, and tested in a manner necessary to insure well control. Prior to drilling below the drive pipe or structural casing and until drilling operations are completed, blowout prevention equipment shall be installed and maintained ready for use as follows:

A. *General requirements.*—(1) *Blowout prevention equipment.* Blowout prevention equipment shall consist of an annular and a specific number of ram-type preventers. (Subsea blowout-preventer stacks used with floating drilling vessels shall be equipped with one set of blind-shear rams). The pipe rams shall be of proper size to fit the pipe in use. The bore of all preventers and spools shall be of sufficient size to accommodate the largest equipment that is expected to be run into the casing below the preventers. The working pressure of any blowout preventer shall exceed the maximum anticipated surface pressure to which it may be subjected. Information submitted with the Application for Permit to Drill shall include the maximum anticipated surface pressure and the criteria used to determine this pressure. A fail safe design shall be incorporated into the blowout-prevention system and shall include dual control systems and fail safe valving on critical lines and outlets. In addition, for subsea blowout-preventer stacks, a subsea accumulator system is required to provide fast closure of preventers and for cycling all critical functions in case of loss of connection to the surface.

All preventers shall be equipped with:

(a) A hydraulic actuating system that provides sufficient accumulator capacity to close all blowout prevention equipment units with a 50 percent operating fluid reserve at 8,300 kPa (1,204 psi). A high pressure nitrogen or other accumulator back-up system shall be provided with sufficient capacity to close all blowout preventers and hold them closed. Locking devices shall be provided on the ram-type preventers.

(b) An operable remote blowout-preventer control station shall be provided, in addition to the one on the drilling floor.

(c) A drilling spool with side outlets, if side outlets are not provided in the blowout preventer body, shall be installed to provide for a kill line and choke manifold. An auxiliary connection for an emergency kill or choke line shall be provided below any preventer that is in use and not located on the sea floor.

(d) A kill line with a master valve located next to the well. This valve shall not be used for normal opening or closing on flowing fluids. The kill line shall have at least one control valve in addition to the master valve.

(e) A choke manifold equipped with a hydraulic control valve, a master valve, three adjustable chokes of which one shall be a hydraulic adjustable choke, and an accurate pressure gauge. The choke manifold outlets shall be connected in such a manner that the returns may be directed to the mud system or other appropriate storage.

(f) A fill-up line.

(g) The annular type preventer shall be equipped with an alternate control to be used in case the primary controls fail.

(h) All valves, pipes, and fittings upstream of and including the choke manifold that can be exposed to pressure from the well-bore shall be of a pressure rating at least equal to that required of the blowout-prevention equipment.

(2) *Auxiliary equipment.* The following auxiliary equipment shall also be provided:

(a) A top kelly cock shall be installed below the swivel, and an essentially full-opening kelly cock of such design that it can be run through blowout preventers shall be installed at the bottom of the kelly.

(b) An inside blowout preventer and an essentially full-opening drill string safety valve in the open position shall be maintained on the rig floor at all times while drilling operations are being conducted. Valves shall be maintained on the rig floor to fit all pipe that is in the drill string. A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string that is being run in the hole.

B. *Drive pipe or structural casing.* Before drilling below this string, at least one remotely controlled, annular-type blowout preventer or pressure-rotating, pack-off-type head and equipment for circulating the drilling fluid to the drilling structure or vessel shall be installed. When the blowout-preventer system is on the ocean floor, the choke and kill lines or equivalent vent lines, equipped with necessary connections and fittings, shall be used for diversion. An annular preventer or pressure-rotating, pack-off-type head, equipped with suitable diversion lines as described above and installed on top of the marine riser, to permit the diversion of hydrocarbons and other fluids, may be utilized for diversion. The diverter system providing at least the equivalent of two 15-centimetre (6-inch) lines (or equivalent in internal cross-sectional area) and full-open or butterfly valves shall be installed in order to permit the full diversion of hydrocarbons and other fluids. The diverter system shall be

equipped with automatic, remotely controlled valves which open prior to shutting in the well, with at least two lines venting in different directions to accomplish downwind diversion. A schematic diagram and operational procedure for the diverter system shall be submitted with the Application for Permit to Drill (Form 9-331C) to the District Supervisor for approval.

In drilling operations where a floating or semisubmersible type of drilling vessel is used and formation competency at the structural casing setting depth is not adequate to permit circulation of drilling fluids to the vessel while drilling conductor hole, a program which provides for safety in these operations shall be described and submitted to the District Supervisor for approval. This program shall include all known pertinent and relevant information, including seismic and geologic data, water depth, drilling-fluid hydrostatic pressure, schematic diagram from rotary table to proposed conductor casing seat, and contingency plan for moving off location. In all areas where shallow hazards or hydrocarbons are unknown, seismic data shall be obtained, and a small-diameter initial pilot hole from the bottom of drive or structural casing to proposed conductor casing seat shall be drilled to aid in determining the presence or absence of these hazards. All seismic data shall be made available to the Supervisor, and an analysis of the geologic hazards shall be furnished with the Application for Permit to Drill.

C. *Conductor casing.* Before drilling below this string, at least one remotely controlled, annular-type blowout preventer and equipment for circulating the drilling fluid to the drilling structure or vessel shall be installed. A diverter system as described in paragraph 4B above shall be installed.

D. *Surface casing.* Before drilling below this string, the blowout prevention equipment shall include a minimum of: (1) Three remotely controlled, hydraulically operated blowout preventers, including one equipped with pipe rams, one with blind rams, and one annular type. (Subsea blowout-preventer stacks used with floating drilling vessels shall be equipped with one set of blind-shear rams); (2) a drilling spool with side outlets, if side outlets are not provided in the blowout preventer body; (3) a choke line and manifold; (4) a kill line separate from choke line; and (5) a fill-up line.

E. *Intermediate casing.* Before drilling below this string, the blowout prevention equipment shall include a minimum of: (1) Four remote-controlled, hydraulically operated blowout preventers with a working pressure which exceeds the maximum anticipated surface pressure, including at least two equipped with pipe rams, one with blind rams, and one annular type. (Subsea blowout-preventer stacks used with floating drilling vessels shall be equipped with one set of blind-shear rams); (2) a drilling spool with side outlets, if side outlets are not provided in the blowout preventer body; (3) a choke line and manifold; (4) a kill line separate from choke line; and (5) a fill-up line.

F. *Testing.*—(1) *Pressure test.* Ram-type blowout preventers and related control equipment shall be tested to the rated working pressure of the stack assembly, or at the working pressure of the casing, whichever is the lesser. Annular-type preventers shall be tested to 70 percent of these pressure requirements. They shall be tested: (a) When installed, (b) before drilling out after each string of casing is set, (c) not less than once each week while conducting drilling operations, and (d) following repairs that require disconnecting a pressure seal in the assembly.



(2) **Actuation.** While drill pipe is in use, the ram-type blowout preventers equipped with pipe rams shall be actuated at least once each day. If a tapered drill string is in use, the smaller size rams shall be actuated on the appropriate size pipe, once each trip. The blind rams shall be actuated while out of the hole once each trip. Accumulators or accumulators and pumps shall maintain a pressure capacity reserve at all times to provide for repeated operation of hydraulic preventers. An operable remote blowout-preventer control station shall be provided in addition to the one on the drilling floor. Each control station will be tested for proper operation once each day when the pipe is out of the hole.

Each control system shall alternately be tested to ensure proper functioning. If either system is not functional, further drilling operations shall be suspended until that system becomes operable.

(3) **Drills.** A blowout-prevention drill shall be conducted weekly for each drilling crew to insure that all equipment is operational and that crews are properly trained to carry out emergency duties.

(4) **Records.** All blowout-preventer tests and crew drills shall be recorded on the driller's log.

5. **Mud program.** The characteristics, use, and testing of drilling mud and the conduct of related drilling procedures shall be such as are necessary to prevent the blowout of any well. Quantities of mud materials sufficient to insure well control shall be maintained readily accessible for use at all times.

A. **Mud control.** Before starting out of the hole with drill pipe, the mud shall be properly conditioned. Proper conditioning requires either circulation with the drill pipe just off bottom to the extent that the annular volume is displaced, or proper documentation in the driller's log prior to pulling the drill pipe that: (1) There was no indication of influx of formation fluids prior to starting to pull the drill pipe from the hole, (2) the weight of the returning mud is not less than the weight of the mud entering the hole, and (3) other mud properties recorded on the daily drilling log are within the specified ranges at the stage of drilling the hole to perform their required functions. In those cases when the hole is circulated, the driller's log shall be so noted.

When coming out of the hole with drill pipe, the annulus shall be filled with mud before the mud level drops 30 metres (100 feet). A mechanical device for measuring the amount of mud required to fill the hole shall be utilized, and any time there is an indication of swabbing, or influx of formation fluids, the necessary safety devices and action shall be employed to control the well. The mud shall not be circulated and conditioned, except on or near bottom, unless well conditions prevent running the drill pipe back to bottom. The mud in the hole shall be circulated or reverse-circulated prior to pulling drill-stem test tools from the hole.

The hole shall be filled by accurately measured volumes of mud. The number of stands of drill pipe and drill collars that may be pulled between the times of filling the hole shall be calculated and posted. The number of barrels and pump strokes required to fill the hole for this designated number of stands of drill pipe and drill collars shall be posted. For each casing string, the maximum pressure which may be applied to the blowout preventer before controlling excess pressure by bleeding through the choke shall be posted near the driller. Drill pipe pressure shall be monitored during the bleeding procedure for well control.

An operable degasser shall be installed in the mud system prior to the commencement

of drilling operations and shall be maintained for use throughout the drilling and completion of the well.

B. **Mud test equipment.** Mud test equipment shall be maintained on the drilling rig at all times, and mud tests shall be performed once each tour, or more frequently as conditions warrant. Such tests shall be conducted in accordance with procedures outlined in API RP 13B, "Recommended Practice for Standard Procedure for Testing Drilling Fluids," Sixth Edition, April 1976, or subsequent revisions as approved by the Supervisor, and the results recorded and maintained at the drill site. The following mud-system monitoring equipment shall be installed (with derrick floor indicators) and used at the point in the drilling operation when mud returns are established and throughout subsequent drilling operations:

(1) Recording mud pit level indicator to determine mud pit volume gains and losses. This indicator shall include a visual and audio warning device.

(2) Mud volume measuring device for accurately determining mud volumes required to fill the hole on trips.

(3) Mud return indicator to determine that returns essentially equal the pump discharge rate.

(4) Gas-detecting equipment to monitor the drilling mud returns.

C. **Mud quantities.** The operator shall state in the Application for Permit to Drill the minimum quantities of mud material, including weighting material, to be maintained at the drill site for emergency use.

This quantity shall not be less than the amount necessary to make a mud volume equal to twice the calculated capacity of the active down hole and surface mud system. The minimum quantity of weighting material to be maintained at the drill site shall be sufficient to overcome the highest anticipated formation pressure with the mud weight at least one pound per gallon greater than the weight required to overcome such formation pressure. Daily inventories of mud materials, including weighting material, shall be recorded and maintained at the drill site. Drilling operations shall be suspended in the absence of approved minimum quantities of mud materials for emergency use.

6. **Supervision, surveillance, and training—**

A. **Supervision.** A representative of the operator shall provide, on site, supervision of drilling operations on a 24-hour basis.

B. **Surveillance.** From the time drilling operations are initiated and until the well is completed or abandoned, a member of the drilling crew or the toolpusher shall maintain rig floor surveillance continuously, unless the well is secured with blowout preventers or cement plugs.

C. **Training.** Company and drilling contractor supervisory personnel including drillers shall be trained in and qualified for present-day well control. Records of such training and qualification shall be maintained at the drill site. Training shall include but is not limited to:

(1) Abnormal pressure detection methods.

(2) Well-control methods and procedures. Such training shall be given in addition to the required weekly blowout prevention drills. Written verification of compliance with these provisions shall be filed with the Supervisor. As standards for training are developed for all members of the drilling crew, they will be incorporated into this Order. Compliance shall be considered a prerequisite to approval of any drilling operation.

7. **Hydrogen sulfide.** When drilling operations are undertaken to penetrate reservoirs known or expected to contain hydrogen sulfide (H<sub>2</sub>S), or, if unknown upon encountering H<sub>2</sub>S, the preventive measures and oper-

ating practices set forth in U.S. Geological Survey Outer Continental Shelf Standard No. 1 (GSS-OCS-1), "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment," February 1976, shall be followed.

8. **Critical operations and curtailment plans.** Certain operations performed in drilling are more critical than others with respect to well control, fire, explosion, oil spills, and other discharge or emissions. These operations may occur during drilling, running casing, logging, drill-stem testing, well completion, or wire-line operations.

Each operator shall file with the Supervisor for approval of a Critical Operations and Curtailment Plan for the lease, which shall contain:

A. A list or description of the critical drilling operations that are or are likely to be conducted on the lease. Such list or description shall specify the operations to be ceased, limited, or not to be commenced under given circumstances or conditions. The list shall include operations such as:

(1) Drilling in close proximity to another producing well.

(2) Drill-stem testing.

(3) Running and cementing casing.

(4) Cutting and recovering casing.

(5) Logging or wireline operations.

(6) Well-completion operations.

(7) Moving the drilling vessel off location in an emergency; repositioning the vessel on location; and reestablishing entry into the well.

B. A list or description of circumstances or conditions under which such critical operations shall be curtailed. This list or description shall be developed from all the factors and conditions relating to the conduct of operations on the lease, and shall consider but not necessarily be limited to the following:

(1) Whether the drilling operations are to be conducted from mobile or fixed platforms.

(2) The availability and capability of containment and cleanup equipment.

(3) Abnormal or unusual characteristics expected to be encountered during drilling operations.

(4) Spill control system response time.

(5) Known or anticipated meteorological or oceanographical conditions.

(6) Availability of personnel and equipment for the particular operation to be conducted.

(7) Other factors peculiar to the particular lease under consideration.

C. When any such circumstance or condition listed or described in the plan occurs or other operational limits are encountered, the operator shall notify the Supervisor and shall curtail the critical operations as set forth under A above. In the conduct of the critical operations, full consideration shall be given to pertinent factors such as supply of well control materials, subsurface conditions, inventory of spill-containment equipment, weather conditions, particular esthetic conditions, fire hazards, available transportation equipment, spill-control response time, and nature of work planned.

D. Any deviations in the plan shall require prior approval by the Supervisor except in case of an emergency in which event the Supervisor shall be notified as soon as possible.

E. The operator shall review the plan at least annually. Notification of the review and any amendments or modifications to the plan shall be filed with the Supervisor.

HARRY A. DUPONT,  
Area Oil and Gas Supervisor.

Approved:  
RUSSELL G. WAYLAND,  
Acting Chief, Conservation Division.



SUMMARY OF COMMENTS ON DRAFT MID-ATLANTIC OCS ORDER AND U.S. GEOLOGICAL SURVEY (USGS) DISCUSSIONS

OCS ORDER NO. 3

PARAGRAPH NO. 1.A

**Comments.** Comments were received criticizing the inclusion of the requirement for a 100 foot cement plug for every 2,500 feet of uncased hole in wells requiring a mud weight in excess of 12.0 pounds per gallon for control. The commenters were of the opinion that since the USGS monitors a well during drilling and approves the plugging procedure prior to implementation, there was no need for additional requirements.

**USGS Rationale.** The Order was not revised. The 2,500 feet open-hole plug requirement is a minimum standard to insure the safety of abandoned wells. This requirement, however, may be precluded where a more stringent safety requirement is found necessary for a particular well.

PARAGRAPH NO. 1.G

**Comments.** In addition to the tests specified, it was recommended that pressure testing also be included as an alternative method of plug testing. Pressure tests were cited as having the additional advantage of testing for communication in the casing.

**USGS Rationale.** The USGS agrees that a properly conducted pressure test would provide an accurate indication of plug integrity.

DEPARTMENT OF THE INTERIOR GEOLOGICAL SURVEY CONSERVATION DIVISION EASTERN AREA

MID-ATLANTIC

OCS ORDER NO. 3

Effective: July 1, 1976.

PLUGGING AND ABANDONMENT OF WELLS

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.15. The operator shall comply with the following minimum plugging and abandonment procedures which have general application to all wells drilled for oil and gas. Plugging and abandonment operations must not be commenced prior to obtaining approval from an authorized representative of the Geological Survey. Oral approvals shall be in accordance with 30 CFR 250.13. All departures from the requirements specified in this Order must be approved pursuant to 30 CFR 250.12(b).

1. **Permanent abandonment—A. Isolation in uncased hole.** In uncased portions of wells, cement plugs shall be spaced to extend 30 metres (100 feet) below the bottom to 30 metres (100 feet) above the top of any oil, gas, and fresh water zones so as to isolate them in the strata in which they are found and to prevent them from escaping into other strata. Additional cement plugs may be required to protect other minerals, or to prevent migration of fluids in the well bore. No more than 760 metres (2,493 feet) of uncased hole shall be left without a cement plug of at least 30 metres (100 feet) in length in wells requiring a mud weight in excess of 1.4g/dm<sup>3</sup> (12.0 ppg) for control.

B. **Isolation of open hole.** Where there is open hole (uncased and open into the casing string above) below the casing, a cement plug shall be placed in the deepest casing string by (1) or (2) below, or in the event lost circulation conditions exist or are anticipated,

the plug may be placed in accordance with (3) below:

(1) A cement plug placed by displacement method so as to extend a minimum of 30 metres (100 feet) above and 30 metres (100 feet) below the casing shoe.

(2) A cement retainer with effective back pressure control set not less than 15 metres (50 feet), nor more than 30 metres (100 feet), above the casing shoe with a cement plug calculated to extend at least 30 metres (100 feet) below the casing shoe and 15 metres (50 feet) above the retainer.

(3) A permanent type bridge plug set within 45 metres (148 feet) above the casing shoe with 15 metres (50 feet) of cement on top of the bridge plug. This plug shall be tested prior to placing subsequent plugs.

C. **Plugging or isolating perforated intervals.** A cement plug shall be placed opposite all open perforations (perforations not squeezed with cement) extending a minimum of 30 metres (100 feet) above and 30 metres (100 feet) below the perforated interval or down to a casing plug, whichever is less. In lieu of the cement plug, the following two methods are acceptable, provided the perforations are isolated from the hole below:

(1) A cement retainer with effective back pressure control set not less than 15 metres (50 feet) nor more than 30 metres (100 feet) above the top of perforated interval with a cement plug calculated to extend at least 30 metres (100 feet) below the bottom of the perforated interval and 15 metres (50 feet) above the retainer.

(2) A permanent type bridge plug set within 45 metres (148 feet) above the top of the perforated interval with 15 metres (50 feet) of cement on top of the bridge plug.

D. **Plugging of casing stubs.** If casing is cut and recovered, a cement plug 60 metres (197 feet) in length shall be placed to extend 30 metres (100 feet) above and 30 metres (100 feet) below the stub. A retainer may be used in setting the required plug.

E. **Plugging of annular space.** No annular space that extends to the ocean floor shall be left open to drilled hole below. If this condition exists, the annulus shall be plugged with cement.

F. **Surface plug requirement.** A cement plug of at least 45 metres (148 feet), with the top of the plug 45 metres (148 feet) or less below the ocean floor, shall be placed in the smallest string of casing which extends to the surface.

G. **Testing of plugs.** The setting and location of the first plug below the top 45-metre (148-foot) plug, will be verified by either

(1) placing a minimum pipe weight of 6,800 kilograms (15,000 pounds) on the plug, or where this plug is placed utilizing a cement retainer or bridge plug, it is only necessary that the setting of the retainer or bridge plug be verified by placing at least 6,800 kilograms (15,000 pounds) on it prior to placing cement on top, or (2) testing with a minimum pump pressure of 6,900 kPa (1,000 psi) with no more than a 10-percent pressure drop during a 15-minute period.

H. **Mud.** Each of the respective intervals of the hole between the various plugs shall be filled with mud fluid of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling such interval.

I. **Clearance of location.** All casing and piling shall be severed and removed to that depth below the ocean floor approved by the Area Supervisor after a review of data on the ocean bottom conditions. The operator shall verify that the location has been cleared of all obstructions.

2. **Temporary abandonment.** Any drilling well which is to be temporarily abandoned shall be mudded and cemented as required

for permanent abandonment except for requirements F and I of section 1 above. When casing extends above the ocean floor, a mechanical bridge plug (retrievable or permanent) shall be set in the casing between 5 and 60 metres (16 and 197 feet) below the ocean floor.

HARRY A. DUPONT,  
Area Oil and Gas Supervisor.

Approved:

RUSSELL G. WATLAND,  
Acting Chief, Conservation Division.

SUMMARY OF COMMENTS ON DRAFT MID-ATLANTIC OCS ORDER AND U.S. GEOLOGICAL SURVEY (USGS) DISCUSSIONS

OCS ORDER NO. 4

PREAMBLE PARAGRAPH

**Comments.** It was suggested that the Order should stipulate the criteria that an Area Supervisor would use in approving suspensions of production.

**USGS Rationale.** The Order was not revised. Criteria for approving a suspension of production was published in the FEDERAL REGISTER, Vol. 40, No. 245, Friday, December 19, 1975, as proposed OCS Order No. 14, entitled "Approval of Suspensions of Production."

PARAGRAPH NOS. 1, 2, AND 3

**Comments.** Objections were raised over the requirement of a two-hour production or deliverability test to prove a well capable of producing in paying quantities. Arguments were advanced that well tests are inconclusive, expensive, and, when conducted from mobile drilling rigs, potentially dangerous. It was further stated that a production test is not necessary to determine a well's capability and, therefore, an alternative to production testing should be provided.

**USGS Rationale.** The last sentence of the first paragraph was revised to state that the data requested for the determination of well producibility are minimum requirements. The producing capability of reservoirs in the Mid-Atlantic Area is not known at this time. It is, therefore, not possible to relate producibility to other factors such as electric log interruption.

**Comments.** It was recommended that incineration of oil and gas produced during well tests be required.

**USGS Rationale.** The Order does not require the incineration of oil produced during test in order to allow operators the option of bringing the oil to shore in a small tank on a supply boat. Ordering the incineration of the oil would preclude the collection of royalty on oil which the operator might elect to bring to shore. Order No. 7 prohibits the discharge of oil; therefore, if the test production cannot be brought to shore, the oil and gas must be burned.

PARAGRAPH NO. 4

**Comments.** It was recommended that test results be submitted to appropriate State agencies within the Mid-Atlantic Area.

**USGS Rationale.** The Order was not revised. Such information will be available in accordance with the provisions of OCS Order No. 12.



## DEPARTMENT OF THE INTERIOR

## GEOLOGICAL SURVEY

## CONSERVATION DIVISION EASTERN AREA

## MID-ATLANTIC

## OCS ORDER NO. 4

Effective: July 1, 1976.

SUSPENSIONS AND DETERMINATION OF WELL  
PRODUCIBILITY

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.12(d)(1). An OCS lease provides for extension beyond its primary term for as long as oil or gas may be produced from the lease in paying quantities. The term "paying quantities" as used herein means production in quantities sufficient to yield a return in excess of operating costs. An OCS lease may be maintained beyond the primary term, in the absence of actual production, when a suspension of production has been approved. All applications for suspension of production for an initial period should be submitted prior to the expiration of the term of a lease. The Area Supervisor may approve a suspension of production provided at least one well has been drilled on the lease and determined to be capable of producing in paying quantities. The temporary or permanent abandonment of a well will not preclude approval of a suspension of production as provided in 30 CFR 250.12(d)(1). All departures from the requirements specified in this Order must be approved pursuant to 30 CFR 250.12(b).

To provide data necessary to determine that a well may be capable of producing in paying quantities, the following are minimum requirements:

1. *Oil Wells.* A production test of at least two hours duration, following stabilization of flow.
2. *Gas Wells.* A deliverability test of at least two hours duration, following stabilization of flow, or a four-point back-pressure test.
3. *Well Data.* All pertinent engineering, geologic, and economic data shall be submitted to the District Supervisor and will be considered in determining whether or not a well is capable of being produced in paying quantities.

4. *Witnessing and Results.* All tests must be witnessed by an authorized representative of the Geological Survey. Test data accompanied by operator's affidavit, or third-party test data, may be accepted in lieu of a witnessed test provided prior approval is obtained from the District Supervisor.

HARRY A. DUPONT,  
Area Oil and Gas Supervisor.

Approved:

RUSSELL G. WAYLAND,  
Acting Chief, Conservation Division.

## SUMMARY OF COMMENTS ON DRAFT MID-ATLANTIC OCS ORDER AND U.S. GEOLOGICAL SURVEY (USGS) DISCUSSIONS

## ORDER NO. 5

## PREAMBLE PARAGRAPH

*Comments.* It was suggested that the preamble paragraph should be revised to include a restatement of the authorizing Federal regulation 30 CFR 250.41(b).

*USGS Rationale.* The Order was not revised since this information is readily available in booklet form from any of the Area offices.

## PARAGRAPH NO. 1

*Comments.* Several of the commenters recommended that subsurface-controlled

subsurface safety devices could be used in lieu of surface-controlled or other remotely-controlled subsurface safety devices for wells with shut-in tubing pressures of 4,000 psi or greater. Their rationale was based, in part, on the limited availability of high-pressure surface-controlled subsurface valves. They also argued that the pressure criteria were consistent with the Gulf of Mexico Order No. 5.

*USGS Rationale.* It is believed that the added safety factor of surface-controlled subsurface safety valves warrant the requirement for their use.

The preamble to Section 1, Installation, was revised to specifically state the requirements for surface-controlled subsurface safety valves and to make it clear that surface controls may be located on site or remotely. The words "oil or gas" were deleted so that wells which are capable of flowing salt water would also require the safety devices.

## SUBPARAGRAPH 1(B)

*Comments.* It was suggested that the last phrase of the subparagraph be revised to read "incapable of flowing oil or gas, which condition shall be verified annually."

*USGS Rationale.* The words "surface-controlled" were added to the subparagraph. Antipollution and safety requirements would not be honored if surface-controlled subsurface safety valves were not installed in injection wells. Injection wells, regardless of their history of activity, often contain residual volumes of oil and/or entrained gas. These residual volumes collect in the well bore when injection is terminated; therefore, such injection wells are capable of flowing oil or gas. The words oil or gas were not added so that wells which are capable of flowing salt water would also require the safety devices. High salinity water is also a pollutant.

## SUBPARAGRAPH 2.A.(1)

*Comments.* It was suggested that the reference to API Specification 14A., October 1973, Subsurface Safety Valves, be expanded to include the latest supplements.

*USGS Rationale.* This suggestion was adopted.

*Comments.* It was also suggested that subsurface devices selected for use be required to be approved by the Supervisor.

*USGS Rationale.* The Order was not revised as the Supervisor states his criteria for accepting the devices when he requires the devices to meet the minimum standards of API Specification 14A. Devices not meeting these specifications will not be approved for use.

## SUBPARAGRAPH 2.A.(2)

*Comment.* It was suggested that the frequency of the testing of the subsurface safety valves was excessive and that the language should be changed to require testing at intervals not exceeding six months.

*USGS Rationale.* The Order was not revised. Considering the ease of operation of surface-controlled subsurface

safety valves, we do not consider the frequency of the test to be excessive. Frequent testing verifies the reliability of the valve.

*Comments.* It was also suggested that the last sentence of the subparagraph be revised to state that faulty subsurface safety devices shall be removed immediately.

*USGS Rationale.* The word promptly was inserted to ensure diligence. Safe operating conditions in the event the device cannot be replaced are assumed through the statement. The last sentence of the introduction of Paragraph 2 that the well shall not be left unattended while open to production unless a properly operating subsurface safety device has been installed in the well.

## PARAGRAPH NO. 4

*Comments.* It was suggested that the requirement for the tubing casing annulus to be packed off above the uppermost perforations should be broadened to require that the packer be set at least 100 feet below the measured top of cement on the production string or the intermediate string.

*USGS Rationale.* The sentence was revised to place an upper limitation on the setting location of the packer with respect to the top of the cement.

DEPARTMENT OF THE INTERIOR GEOLOGICAL  
SURVEY

## CONSERVATION DIVISION EASTERN AREA

## MID-ATLANTIC

## OCS ORDER NO. 5

Effective: July 1, 1976.

## SUBSURFACE SAFETY DEVICES

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.41(b). The operator shall comply with the following requirements. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b). All applications for approval under the provisions of this Order shall be submitted to the District Supervisor. Reference in this Order to approvals, determinations, or requirements are to those given or made by the Area Supervisor or his delegated representative.

1. *Installation.* All tubing installations open to hydrocarbon-bearing zones shall be equipped with a surface-controlled subsurface safety device. The surface controls may be located onsite or remotely. The device is to be installed at a depth of 30 metres (100 feet) or more below the ocean floor unless, after application and justification, the well is determined to be incapable of flowing. These installations shall be made within two days after stabilized production is established. The well shall not be left unattended while open to production before a subsurface safety device is installed.

A. *Shut-in wells.* A tubing plug shall be installed in lieu of, or in addition to, other subsurface safety devices if a well has been shut in for a period of six months. Such plugs shall be set at a depth of 30 metres (100 feet) or more below the ocean floor and shall be of the pump-through type. All wells perforated and completed, but not placed on production, shall be equipped with a subsurface safety device or tubing plug within two days after completion.

B. *Injection wells.* Surface controlled subsurface safety devices shall be installed in all injection wells unless, after application



and justification, it is determined that the well is incapable of flowing which condition shall be verified annually.

2. *Design, testing, and inspection.* Subsurface safety devices shall be designed, adjusted, installed, and maintained to insure reliable operation. During testing and inspection procedures, the well shall not be left unattended while open to production unless a properly operating subsurface safety device has been installed in the well.

A. *Surface-controlled subsurface safety devices.*

(1) *Quality assurance and performance.* The operator shall use subsurface safety devices that comply with the minimum standards set forth in "API Spec 14 A, First Edition, October 1973, Subsurface Safety Valves," as amended by supplement 2, February 1976, or supplements thereto as approved by the Area Supervisor, for quality assurance including design, material, and functional test requirements, and for verification of independent party performance testing and manufacturer functional testing of such valves.

(2) *Installation and testing.* The operator shall comply with the minimum recommended practices set forth in "API RP 14 B, First Edition, October 1973, Design, Installation, and Operation of Subsurface Safety Valve Systems," or supplements thereto as approved by the Area Supervisor, which contain procedures for design calculations, safe installation, and operating and testing. Each surface-controlled subsurface safety device installed in a well shall be tested in place for proper operation when installed, or reinstalled, at least monthly for the next six months and quarterly thereafter. If the device does not operate properly, it shall be promptly removed, repaired, and reinstalled or replaced and tested to insure proper operation.

B. *Tubing plugs.* A shut-in well equipped with a tubing plug shall be inspected for leakage by opening the well to possible flow at intervals not exceeding six months. If sustained liquid flow exceeds 400 cm<sup>3</sup>/min (.014 ft<sup>3</sup>/min), or gas flow exceeds 425 dm<sup>3</sup>/min (15 ft<sup>3</sup>/min), the plug shall be promptly removed, repaired, and reinstalled or an additional tubing plug installed to prevent leakage.

3. *Temporary removal.* Each wireline- or pumpdown-retrievable subsurface safety device may be removed, without further authorization or notice, for a routine operation which does not require approval of a Sundry Notice and Report on Wells (Form 9-331) for a period not to exceed fifteen days. The well shall be clearly identified as being without a subsurface safety device and shall not be left unattended while open to production. The provisions of this paragraph are not applicable to the testing and inspection procedures specified in section 2 (Design, Testing, and Inspection) above.

4. *Additional protective equipment.* All tubing installations in which a wireline- or pumpdown-retrievable subsurface safety device is to be installed shall be equipped with a landing nipple, with flow couplings or other protective equipment above and below, to provide for setting of the subsurface safety device. All wells in which a subsurface safety device or tubing plug is installed shall have the tubing-casing annulus packed off above the uppermost open casing perforations, and at least 30 metres (100 feet) below the measured top of cement on the production string or the intermediate string. The control system for all surface-controlled subsurface safety devices shall be an integral part of the platform shut-in system.

5. *Departures.* All departure applications will be considered for approval pursuant to 30 CFR 250.12(b) and the requirements of this Order. All applications for departures shall include a detailed statement of the well

conditions, efforts made to overcome any difficulties, and proposed alternate safety measures.

6. *Emergency action.* All tubing installations open to hydrocarbon-bearing zones and not equipped with a subsurface safety device as permitted by this Order shall be clearly identified as not being so equipped, and a subsurface safety device or tubing plug shall be available at the field location. In the event of an emergency, such device or plug shall be promptly installed, due consideration being given to personnel safety.

7. *Records.* The operator shall maintain the following records for a minimum period of one year for each subsurface safety device and tubing plug installed, and these records shall be available to any authorized representative of the Geological Survey.

A. *Field records.* Individual well records shall be maintained at or near the field and shall include, as a minimum, the following information:

(1) A record which will give design and other information; i.e., make, model, type, spacers, bean and spring size, pressure, etc.

(2) Verification of assembly by a qualified person in charge of installing the device and installation date.

(3) Verification of setting depth and all operational tests as required in this Order.

(4) Removal date, reason for removal, and reinstallation date.

(5) A record of all modifications of design in the field.

(6) All mechanical failures or malfunctions, including sand cutting, of such devices, with notation as to cause or probable cause.

(7) Verification that failure report was submitted.

B. *Other records.* The following records, as a minimum, shall be maintained at the operator's office:

(1) Verified design information of subsurface safety devices for the individual well.

(2) Verification of assembly and installation according to design information.

(3) All failure reports.

(4) All laboratory analysis reports of failed or damaged parts.

(5) Quarterly failure-analysis report.

8. *Reports.* Well completion reports (Form 9-330) and any subsequent reports of work-over (Form 9-331) shall include the type and the depth of the subsurface safety devices and tubing plugs installed.

To establish a failure-reporting and corrective-action program as a basis for reliability and quality control, each operator shall submit a quarterly failure-analysis report to the Area Supervisor, identifying mechanical failures by lease and well, make and model, cause or probable cause of failure, and action taken to correct the failure. The report shall be submitted within 30 days following the periods ending December 31, March 31, June 30, and September 30 of each year.

HARRY A. DUPONT,  
Area Oil and Gas Supervisor.

Approved:

RUSSELL G. WAYLAND,  
Acting Chief, Conservation Division.

SUMMARY OF COMMENTS ON DRAFT MID-ATLANTIC OCS ORDER AND U.S. GEOLOGICAL SURVEY (USGS) DISCUSSIONS

OCS ORDER NO. 7

PARAGRAPH NO. 1.A.(1)

*Comments.* Commenters suggested that the word "free oil" be added to subparagraph 1.A.(1) for clarity and to be consistent with the proposed EPA regulations 40 CFR 435, Offshore Segment of the Oil and Gas Extraction Points Source Category (Effluent Stand-

ards and Guidelines), which prohibit the discharge of free oil.

*USGS Rationale.* The USGS agrees with the rationale of the commenters and has added the words "free oil" to the subparagraph.

PARAGRAPH NO. 1.A.(2)

*Comments.* There was a consensus of opinion among the commenters that the requirement for a list of drilling mud additives which might be used to meet special drilling requirements was unnecessary and should be deleted.

*USGS Rationale.* The phrase "which might be used to meet special drilling requirements" did not clearly state the intent which was to allow for planning of the method of disposal of substances which were programmed for use; therefore, the wording was changed to "drilling mud component, including common chemical or chemical trade name of each component, and a list of the drilling mud additives anticipated for use in meeting special drilling requirements."

*Comments.* There was also a consensus among the commenters that the intent of the last sentence, "drilling mud containing toxic substances shall be neutralized prior to disposal," was not clear.

*USGS Rationale.* In the preamble of Paragraph No. 1, it is stated that disposal of waste materials into the ocean shall not create conditions which will adversely affect the public health, life or property, aquatic life or wildlife, recreation, navigation, or other uses of the ocean. This wording is taken from the EPA regulations and is consistent with USGS policy. Since neutralization of toxic substances may not always be the method specified by the Supervisor, the last sentence of this Section has been changed to reflect the applicability of a variety of Federal regulations as the true controlling criteria.

SUBPARAGRAPH 1.A.(4)

This paragraph was rewritten to recognize the permitting authority of the Environmental Protection Agency.

SUBPARAGRAPH 2.B.

*Comments.* Commenters suggested that this paragraph should be revised to separate the inspection schedules into categories of manned facilities and unmanned facilities and to cover the requirements for maintenance or repairs in separate subparagraphs.

*USGS Rationale.* Subparagraph No. 2.B. was revised to provide for inspection of unattended facilities at frequent intervals and to clarify the intention of this part.

SUBPARAGRAPH 2.C.(1)

*Comments.* One commenter suggested that the requirement for reporting an oil spill be broadened to permit an 18-hour time limit.

*USGS Rationale.* The Supervisor or his designee is always available for the notification of an oil spill. It is not necessary to extend the time of notification to accommodate the hours of the District office.

SUBPARAGRAPH 2.C. (2), (3), AND (4)

*Comments.* The consensus of opinion of the commenters on subparagraphs (3) and (4) was that these paragraphs should be combined. Several of the commenters indicated that these paragraphs



should be consistent with the requirements of Pub. L. 92-500 and Executive Order 11735 and should require notification of the potentially affected States of any oil spill.

**USGS Rationale.** Initial draft subparagraph 2.C (3) and (4) have been combined for consistency and to avoid certain areas of confusion. The reporting requirements have been modified to be in conformance with the "National Hazardous Substance Pollution Contingency Plan." It further provides that the District Supervisor will contact appropriate State agencies in the event of an oil spill.

#### SUBPARAGRAPH 3.A

**Comments.** Several of the commenters suggested that the requirement for monthly inspection of pollution control equipment should be changed to "regularly."

**USGS Rationale.** The Order was not revised. The word monthly was used to insure regularity of inspection.

#### SUBPARAGRAPH 3.B.(1)

**Comments.** One commenter suggested the deletion of the phrase "and the time required for deployment" from subparagraph 3.B.(1) of the Oil Contingency Plan.

**USGS Rationale.** The Order was not revised since deployment time is crucial to the determination of the adequacy of any contingency plan.

#### SECTION 5

**Comments.** One commenter suggested that the title of this Section be changed to Annual Contingency Plan Assessment to be consistent with the intent of the Section.

**USGS Rationale.** The title was changed in agreement with the rationale of the commenters.

#### DEPARTMENT OF THE INTERIOR GEOLOGICAL SURVEY

##### CONSERVATION DIVISION EASTERN AREA MID-ATLANTIC

OCS ORDER NO. 7; EFFECTIVE: JULY 1, 1976

#### POLLUTION AND WASTE DISPOSAL

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.43. The operator shall comply with the following requirements. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. **Pollution prevention.** In the conduct of an oil and gas operations, the operator shall prevent pollution of the ocean. Furthermore, the disposal of waste materials into the ocean shall not create conditions which will adversely affect the public health, life or property, aquatic life or wildlife, recreation, navigation, or other uses of the ocean.

A. **Liquid disposal.** (1) Drilling mud containing free oil shall not be disposed of into the ocean.

(2) The operator shall submit with the Application for Permit to Drill (Form 9-331C) a detailed list of drilling mud components, including the common chemical or chemical trade name of each component, and a list of the drilling mud additives anticipated for use in meeting special drilling requirements.

Disposal of drilling mud shall be by methods which will minimize the adverse effects to marine life. These methods shall be consistent with applicable Federal Regulations. Approval of drilling mud disposal procedures will be site specific and on a case-by-case basis.

(3) Curbs, gutters, and drains on platforms and structures shall be installed and maintained in accordance with the provisions of OCS Order No. 8.

(4) Discharges from fixed structures, including sanitary waste, produced water, and deck drainage, are subject to Environmental Protection Agency permitting procedures pursuant to the Federal Water Pollution Control Act as amended.

B. **Solid waste disposal.** (1) Drill cuttings, sand, and other solids containing oil shall not be disposed of into the ocean unless all of the free oil has been removed.

(2) Mud containers and other similar solid waste materials shall be incinerated or transported to shore for disposal in accordance with Federal, State, or local requirements.

2. **Personnel, inspections, and reports—A. Personnel.** The operator's personnel shall be thoroughly instructed in the techniques of equipment maintenance and operation for the prevention of pollution. Nonoperator personnel shall be informed in writing, prior to executing contracts, of the operator's obligations to prevent pollution.

B. **Pollution inspection schedules.** Operators shall inspect their facilities as follows:

(1) Manned facilities shall be inspected daily.

(2) Unattended facilities, including those equipped with remote control and monitoring systems, shall be inspected at frequent intervals. The District Supervisor may prescribe the frequency of inspections for these facilities.

(3) All production facilities, such as separators, tanks, treaters, and other equipment, shall be designed to prevent pollution. Maintenance or repairs necessary to prevent pollution of the ocean shall be undertaken immediately.

C. **Pollution reports.** All pollution reports required shall be submitted on Form 9-1880, entitled *Pollution Report*.

(1) All spills of oil and liquid pollutants shall be recorded showing the cause, size of spill, and action taken, and the record shall be maintained and available for inspection by the District Supervisor. All spills of less than 2.5 cubic metres (15 barrels) shall be reported orally to the District Supervisor within 12 hours and shall be confirmed in writing.

(2) All spills of oil and liquid pollutants of 2.5 to 8 cubic metres (15 to 50 barrels) shall be reported orally to the District Supervisor within four (4) hours and shall be confirmed in writing.

(3) All spills of oil and liquid pollutants of more than 8 cubic metres (50 barrels) shall be reported orally without delay to the District Supervisor and the Coast Guard. All oral reports shall be confirmed in writing. The District Supervisor shall notify the Governor(s), or his (their) designee(s), of all such spills without delay.

(4) Operators shall notify each other upon observation of equipment malfunction or pollution resulting from another's operation.

3. **Pollution control equipment and oil spill contingency plan—A. Equipment.** Standby pollution control equipment and materials shall be maintained by, or shall be available to, each operator at an offshore or onshore location. This shall include containment booms, skimming apparatus, cleanup materials and chemical agents, and shall be available prior to the commencement of operations. No chemicals shall be used without prior approval of the Area Supervisor. The

equipment and materials shall be inspected monthly and maintained in good condition for use. The results of the inspections shall be recorded and maintained at the site.

B. **Oil spill contingency plan.** The operator shall submit an oil spill contingency plan for approval by the Area Supervisor before consideration can be given to approval of an application for permit to conduct operations. This plan shall contain the following:

(1) Provisions to assure that full resource capability is known and can be committed during an oil discharge situation including the identification and inventory of applicable equipment, materials, and supplies which are available locally and regionally, both committed and uncommitted, and the time required for deployment.

(2) Provisions for varying degrees of response effort depending on the severity of the oil discharge.

(3) Establishment of notification procedures for the purpose of early detection and timely notification of an oil discharge including a current list of names, telephone numbers, and addresses of the responsible persons and alternates on call to receive notification of an oil discharge, as well as the names, telephone numbers, and addresses of regulatory organizations and agencies to be notified when an oil discharge is discovered.

(4) Provisions for well defined and specific actions to be taken after discovery and notification of an oil discharge including:

(a) Specification of an oil discharge response operating team consisting of trained, prepared and available operating personnel.

(b) Predesignation of an oil discharge response coordinator who is charged with the responsibility and delegated commensurate authority for directing and coordinating response operations.

(c) A preplanned location for an oil discharge response operations center and a reliable communications system for directing the coordinated overall response operations.

4. **Spill control and removal.** Immediate corrective action shall be taken in all cases where pollution has occurred. Corrective action taken under the Oil Spill Contingency Plan shall be subject to modification when directed by the Area Supervisor. The primary jurisdiction to require corrective action to abate the source of pollution and to enforce the subsequent cleanup by the lessee or operator shall remain with the Area Supervisor pursuant to the provisions of this Order and the memorandum of understanding between the Department of Transportation (U.S. Coast Guard) and the Department of the Interior (U.S. Geological Survey) dated August 16, 1971.

5. **Annual contingency plan assessment.** Annual contingency plan assessments will be conducted in conjunction with the Plan of Development review. Upon request of the Area Supervisor, revised contingency plans reflecting changes in personnel, equipment, and methods shall be submitted.

HARRY A. DUPONT,  
Area Oil and Gas Supervisor.

Approved:

RUSSELL G. WAYLAND,

Acting Chief, Conservation Division.

#### SUMMARY OF COMMENTS ON DRAFT MID-ATLANTIC OCS ORDER AND U.S. GEOLOGICAL SURVEY (USGS) DISCUSSIONS

OCS ORDER NO. 12

#### SUBPARAGRAPH 1.B.(1)

**Comments.** One Commenter suggested that the casing record, liner record, tubing record, and perforation record should be added to the list of items



which are not to be available as public information.

**USGS Rationale.** Items 28, 29, 30, and 31 were added to correct a typographical error in the draft OCS Order. These items are qualified as exceptions under the Freedom of Information Act.

#### SUBPARAGRAPH 1.B.(3)

**Comments.** One commenter suggested that the provision of the Pacific Order which provides that suspension periods will be excluded in determining the five-year period after which certain data must be disclosed in the absence of production be included in the Mid-Atlantic Order.

**USGS Rationale.** The Order was not revised. The suggestion of the commenter is intended to provide for the possibility that the Secretary of the Interior or the court may order suspension of production. Since it is not anticipated that such suspensions will occur, we see no justification for including such a provision in the Order. This was included in the Pacific Area Order because of the specific conditions that existed in that Area.

#### SUBPARAGRAPH 1.D.

**Comments.** One commenter suggested that item 4, "Location of Well at Proposed Producing Zone," should be added as an item which is exempt from the available information list.

**USGS Rationale.** Item 4, "Location of Well at Proposed Producing Zone," was added to the subparagraph as an exception since this item is qualified as an exception under the Freedom of Information Act.

DEPARTMENT OF THE INTERIOR GEOLOGICAL SURVEY CONSERVATION DIVISION EASTERN AREA  
MID-ATLANTIC

OCS ORDER NO. 12

EFFECTIVE: JULY 1, 1976.

#### PUBLIC INSPECTION OF RECORDS

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.97 and 43 CFR Part 2. Requests for information made under the Freedom of Information Act, 5 U.S.C. § 552, will be governed by the provisions of 43 CFR Part 2 (40 F.R. 7304, February 19, 1975). Section 2.13 of 43 CFR says:

It is the policy of the Department of the Interior to make the records of the Department available to the public to the greatest extent possible, in keeping with the spirit of the Freedom of Information Act.

Section 2.15(c) of 43 CFR says:

A request for a record may be denied only if it is determined that (1) the record is exempt from disclosure (under the Freedom of Information Act) and (2) that withholding of the record is required by statute or Executive Order or supported by sound grounds.

The operator shall comply with the following requirements. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. **Availability of records.** It has been determined that certain records pertaining to leases and wells in the Outer Continental Shelf and submitted under 30 CFR Part 250 shall be made available for public inspection,

as specified below, in the Area office. Certain other portions of these records have been determined to be exempt from disclosure. The reason for these exemptions is discussed in Section 4 of this Order.

**A. Form 9-152—Monthly report of operations.** All information contained on this form shall be available except the information required in the Remarks column.

**B. Form 9-330—Well completion or recompletion report and log.** (1) Prior to commencement of production, all information contained on this form shall be available, except Item 1a, Type of Well; Item 4, Location of Well, at top production interval reported below; Item 22, If Multiple Completion, How many; Item 24, Producing Interval; Item 26, Type Electric and Other Logs Run; Item 28, Casing Record; Item 29, Liner Record; Item 30, Tubing Record; Item 31, Perforation Record; Item 32, Acid, Shot, Fracture, Cement Squeeze, etc.; Item 33, Production; Item 37, Summary of Porous Zones; and Item 38, Geologic Markers.

(2) After commencement of production, all information shall be available, except Item 37, Summary of Porous Zones; and Item 38, Geologic Markers.

(3) If production has not commenced after an elapsed time of five years from the date of filing Form 9-330 as required in 30 CFR 250.38(b), all information contained on this form shall be available, except Item 37, Summary of Porous Zones; and Item 38, Geologic Markers. Within 90 days prior to the end of the 5-year period, the lessee or operator shall file a Form 9-330 containing all information requested on the form, except Item 37, Summary of Porous Zones; and Item 38, Geologic Markers, to be made available for public inspection. Objections to the release of such information may be submitted with the completed Form 9-330.

**C. Form 9-331—Sundry notices and report on wells.** (1) When used as a "Notice of Intention to" conduct operations, all information contained on this form shall be available, except Item 4, Location of Well, at top production interval; and Item 17, Describe Proposed or Completed Operations.

(2) When used as a "Subsequent Report of" operations, and after commencement of production, all information contained on this form shall be available, except information under Item 17 as to subsurface locations and measured and true vertical depths for all markers and zones not placed on production.

**D. Form 9-331C—Application for permit to drill, deepen or plug back.** All information contained on this form, and location plat attached thereto, shall be available except Item 4, Location of Well at Proposed Production Zone; and Item 23, Proposed Casing and Cementing Program.

**E. Form 9-1869—Quarterly oil well test report.** All information contained on this form shall be available.

**F. Form 9-1870—Semi-annual gas well test report.** All information contained on this form shall be available.

**G. Multi-point back pressure test report.** All information contained on this form used to report the results of required multi-point back pressure test of gas wells shall be available.

**H. Sales of lease production.** Information contained on monthly Geological Survey computer printout showing sales volumes, value, and royalty of production of oil, condensate, gas and liquid products, by lease, shall be made available.

2. **Filing of reports.** All reports on Forms 9-152, 9-330, 9-331, 9-331C, 9-1869, 9-1870, and the forms used to report the results of multi-point back pressure tests, shall be filed in accordance with the following: All reports submitted on these forms shall include a

copy with the words "Public Information" shown on the lower right-hand corner. All items on the form not marked "Public Information" shall be completed in full; and such forms, and all attachments thereto, shall not be available for public inspection. The copy marked "Public Information" shall be completed in full, except that the items described in 1(A), (B), (C), and (D) above, and the attachments relating to such items, may be excluded. The words "Public Information" shall be shown on the lower right-hand corner of this set. This copy of the form shall be made available for public inspection.

3. **Availability of inspection records.** All accident investigation reports, pollution incident reports, facilities inspection data, and records of enforcement actions are also available for public inspection.

4. **Information exempt from public inspection.** It has been determined that certain information as discussed in paragraphs 1.A, 1.B, 1.C, 1.D, and 2 of this Order is exempt from disclosure under exemption 9 of the Freedom of Information Act (5 U.S.C. 552 (b)(9)). This information has been determined to qualify as "geological and geophysical information and data including maps concerning wells."

HARRY A. DUPONT,  
Area Oil and Gas Supervisor.

Approved:

RUSSELL G. WAYLAND  
Acting Chief, Conservation Division.

[FR Doc.76-19948 Filed 7-9-76; 8:45 am]

## DEPARTMENT OF COMMERCE

### Bureau of the Census

### NUMBER OF EMPLOYEES, PAYROLLS, GEOGRAPHIC LOCATION, CURRENT STATUS AND KIND OF BUSINESS FOR THE ESTABLISHMENTS OF MULTIES- TABLISHMENT COMPANIES

#### Determination for Surveys

In conformity with title 13, United States Code, sections 181, 224, and 225 and due notice of consideration having been published on June 2, 1976 (41 FR 22290), I have determined that a 1976 Company Organization Survey is needed to update company and establishment changes to the multiestablishment companies in the Standard Statistical Establishment List. The survey is designed to collect information on the number of employees, payrolls, geographic location, current status, and kind of business for the establishments of multiestablishment companies. The data will have significant application to the needs of the public and to governmental agencies and are not publicly available from nongovernmental or governmental sources.

Report forms will be furnished to firms included in the survey and additional copies of the form are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that a survey be conducted for the purpose of collecting these data.

VINCENT P. BARABBA,  
Director,  
Bureau of the Census.

JULY 6, 1976.

[FR Doc.76-19977 Filed 7-9-76; 8:45 am]



Maritime Administration  
National Oceanic and Atmospheric  
Administration  
**MERCHANT MARINE AND FISHERIES  
CAPITAL CONSTRUCTION FUNDS**

**Applicable Rates of Interest on  
Nonqualified Withdrawals**

Pursuant to authority contained in section 607(h) (4) of the Merchant Marine Act, 1936 (46 U.S.C. 1101), as amended by section 21 of the Merchant Marine Act of 1970 (84 Stat. 1031), we hereby determine and announce that the applicable rate of interest on the amount of additional tax attributable to any nonqualified withdrawal from a capital construction fund established under section 607 of the Act shall be, with respect to nonqualified withdrawals made in a taxable year beginning in—

	Percent
1970	8.00
1971	8.00
1972	6.46
1973	6.45
1974	7.46
1975	8.47
1976	8.44

The determination of the applicable rate of interest with respect to nonqualified withdrawals made in a taxable year beginning after 1971 was computed in accordance with the joint regulations promulgated under the Act (26 CFR Part 3, § 3.7(e) (2) (ii)) by multiplying 8 percent by the ratio which (a) the average yield on 5 year Treasury securities for the calendar year immediately preceding the beginning of such taxable year, bears to (b) the average yield on 5 year Treasury securities for the calendar year 1970. The applicable rate so determined was computed to the nearest one-hundredth of 1 percent.

Dated: July 1, 1976.

R. W. WHITE,  
Administrator, National Oceanic  
and Atmospheric Administration.

ROBERT J. BLACKWELL,  
Assistant Secretary of Commerce  
for Maritime Affairs.

WILLIAM M. GOLDSTEIN,  
Acting Assistant Secretary  
of the Treasury.

[FR Doc. 76-19990 Filed 7-9-76; 8:45 am]

National Oceanic and Atmospheric  
Administration  
**HENRY DOORLY ZOO**  
Receipt of Application for Public Display  
Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals.

Henry Doorly Zoo, Omaha Zoological Society, Riverview Park, Omaha, Nebraska 68108, to take two (2) California

sea lions (*Zalophus californianus*) for public display.

The requested animals will be captured by Sea Lions International who has been capturing sea lions for 18 years and has the experience and facilities for caring for and acclimating the animals prior to shipment. The capture site will be the Channel Islands, off Santa Barbara, California. The animals will be transported from the acclimating facility to Henry Doorly Zoo by charter aircraft and truck.

At the facility the animals will be housed in an oval concrete pool, 95' x 85', with a rock island in the center to provide resting places. In addition to 3 landing areas, there are also 2 hauling out places with submerged exist/entry holes through the rock. The pool holds 333,000 gallons of water with depths ranging from 2½ feet to a maximum of 8 feet. The outside circumference of the pool is fenced with a 42 inch high rail that provides a minimum of 6 feet separation between the animals and the public.

The facility is a non-profit organization, open daily to the public from April 1 to November 1, with a seasonal attendance of 300,000 visitors.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service,  
3300 Whitehaven Street, NW., Washington,  
D.C. 20235;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before August 11, 1976. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: July 6, 1976.

HARVEY M. HUTCHINGS,  
Acting Associate Director for  
Resource Management, Na-  
tional Marine Fisheries Ser-  
vice.

[FR Doc. 76-20021 Filed 7-9-76; 8:45 am]

**KAHALA HILTON**

Receipt of Application for Public Display  
Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals, (50 CFR Part 216).

Kahala Hilton, 5000 Kahala Avenue, Honolulu, Hawaii 96816, to take four (4) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for public display.

The dolphins will be on public display in the lagoon of the Kahala Hilton Hotel.

The animals would be captured by Sea-Arama Marineworld, Galveston, Texas. Sea-Arama's training Director and Curator R. K. Beggs has 8 years' experience in marine mammal training and husbandry, and 3 years of capture experience. The dolphins would be captured off the Texas Gulf Coast at either the Copano Bay Area, or Matagorda Bay area, by means of a large mesh net. Two dolphins will be captured initially with the other two dolphins being captured at a later date as required. The animals will be transported from capture site to the Kahala Hilton facility by truck and chartered plane.

The dolphins will be maintained and displayed in a man-made lagoon within the hotel grounds. The lagoon averages 180 feet in length, 120 feet in width, and 7-8 feet in depth, with the deepest point being 12 feet. A holding area 100 feet long and 30 feet wide is available for observation and acclimatization.

The estimated 500 visitors per day visit the lagoon (at no charge of admission) with the primary purpose of observing the dolphins. The animals perform daily at feeding times with 3 weeks per year when no behaviors are performed at feeding.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service,  
3300 Whitehaven Street, NW., Washington,  
D.C.

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.



Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235 on or before August 11, 1976. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: July 7, 1976.

HARVEY M. HUTCHINGS,  
Acting Associate Director for  
Resource Management, National  
Marine Fisheries Service.

[FR Doc. 76-20022 Filed 7-9-76; 8:45 am]

#### KENNETH S. NORRIS

##### Receipt of Application for a Scientific Research Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407).

Dr. Kenneth S. Norris, Deputy Director, Marine Studies Program, University of California, Santa Cruz, California, to take by radio tagging up to 30 spotted dolphins (*Stenella attenuata*), 30 spinner dolphins (*Stenella longirostris*), 30 whitebelly dolphins (*Delphinus delphis*); and to take up to 500 animals of these species by tagging with dorsal fin roto tags; to conduct research on the behavior of porpoises in the yellowfin purse seine fishery; and to collect specimen materials from dead animals.

The Applicant states that the purpose of this research is to study the behavior of porpoise in the operations of the yellowfin tuna purse seine fishery with the aim of developing solutions to porpoise mortality.

The animals to be radio tagged will have the radio packs fitted over the dorsal fin and held in place with soluble bolts which will allow the radio pack to drop off in about 30 days. The roto tags will be permanently placed.

The research will be done aboard a vessel chartered for this work and observation on porpoise behavior in the nets will be conducted from the charter vessel, its helicopter, and a NOAA research vessel. Observations on porpoise schools before they are set on will be made from the research vessel. During the sets, acoustic gear will be attached to the nets to study the acoustic environment and attempt to direct or guide the porpoises. Viewing vehicles and divers will enter into the nets to test certain porpoise escape gear. No porpoises will be intentionally killed.

Documents submitted in connection with this application are available in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and  
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90781.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written views or data or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before August 11, 1976. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: July 6, 1976.

HARVEY M. HUTCHINGS,  
Acting Associate Director for Resource Management, National  
Marine Fisheries Service.

[FR Doc. 76-20024; Filed 7-9-76; 8:45 am]

#### SOUTHWEST FISHERIES CENTER

##### Receipt of Application for Scientific Research Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216):

Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, to take 8,349 porpoises for scientific research.

The proposed research is part of the Applicant's Porpoise/Tuna Interaction Program, which is directed towards (1) developing methods, techniques, and technology to reduce porpoise mortality incidental to yellowfin tuna purse seine fishing; and (2) determining the status of the porpoise stocks.

The Applicant has investigated a number of modifications to fishing gear and methods. As a result of chartered research cruises during 1975, the Applicant initiated a program, in cooperation with the tuna industry, to place experimental gear aboard commercial tuna purse seiners, in order to assess the effectiveness of various combinations of modified fishing gear and techniques, in reducing porpoise mortality incidental to commercial fishing.

The Applicant has requested to continue the research program under the authority of a scientific research permit.

Sixteen chartered cruises involving commercial tuna purse seiners equipped with experimental fishing gear are planned. These cruises will be conducted during 1976 and 1977 in the eastern tropical Pacific Ocean. National Marine Fisheries Service gear technicians will observe all operations and determine the causes of mortality of porpoises killed during the project.

It is estimated that the following porpoises may be killed during the proposed research:

Spotted dolphin ( <i>Stenella attenuata</i> )	4,905
Spinner dolphin ( <i>Stenella longirostris</i> )	2,909
Common dolphin ( <i>Delphinus delphis</i> )	135
Striped dolphin ( <i>Stenella coeruleoalba</i> )	100
Bottlenosed dolphin ( <i>Tursiops truncatus</i> )	50
Risso's dolphin ( <i>Grampus griseus</i> )	50
Short-finned pilot whale ( <i>Globicephala macrorhynchus</i> )	50
Rough-toothed dolphin ( <i>Steno bredanensis</i> )	50
Fraser's dolphin ( <i>Lagenodelphis hosei</i> )	50
Pygmy killer whale ( <i>Feresa attenuata</i> )	25
Melon-headed whale ( <i>Peponocephala electra</i> )	25

Specimen materials will be collected from these dolphins for use in on-going studies of life history, population dynamics, systematics, and ecology of the involved species and population stocks.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and  
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90781.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors. Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before August 11, 1976. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such a hearing is at the discretion of the Director.

Dated: July 7, 1976.

HARVEY M. HUTCHINGS,  
Acting Associate Director for  
Resource Management, National  
Marine Fisheries Service.

[FR Doc. 76-20023 Filed 7-9-76; 8:45 am]



# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

[FDA-225-76-3009]

### NARCOTIC TREATMENT PROGRAMS

#### Memorandum of Understanding With the Drug Enforcement Administration

The Food and Drug Administration is announcing that a Memorandum of Understanding has been executed with the Drug Enforcement Administration on May 27, 1976. The purpose of the memorandum is to delineate cooperative working arrangements for the approval and registration of treatment programs for narcotic addiction.

Pursuant to the announcement in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing this notice. The Memorandum of Understanding reads as follows:

#### MEMORANDUM OF UNDERSTANDING BETWEEN THE DRUG ENFORCEMENT ADMINISTRATION AND THE FOOD AND DRUG ADMINISTRATION

I. *Purpose.* This Memorandum of Understanding outlines the working arrangements between the Drug Enforcement Administration (DEA) and the Food and Drug Administration (FDA) regarding the approval or denial procedures for narcotic treatment programs (hereinafter referred to as treatment programs) and the cooperative efforts of both agencies in any denial or revocation of approval by FDA, or denial or revocation of registration by DEA initiated against these treatment programs. Treatment programs under this agreement include all programs that use any narcotic drug for the treatment of narcotic addiction.

II. *Background.* The methadone regulation in § 310.505 (21 CFR 310.505) requires that prior approval by FDA be obtained before a treatment program may receive shipments of methadone. Before FDA may give such approval, it must consult with DEA to determine if the applicant is in compliance with the Controlled Substances Act of 1970 (CSA) and the Narcotic Addict Treatment Act (NATA) of 1974. Prior approval of the State authority is also required, except programs wholly operated by an agency of the U.S. Government.

The NATA of 1974 amended the CSA by requiring that all treatment programs appropriately register with DEA. DEA may not register an applicant without consulting FDA in order to determine if the program meets the medical standards established by the Secretary of Health, Education, and Welfare.

Both agencies have the authority to deny or revoke approval of a treatment program independently of each other, or at the recommendation of the other agency or a State authority, for violation of laws or regulations governing the operations of such programs.

DEA and FDA will continue to work in close cooperation to prevent treatment programs from beginning operations without the required approvals of both agencies, to coordinate any denial or revocation proceedings, and to provide for the disposition of the narcotics if a program's approval or registration is revoked.

III. *Substance of Agreement.* a. Each agency shall obtain prior approval of the other before a new application for a treatment program is approved by FDA or registered by

DEA. Before FDA may give approval, prior approval by the appropriate State authority is necessary, except in the case of a program wholly operated by the U.S. Government.

b. The agencies shall notify each other of any denial or revocation of approval or registration of treatment programs when such action is initiated and shall keep each other informed of the outcome of such action.

c. Investigations of treatment programs by either agency that reveal suspected violations of the regulations promulgated by the other agency shall be promptly reported to that agency.

d. When one agency recommends denial or revocation of approval or registration to the other, the recommending agency shall provide the other agency with all necessary reports, documents, and testimony for successful completion of the action.

e. Both agencies shall cooperate with each other in terminating illegally operating programs and in seizing or accepting surrender of the program's drug supply, as well as the supplies of other programs terminated for any reason.

f. FDA shall obtain DEA approval prior to approving treatment program requests for:

1. Alternate dispensing sites;
2. Alternate methods of distribution;
3. Exceptions that involve storage of methadone at locations not approved for that purpose by either FDA or DEA, e.g., jail facilities or wholesalers who only store methadone for program;
4. Establishment of medication units;

g. FDA shall consult with DEA before approving program-wide, as opposed to individual patient, requests for additional take-home medication not provided for by the regulation.

h. The agencies shall hold periodic meetings to discuss resolution of procedural problems related to mutual enforcement activities.

i. In the forum of the Federal Methadone Treatment Policy Review Board (composed of designated representatives from the Drug Enforcement Administration, Food and Drug Administration, National Institute on Drug Abuse, and the Veterans Administration) DEA and FDA will discuss with each other, and other members of the Board, any proposed new regulations, regulation changes, or any significant interpretative modification with regard to treatment programs that will impact on the other agency.

IV. *Liaison Officers.* For DEA: Mr. Ronald W. Buzzee, Chief, Regulatory Investigations Section, Compliance Investigations Div. Address: 1405 "I" St. NW., Washington, DC 20537. Telephone No.: (202)-382-4217.

For FDA: Mr. Buddy F. Stonecipher, Director, Div. of Methadone Monitoring (HFD-340), Bureau of Drugs. Address: 5600 Fishers Lane, Rockville, MD 20852. Telephone No.: (301)-443-3414.

V. *Period of Agreement.* When accepted by both agencies, the agreement will have an effective period of performance from the date of signature with no expiration date. It may be modified by mutual consent of both parties or may be terminated by either party upon thirty (30) days advance written notice to the other.

At such time as the Secretary delegates authority and responsibility pursuant to the Narcotic Addict Treatment Act of 1974, this agreement will be amended to reflect any changes which may be appropriate.

Approved and accepted for the Drug Enforcement Administration:

Dated: May 27, 1976.

PETER B. BENSINGER,  
Administrator,  
Drug Enforcement Administration.

Approved and accepted for the Food and Drug Administration:

Dated: May 20, 1976.

A. M. SCHMIDT,  
Commissioner of Food and Drugs.

Effective date: This Memorandum of Understanding became effective on May 27, 1976.

Dated: July 2, 1976.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc. 76-19959 Filed 7-9-76; 8:45 am]

## National Institute of Education

### NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

#### Meeting

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on July 23, 1976, at the National Institute of Education, 1200 19th Street, NW, Washington, D.C., in Room 823. The meeting will convene at 9:00 a.m. and adjourn at 4:15 p.m.

The National Council on Educational Research is established under Section 405(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

The entire meeting will be open to the public. The tentative agenda is as follows:

- 9:00—Convene.
- 9:00-9:05—Approve Minutes of May 28 Meeting.
- 9:05-9:30—Director's Report.
- 9:30-10:00—Executive Committee Report: NCER Process for Development of Policy and Related Functions.
- 10:00-10:15—NCER Committee Structure and Assignments.
- 10:15-10:30—NCER 1976 Annual Report: Plans of NCER Reports Committee.
- 10:30-12:00—Report of NCER Program Development Committee.
- 12:00-12:45—Lunch.
- 12:45-2:15—Budget and Program Planning for FY 1978.
- 2:15-3:00—Curriculum Development Policy: Progress Report on Staff Work and Plans for Policymaking.
- 3:00-3:30—NIE Publications and Royalties Policy: Director's Presentation of Issues.
- 3:30-4:15—Staff Presentation: NIE Program of School Desegregation Studies.

Members of the public are invited to attend the sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the Chairman of the Council at the address shown below.



Requests to address the Council meeting should be submitted in writing to the Chairman at least ten days in advance of the meeting. The Chairman will determine whether a presentation should be scheduled.

In accordance with Council Policy (NCER Resolution No. 013074-8) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Staff Office of the Council. Resolutions are available shortly after the particular meeting at which adopted. Because minutes require approval by the Council at a subsequent meeting, they are usually available approximately four to six weeks after the date of the meeting to which they refer.

In order to verify the tentative agenda, or assure adequate seating arrangements, interested persons are requested to contact the Staff Office of the National Council on Educational Research. The address and telephone number are listed below:

National Council on Educational Research,  
National Institute of Education, Washington, D.C. 20208. Telephone: 202-254-7900

Dated: July 6, 1976.

HAROLD L. HODGKINSON,

Director,

National Institute of Education.

[FR Doc.76-19967 Filed 7-9-76; 8:45 am]

#### Office of Education

#### AUDIT HEARING PROCESS

#### Amendment for Title I Audit Hearing Board Procedures

Pursuant to the authority contained in sections 201 and 204 of Reorganization Plan No. 1 of 1939 (4 FR 2728, 53 Stat. 1424) as amended by section 5 of Reorganization Act on October 27, 1972 in 37 FR 2053, 67 Stat. 631) 20 U.S.C. 2; Title I of the Elementary and Secondary Education Act, 20 U.S.C. 241a; and sections 434 and 435 of the General Education Provisions Act, 20 U.S.C. 1232c and 1232d, there is established within the Office of Education a Title I Audit Hearing Board.

The purpose of this notice is to amend the notice published in the FEDERAL REGISTER on October 27, 1972, in 37 FR 23002, which established the Title I Audit Hearing Board to review and provide hearings if necessary, upon final audit determinations made in the administration of the Title I of the Elementary and Secondary Education Act programs by the Office of Education. The change made in this notice will conform the scope of the notice to modifications which are being made by the Office of Education to speed up the audit resolution and settlement process.

#### OFFICE OF EDUCATION TITLE I AUDIT HEARING BOARD

Sec.

1. Scope.
2. Definitions.
3. Audit Hearing Board; Audit Hearing Panel.
4. Determinations subject to the jurisdiction of the Board.

Sec.

5. Submission.
6. Effect of submission.
7. Substantive and procedural rules.
8. Hearing before Panel or a hearing officer.
9. Initial decision; final decision.
10. Separation of functions.

§ 1 *Scope.* This notice applies to final audit determinations made by the Office of Education after June 30, 1971, with respect to programs funded under Title I of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 241a et seq.). For the purpose of the notice, as amended, an audit determination by the Office of Education shall be considered final only after the grantee has been provided the opportunity to furnish documentation of otherwise comment on a Department of Health, Education, and Welfare Audit Agency audit report, or preliminary audit determination, and has been notified in writing that a final audit determination has been made with respect to the matters included in a final audit report and regarding implementation of the items contained therein.

§ 2 *Definitions.* For purposes of this notice:

(a) "Board" means the Office of Education Title I Audit Hearing Board, as described in paragraph (a) of section 3.

(b) "Board Chairperson" means the Board member designated by the Commissioner to serve as Chairperson of the Board.

(c) "Panel" means an Audit Hearing Panel, as described in Paragraph (b) of section 3.

(d) "Panel Chairperson" means a member of an Audit Hearing Panel who has been designated as Chairperson of such Panel by the Board Chairperson.

(e) The terms "Department" and "Departmental" refer to the Department of Health, Education, and Welfare.

(f) "Commissioner" means the U.S. Commissioner of Education.

(g) "Grantee" means a State educational agency to which payments have been made under section 143 of the Elementary and Secondary Education Act.

(h) "Title I" means Title I of the Elementary and Secondary Education Act (20 U.S.C. 241a et seq.).

(i) "Final audit determination" means a finding or findings based on an audit report of the DHEW Audit Agency, the General Accounting Office, or other Federal Auditing Agency, and the documentation or comments of the grantee and sustained by the Deputy Commissioner for School Systems of the Office of Education, in writing to the State educational agency.

§ 3 *Audit Hearing Board; Audit Hearing Panel.* (a) There is established, within the Office of the Commissioner, an Office of Education Title I Audit Hearing Board, whose members shall be designated by the Commissioner to perform the functions described in this notice. Subject to limitations set forth in section 10 of this notice, persons who are officers or employees of the Department or its constituent agencies as well as other Federal officers or employees may serve on the Board. Persons who are not other-

wise full-time employees of the Federal Government may, in accordance with appropriate arrangements, also be asked to serve on the Board. Service on the Board may be on a regular or an intermittent basis.

(b) The Commissioner shall designate one of the members of the Board to be Chairperson. The Board Chairperson shall designate Audit Hearing Panels for the consideration of one or more cases submitted to the Board. Each Panel shall consist of not less than three members of the Board. The Board Chairperson may, at his or her discretion, constitute the entire Board to sit as a Panel for any case or class of cases or may be a member of a Panel. The Board Chairperson shall designate himself or herself or any other member of the Panel to serve as Chairperson.

(20 U.S.C. 241a 1232c)

§ 4 *Determinations subject to the jurisdiction of the Board.* (a) Subject to section 5 and paragraph (b) of this section, the Board shall have jurisdiction in those cases in which a grantee under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241a et seq.) has been notified in writing that a final audit determination has been made that an expenditure not allowable under the grant has been made by the grantee (or by a subgrantee to which it has made payment under Title I), or that the grantee (or the subgrantee) has otherwise failed to discharge its obligations to account for grant funds.

(b) A notification described in the preceding sentence shall set forth the reasons for the determination in sufficient detail to enable the grantee to provide a statement of position required by section 5(a)(2) of this notice, and shall inform the grantee of his or her opportunity for review under this notice. In the case of final audit determinations made prior to the effective date of the notice published in 37 FR 23002, the Deputy Commissioner for School Systems may designate those notifications which have previously been made to grantees as final audit determinations and which he deems to comply with this paragraph. Upon receiving notice of this designation, the grantee shall be deemed to have received a notification for purposes of the paragraph.

(20 U.S.C. 241a, 1232c)

§ 5 *Submission—(a) Application for review.* (1) A grantee for whom a determination described in section 4 has been made, and who desires review, may file with the Board an application for review of this determination. The grantee's application for review must be postmarked no later than 30 days after the postmark date of notification provided pursuant to section 4(b), except when the Board Chairperson grants an extension of time for good cause shown.

(2) Although the application for review need not follow any prescribed form, it shall clearly identify the question or questions in dispute and contain a full statement of the grantee's position



with respect to the question or questions, and the pertinent facts and reasons in support of this position. The grantees shall attach to his submission a copy of the agency notification described in section 4(b).

(b) *Action By Board on an application for review.* (1) The Board Chairperson shall promptly send a copy of the grantee's application to the Deputy Commissioner for School Systems.

(2) If the Board Chairperson determines, after receipt of an application for review, that the requirements of section 4 have been satisfied, he shall promptly notify the applicant and the Deputy Commissioner for School Systems, and refer the application to an Audit Hearing Panel designated pursuant to section 3(b) for further proceedings under this part. If he determines that these requirements have not been met, the Board Chairperson shall return the application to the grantee with reasons for its rejection.

(20 U.S.C. 241a, 1232c)

§ 6 *Effect of submission.* When an application has been filed with the Board with respect to a determination, no action will be taken by the Office of Education to collect the amount determined to be owing pursuant to this determination until the application has been rejected or until the Commissioner has signified his final decision. The filing of the application shall not affect the authority which the Office of Education may have to initiate proceedings under section 146 of Title I.

(20 U.S.C. 241a, 1232c)

§ 7 *Substantive and procedural rules.*

(a) *Substantive rules.* The Panel shall be bound by all applicable laws and regulations.

(b) *Procedural rules.* (1) With respect to cases involving, in the opinion of the Panel, no dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the Panel shall take appropriate steps to afford each party to the proceeding an opportunity for presenting his or her case at the option of the Panel:

(i) Wholly or partially in writing; or  
(ii) In an informal conference before the Panel which shall include provisions designed to assure to each party:

(A) Sufficient notice of the issues to be considered (where such a notice has not previously been afforded); and

(B) An opportunity to be represented by counsel.

(2) With respect to cases involving a dispute of a material fact in which the resolution of the dispute would be materially assisted by oral testimony, the Panel shall take appropriate steps to afford each party an opportunity for a hearing, which shall include, in addition to provisions set forth in paragraph (b) (1) (ii) of this section, provisions designed to assure each party the following:

(i) A transcript of the proceedings;  
(ii) An opportunity to present witnesses on his or her behalf; and

(iii) An opportunity to cross-examine other witnesses either orally or through written interrogatories.

(c) *Intervention of third parties.*

(1) Interested third parties may, upon application to the Board Chairperson, intervene in proceedings conducted under this notice. This application must indicate to the satisfaction of the Board Chairperson that the intervenor has information relative to the specific issues raised by the final audit determination, and that this information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, these parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses and to be represented by counsel.

(20 U.S.C. 241a, 1232c)

§ 8 *Hearing before Panel or a hearing officer.* A hearing pursuant to section 7 (b) (2) shall be conducted, as determined by the Panel Chairperson, either before the Panel or a hearing officer. The hearing officer may be:

(a) One of the members of the Panel; or

(b) A non-member who is appointed as a hearing examiner under 5 U.S.C. 3105.

(20 U.S.C. 241a, 1232c)

§ 9 *Initial decision; final decision.* (a) The Panel shall prepare an initial written decision, which shall include findings of facts and conclusions based thereon, for submission to the Commissioner. When a hearing is conducted before a hearing officer alone, the hearing officer shall separately find and state the facts and conclusions upon which these decisions are based, and these findings and conclusions shall be incorporated in the initial decision.

(b) Copies of the initial decision shall be mailed promptly by the Panel to each party and intervenor, or his or her counsel, with a notice affording each party an opportunity to submit written comments thereon to the Commissioner within a specified reasonable time.

(c) The initial decision of the Panel shall be transmitted to the Commissioner and shall become the final decision of the Commissioner unless, within 25 days after the expiration of the time for receipt of written comments, the Commissioner signifies his determination to review the decision.

(d) In any case in which the Commissioner modifies or reverses the initial decision of the Panel, he shall accompany this action by a written statement of the grounds for modification or reversal, which shall promptly be filed with the Board. This decision shall not become final until it is served upon the grantee involved or his or her counsel.

(e) The authority to review initial decisions shall not be delegated. Review of any initial decision by the Commissioner shall be at his discretion and shall be

based upon the decision, with written record, if any, of the Panel's proceedings, and written comments or oral arguments by the parties to the proceeding, or by their counsel.

(20 U.S.C. 241a, 1232c)

§ 10 *Separation of functions.* No person who participates in prior administrative consideration, or in the preparation or presentation of a case submitted to the Board shall advise or consult with, and no person having an interest in the case shall make or cause to be made a communication to, the Panel, Board, or the Commissioner with respect to the case, unless:

(1) All parties to the case are given timely and adequate notice of this advice, consultation, or communication; and

(2) Reasonable opportunity to respond is given all parties.

(20 U.S.C. 241a, 1232c)

Effective date: This notice shall become effective August 11, 1976.

(Catalog of Federal Domestic Assistance Numbers 13.427, Educationally Deprived Children—Handicapped (P.L. 89-313); 13.428, Educationally Deprived Children—Local Educational Agencies; 13.429, Educationally Deprived Children—Migrants; 13.430, Educationally Deprived Children—State Administration; 13.431, Educationally Deprived Children in State Administered Institutions serving neglected or Delinquent Children.)

Dated: July 2, 1976.

T. H. BELL,  
U.S. Commissioner of Education.

[FR Doc. 75-19982 Filed 7-9-76; 8:45 am]

#### Office of the Secretary PRIVACY ACT OF 1974

#### Systems of Records and Notice of Proposed Routine Uses Thereof

Pursuant to the Privacy Act of 1974 (Pub. L. 92-579) as prescribed in 5 U.S.C. 552a(e) (4), the following modified notice of a system of records that is maintained by the Department of Health, Education, and Welfare is published as set forth below. This system is currently ongoing and the change and/or additional information in the notice is indicated by italics. The modifications to the notice do not require an altered system report.

Prior to the final adoption of the proposed additional/modified routine use of this notice, consideration in accordance with the requirements of 5 U.S.C. 552a (e) (11) will be given to comments which are submitted in writing on or before August 11, 1976. Comments should be addressed to the Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue, SW., Washington, D.C. 20201. Comments received will be available for inspection in Room 526E, South Portal Building, at the above address.

Dated: July 6, 1976.

JOHN OTTINA,  
Assistant Secretary for  
Administration and Management.



## SSA PO SSI 1275.01

## System name:

State Data Exchange System (Supplemental Security Income) HEW SSA.

## Security classification:

None.

## System location:

State Data Exchange files are maintained by all State welfare agencies (see Appendix D). In addition, backup files (magnetic tape) are maintained for a limited period of time (90 days) within the Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235. Printed copies of the State Data Exchange record are located in some district and branch offices.

## Categories of individuals covered by the system:

The State Data Exchange file contains a record for each public welfare recipient who has applied for supplemental security income payments.

## Categories of records in the system:

The State Data Exchange file for each State contains data regarding eligibility, medicaid eligibility, eligibility for other benefits, alcoholism and drug addiction data (if applicable), income data, resources, payment amounts and living arrangements for all persons who have applied for supplemental security income payments who reside in that particular State.

## Authority for maintenance of the system:

Sections 1611, 1612, 1615, 1616, 1631(e), 1633, and 1634 of Title XVI of the Social Security Act.

## Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The State Data Exchange file is created from the supplemental security income master record. It is comprised of eligibility and payment information obtained by the Social Security Administration in the administration of the supplemental security income program. The State Data Exchange file provides for timely exchange of data between the Social Security Administration and the States in order to establish and maintain State supplementation of supplemental security income payments and medicaid rolls, and for use in the food stamp program in the States of California, Nevada and New York for locating potentially eligible individuals and for making determinations of eligibility.

## Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

## Storage:

Magnetic tape, microfilm, paper listings.

## Retrievability:

Magnetic tape, microfilm and paper listings are all indexed according to social security number, State welfare identification number, category (aged, blind or disabled), county, or surname in order to supply information to the States in accordance with program administration agreements, and for the Social Security Administration management purposes. The printed copy of the State Data Exchange is used by district and branch office personnel for reference purposes and for answering inquiries.

## Safeguards:

All State Data Exchange records are protected according to agreements made between the Social Security Administration and the respective States regarding confidentiality, use, and redisclosure. Paper copies are accessible only to employees on a need to know basis.

## Retention and disposal:

Instructions provided to the States call for duplication by the States of files provided by the Social Security Administration. The period of retention of State Data Exchange files by the States is determined by the respective States.

## System manager(s) and address:

Director, Bureau of Supplemental Security Income, 6401 Security Boulevard, Baltimore, Maryland 21235.

## Notification procedure:

Social Security District Offices and Branch Offices (see Appendix F); or contact State official (see Appendix D).

## Record access procedures:

An individual may obtain information concerning this procedure by contacting the most convenient social security district or branch office. (See Appendix F).

## Contesting record procedures:

Same.

## Record source categories:

The information contained on the State Data Exchange files is derived from data on the supplemental security income master record which is obtained for the most part from applicants for supplemental security income payments. Additionally, the various States provide a limited amount of data.

## Systems exempted from certain provisions of the Act:

None.

[FR Doc.76-20069 Filed 7-9-76;8:45 am]

## NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

## EXECUTIVE COMMITTEE

## Public Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 that a meeting of the Executive Committee of the National Advisory Council on Extension and Continuing Education will be held on August 2 and 3, 1976 in the Council office at 425 13th Street NW., Suite 529, Washington, D.C. The meeting on August 2 will begin at

2:00 p.m. and recess at 5:00 p.m.; on August 3 from 9:00 a.m. to Noon.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-329. The Council is directed to advise the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Title I, and to report annually to the President on the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs.

The meeting of the Executive Committee will be open to the public, but because of the limited space available in the Council office, anyone wishing to attend the meeting should inform the Council's staff office (376-8888) no later than July 27, 1976. The purpose of the meeting is to discuss and determine the activities of the Council for the coming fiscal year (July 1, 1976 to September 30, 1977), including dates and locations of meetings; and to initiate a response to the Administration and the Congress on Federal issues involved in postsecondary continuing education.

All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street NW., Washington, D.C.

Dated: July 1, 1976.

JAMES A. TURMAN,  
Executive Director.

[FR Doc.76-19947 Filed 7-9-76;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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

[Docket No. N-76-565]

## INTERMEDIATE MINIMUM PROPERTY STANDARDS FOR SOLAR HEATING AND DOMESTIC HOT WATER SYSTEMS

## Proposed Intermediate Supplement to HUD's Minimum Property Standards; Publication and Availability

The Department of Housing and Urban Development is proposing new supplementary intermediate minimum property standards for solar space and hot water heating. The proposed standards describe the aspects of planning and design that are different from conventional housing by reason of the solar systems under consideration. They are based on current state-of-the-art practice and on nationally recognized standards. They would apply to both one and two-family dwellings and multifamily housing.

The proposed standards if adopted would be incorporated by reference in 24 CFR Chapter II Part 200 Subpart S. Interested persons are invited to participate in the making of proposed changes by submitting written data, views or statements to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development.



opment, 451 Seventh Street, SW., Washington, D.C. 20410. All material received on or before August 27, 1976, will be considered. Copies of any comments received will be available for examination during business hours at the above address. Copies of the proposed standards entitled Intermediate Minimum Property Standards for Solar Heating and Domestic Hot Water Systems are available for inspection in each HUD Regional, Area and Insuring office and in Room 8158 of the HUD Central Office. A limited number of copies will be available from the Solar Energy Program, Room 8158, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

The proposed intermediate standard has been reviewed for environmental considerations and a finding of inapplicability has been made in conformance with HUD Handbook 1390.1. The finding of inapplicability is on file in the office of the HUD Rules Docket Clerk.

The standards as adopted will be available for purchase. Details of availability will be announced at the time the standards are promulgated.

[It is hereby certified that the economic and inflationary impacts of the proposed standards have been carefully evaluated in accordance with OMB Circular A-107.]

Issued at Washington, D.C., July 6, 1976.

JAMES L. YOUNG,  
Assistant Secretary for Housing,  
Federal Housing Commissioner.

[FR Doc.76-20140 Filed 7-9-76;8:45 am]

Assistant Secretary for Community  
Planning and Development

[Docket No. D-76-444]

#### COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974)

Redelegation of Authority to Regional  
Administrators, et al.

The Assistant Secretary for Community Planning and Development of the Department of Housing and Urban Development is amending the redelegations of authority to Regional Administrators, Deputy Regional Administrators, Area Directors, Deputy Area Directors, and the Director of the Anchorage, Alaska Insuring Office (40 FR 5386, February 5, 1975) to include in the redelegations the Director of the Boise, Idaho Insuring Office.

Accordingly, paragraphs 1 and 3 of section A of 40 FR 5386 (February 5, 1975) are amended to include in the list of designees the Director of the Boise, Idaho Insuring Office by deleting in the first sentence of said paragraphs the word "and" immediately after "Deputy Area Director" and inserting the words "and the Director of the Boise, Idaho Insuring Office" immediately after "Director of the Anchorage, Alaska Insuring Office."

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

Effective date: This redelegation of authority is effective July 12, 1976.

WARREN H. BUTLER,  
Deputy Assistant Secretary for Community  
Planning and Development.

[FR Doc.76-20009 Filed 7-9-76;8:45 am]

#### DEPARTMENT OF TRANSPORTATION

##### Federal Highway Administration EVALUATION OF ADEQUACY OF HIGHWAY SAFETY PROGRAM STANDARDS

###### Public Meeting

CROSS REFERENCE.—For a document issued by the Federal Highway Administration and the National Highway Traffic Safety Administration announcing a meeting to evaluate the adequacy of highway safety program standards, see FR Doc. 76-19964 appearing in the Notices section of this issue under the Department of Transportation, National Highway Traffic Safety Administration.

##### National Highway Traffic Safety Administration

##### EVALUATION OF ADEQUACY OF HIGHWAY SAFETY PROGRAM STANDARDS

###### Public Meeting

This notice announces that the National Highway Traffic Safety Administration and the Federal Highway Administration will hold a joint public meeting to receive comments and suggestions from the Governors' Highway Safety Representatives, other State and local officials and any other individual or group interested in highway safety, concerning a study evaluating the adequacy and appropriateness of the highway safety standards. This study is being conducted pursuant to section 208(b) of the Federal-Aid Highway Act of 1976, Pub. L. 94-280. Section 208(b) provides that the Secretary of Transportation shall, in cooperation with the States, conduct an evaluation of the adequacy and appropriateness of all uniform safety standards established under the Highway Safety Act of 1966, 23 U.S.C. 402.

The meeting will be held on July 28, 1976, from 1 p.m. to 4 p.m. and on July 29, 1976, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m. at the Department of Transportation Headquarters Building, Room 4234, 400 7th St., SW., Washington, D.C. 20590. If necessary, additional sessions will be held in the same room on July 30, 1976, from 9 a.m. to 12 noon and on August 5, 1976, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m.

The Highway Safety Standards to be evaluated are as follows:

1. Periodic Motor Vehicle Inspection.
2. Motor Vehicle Registration.
3. Motorcycle Safety.
4. Driver Education.
5. Driver Licensing.
6. Codes and Laws.
7. Traffic Court.
8. Alcohol in Relation to Highway Safety.

9. Identification and Surveillance of Accident Locations.
10. Traffic Records.
11. Emergency Medical Service.
12. Highway Design, Construction, Maintenance.
13. Traffic Control Devices.
14. Pedestrian Safety.
15. Police Traffic Services.
16. Debris Hazard Control and Clean-Up.
17. Pupil Transportation Safety.
18. Accident Investigation and Recording.

The meeting will be informal in nature and will be conducted jointly by senior NHTSA and FHWA officials. Matters to be discussed at the meeting include:

1. Definitions of the terms, "appropriateness" and "adequacy," as used in the Federal-Aid Highway Act of 1976.
2. The types of data to be collected for the study.
3. The method to be used to collect this data.
4. The design of the package to be used to collect the data.

All interested persons are invited to attend the meeting and to present oral or written comments. Persons wishing to make oral statements are encouraged to submit their comments in written form either at the hearing or by mail. They are also encouraged to notify Mr. H. V. Hawley, NHTSA, Room 5130, 400 7th St., S.W., Washington, D.C. 20590 of their intention to make an oral presentation at the meeting.

Additional meetings may be scheduled as necessary to afford opportunity for discussion of the issues raised by the study. Notices will be published of any such additional meetings.

(Sec. 208(b), Pub. L. 92-280; sec. 101, Pub. L. 89-564, 80 Stat. 731 (23 U.S.C. 402))

Issued on: July 6, 1976.

JAMES B. GREGORY,  
National Highway Traffic  
Safety Administrator.

NORBERT T. TIEMANN,  
Federal Highway Administrator.

[FR Doc.76-19964 Filed 7-7-76;11:04 am]

#### DEPARTMENT OF TRANSPORTATION

##### Office of Hazardous Materials Operations HAZARDOUS MATERIALS REGULATIONS EXEMPTIONS

###### Grants and Denials of Applications for Exemptions

In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted May 1976. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.



## NOTICES

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
Grants				
E76-262	DOT-E 2748	GAF Corp., Wayne, N.J.	49 CFR 172.5, 173.304(a), 173.314(c).	To ship uninhibited vinyl methyl ether in accordance with 49 CFR 173.304(a) (2) and 173.314(c). (Modes 1 and 2.)
E76-231	DOT-E 3203	Air Products & Chemicals, Inc., Wayne, Pa.	49 CFR 173.150(a)	To ship sodium acetylide in xylene in DOT specification 6A, 6B, 6C or 17C steel drums. (Mode 1.)
E76-126	DOT-E 3302	Air Products & Chemicals, Inc., Allentown, Pa.	49 CFR 173.302	To ship argon, oxygen, or nitrogen in 130-in. capacity sampling bottles fabricated from type 304 stainless steel. (Modes 1, 2, and 4.)
E76-202	DOT-E 3415	Department of Defense, Washington, D.C.	49 CFR 173.79, 173.92	To transport class A or class B explosives in flatbed highway vehicles with a water- and fire-resistant tarpaulin. (Mode 1.)
E76-173	DOT-E 3744	MC/B Manufacturing Chemists, Norwood, Ohio	49 CFR 173.266(b)(7)	To ship hydrogen peroxide solution in DOT specification 21P fiber drum overpack with inside specification 28L polyethylene container. (Modes 1 and 2.)
E76-190	DOT-E 3744	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.; and		
E76-185	DOT-E 3744	FMC Corp., Philadelphia, Pa.		
E76-189	DOT-E 3946	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.314(c)	To ship certain liquefied, nonflammable compressed gases in a DOT specification 112A400W tank car. (Mode 2.)
E76-1	DOT-E 4007	Matson Navigation Co., San Francisco, Calif.	49 CFR 173.119, 173.125; 46 CFR 146.21-100.	To ship certain flammable liquids in a non-DOT specification stainless steel portable tank. (Modes 1 and 3.)
E76-178	DOT-E 4459	Lif-O-Gen, Inc., Cambridge, Mass.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.328(a)(2), 173.353(a)(3), and 178.37.	To ship various compressed gases in a non-DOT specification steel, copper-brazed sphere. (Modes 1, 2, and 4.)
E76-154	DOT-E 4586	White Chemical Corp., Bayonne, N.J.	49 CFR 173.247(a), 173.271(a); 46 CFR 146.23-100.	To ship various corrosive liquids in DOT specification 6D cylindrical steel overpack with an inside non-DOT polyethylene liner. (Modes 1, 2, and 3.)
E76-226	DOT-E 4586	American Hoechst Corp., Somerville, N.J.		
E76-361	DOT-E 4586	Filo Color & Chemical Corp., New York, N.Y.		
E76-301	DOT-E 4586	Shell Oil Co., Houston, Tex.		
E76-356	DOT-E 4607	ATI Chem-Spray Division, Totoway, N.J.	49 CFR 173.305(a)(3); 46 CFR 146.24-(2); 14 CFR 103.9.	To become a party to exemption 4607 (see application No. 75-172). (Modes 1, 2, 3, and 4.)
E76-322	DOT-E 4607	Eli Lilly & Co., Indianapolis, Ind.		
E76-218	DOT-E 4719	Dow Chemical Co., Midland, Mich.	49 CFR 173.314(c), 173.315(a)(1).	To ship certain compressed gases in a DOT specification MC-330 and MC-331 cargo tank. (Modes 1 and 2.)
E76-233	DOT-E 4965	Westinghouse Electric Corp., Staunton, Va.	49 CFR 173.306(e)(1); 46 CFR 146.24-100.	To ship refrigerating machines in accordance with 49 CFR 173.306(e)(1) with certain exceptions. (Modes 1, 2, and 3.)
E76-45	DOT-E 5013	Daniel International Corp., Greenville, S.C.	49 CFR 173.306(e); 46 CFR 146.24-100.	To become a party to exemption 5013 (see application No. 75-45). (Modes 1, 2, and 3.)
E76-174	DOT-E 5062	Dow Chemical Co., Midland, Mich.	49 CFR 173.315(a)	To ship anhydrous hydrogen chloride, cryogenic liquid in a DOT specification MC-330 or MC-331 cargo tank. (Mode 1.)
E76-170	DOT-E 5179	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.262, 173.304, 173.45-17; 46 CFR 146.24-100.	To ship certain compressed gases in cylinders complying with DOT specification 3T except the cylinders are not properly marked. (Modes 1 and 3.)
E76-214	DOT-E 5242	FMC Corp., Philadelphia, Pa.	46 CFR 146.23-100	To ship hydrogen peroxide in a DOT specification 34 reusable molded polyethylene container without overpack. (Mode 3.)
E76-177	DOT-E 5248	The 3M Co., St. Paul, Minn.	49 CFR 173.389(g)	To ship radioactive materials in any approved outer type A packaging as prescribed in §§ 173.389(j) and 173.394(a). (Modes 1, 2, 4, and 5.)
E76-178	DOT-E 5454	Allied Chemical Corp., Morristown, N.J.	49 CFR 173.301(d)(1), 173.304(a)(2).	To become a party to exemption 5454 (see application No. 76-331). (Mode 1.)
E76-203	DOT-E 5485	Union Carbide Corp., Tarrytown, N.Y.; and	49 CFR 172.5, 173.315(a).	To ship liquefied helium in specially designed and insulated cargo tanks. (Mode 1.)
E76-339	DOT-E 5485	Gardner Cryogenics Division, Bethlehem, Pa.		
E76-129	DOT-E 5520	Pennwalt Corp., Philadelphia, Pa.	49 CFR 173.245(a), 173.256(a).	To ship certain corrosive liquids in a DOT specification 57 portable tank. (Modes 1 and 2.)
E76-297	DOT-E 5557	U.S. Energy Research and Development Administration, Washington, D.C.; and	49 CFR pt. 173	To ship high explosives in specially designed containers. (Mode 1.)
E76-341	DOT-E 5557	Lawrence Livermore Laboratory Livermore, Calif.		
E76-122	DOT-E 5600	Ozark-Mahoning Co., Tulsa, Okla.	49 CFR pt. 173	To ship certain hazardous materials in a cylinder complying with DOT specification 3A except it is fabricated from monel metal. (Modes 1, 2, and 4.)



Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
Grants				
E76-127	DOT-E 5602	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.119(m)(5); 46 CFR 146.21-100.	To ship certain flammable liquids in DOT specification 37P steel drum or a DOT specification 37M/28L container. (Modes 1, 2, and 3.)
E76-180	DOT-E 5652	Air Products & Chemicals, Inc., Allentown, Pa.	49 CFR 173.247(a)(11), 173.315(a).	To ship a nonflammable compressed gas and a corrosive liquid in a 2,000-gal capacity nickel clad steel portable tank. (Mode 1.)
E76-299	DOT-E 5655	MC/B Manufacturing Chemists, Norwood, Ohio.	49 CFR 173.364(a)(2).	To ship certain poisonous solids, class B in inside plastic bottles or jars otherwise packed in accordance with 49 CFR 173.364(a)(2). (Modes 1 and 2.)
E76-158	DOT-E 5662	Dow Chemical Co., Midland, Mich.	49 CFR 173.353(a), 173.401(a)(1); 46 CFR 146.25-100.	To ship certain class B poisonous liquids in a DOT 51 portable tank. (Modes 1, 2, and 3.)
E76-240	DOT-E 5668	Atlantic Container Line, Ltd., New York, N.Y.	49 CFR 173.119(b); 46 CFR 146.21-100.	To ship certain flammable liquids in portable tanks complying with DOT specification MC-307 with certain exceptions. (Modes 1, 2, and 3.)
E76-221	DOT-E 5719	American Cyanamid Co., Wayne, N.J.	49 CFR 173.377(f)(1); 46 CFR 146.25-200.	To ship certain class B poison in DOT specification 44D extensible kraft paper bags. (Modes 1, 2, and 3.)
E76-349	DOT-E 5719	Riverside Chemical Co., Memphis, Tenn.		
E76-209	DOT-E 5891	The U.S. Energy Research and Development Administration, Washington, D.C.	49 CFR 173.64(a)	To ship high explosives in DOT specification 15A wooden box not exceeding 500 lb gross weight. (Mode 1.)
E76-233	DOT-E 5945	Chemetron Corp., Chicago, Ill.	49 CFR 173.315, 178.245.	To ship liquefied carbon dioxide in a 825-lb water capacity portable tank. (Mode 1.)
E76-224	DOT-E 6070	Cities Service Co., Atlanta, Ga.	49 CFR 172.5, 173.273(a)(4).	To ship sulfur trioxide, unstabilized in a DOT specification 105A300W tank car tank. (Mode 2.)
E76-346	DOT-E 6126	White Chemical Corp., Bayonne, N.J.	49 CFR 173.253(a)	To become a party to exemption 6126 (see application No. 76-88). (Mode 1.)
E76-145	DOT-E 6154	Uniroyal Chemical, Naugatuck, Conn.	49 CFR 173.154(a)(12), 178.205-16; 46 CFR 146.22-100.	To ship certain flammable solids in a fiberboard box complying with DOT specification 12B with certain exceptions. (Modes 1, 2, and 3.)
E76-327	DOT-E 6220	Van Waters & Rogers, San Francisco, Calif.	49 CFR 173.277(a)(4)	To ship hypochlorite solution in a DOT 21P fiber drum with an inside 28, 28L, 2T, or 2U polyethylene liner. (Mode 1.)
E76-338	DOT-E 6220	Dubois Chemicals, Cincinnati, Ohio.		
E76-206	DOT-E 6228	Air Products & Chemicals, Inc., Allentown, Pa.	49 CFR 173.301(d)	To ship acetylene in a DOT specification 8 or 8AL manifolded cylinders. (Mode 1.)
E76-149	DOT-E 6232	McDonnell Douglas Corp., St. Louis, Mo.	49 CFR 172.5, 173.108, 173.176.	To ship aircraft survival kits under specified conditions. (Modes 1 and 4.)
E76-201	DOT-E 6232	Department of Defense, Washington, D.C.		
E76-254	DOT-E 6243	Liquid Carbonic Corp., Chicago, Ill.	49 CFR 172.5, 173.315	To ship liquefied carbon monoxide in a non-DOT specification cargo tank. (Mode 1.)
E76-161	DOT-E 6267	Bio-Lab, Inc., Decatur, Ga.	49 CFR 173.217(a)	To ship certain oxidizing materials in a non-DOT specification double-faced fiberboard box. (Modes 1 and 2.)
E76-222	DOT-E 6296	American Cyanamid Co., Wayne, N.J.	46 CFR 173.377(g)	To ship certain class B poisons in DOT specification 44D multiwall paper bags. (Modes 1 and 2.)
E76-155	DOT-E 6427	Martin Marietta Chemicals, Charlotte, N.C.	49 CFR 173.193(a)(1)	To become a party to exemption No. 6427 (see application No. 76-155). (Mode 1.)
E76-267	DOT-E 6468	do	49 CFR 173.365	To ship a poisonous solid, n.o.s. in DOT specification MC-304 stainless steel cargo tank. (Mode 1.)
E76-191	DOT-E 6477	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.66(c)	To ship blasting caps in polystyrene blocks. (Modes 1 and 2.)
E76-122	DOT-E 6488	MC/B Manufacturing Chemists, Norwood, Ohio.	49 CFR 173.370(a)(3)	To ship certain class B poisonous solids in DOT specification 12B40 fiberboard boxes with inside polyethylene bottles. (Modes 1 and 2.)
E76-164	DOT-E 6554	Bio-Lab, Inc., Decatur, Ga.	49 CFR 173.154, 173.217.	To ship certain dry oxidizing materials in single-trip, molded, open-head, polyethylene containers. (Modes 1 and 2.)
E76-42	DOT-E 6576	Kaiser Aluminum & Chemical Corp., Erie, Pa.	49 CFR 173.302(a)(1), 173.304(a)(1).	To ship liquefied and nonliquefied compressed gases in a non-DOT specification seamless high pressure aluminum cylinder. (Modes 1, 2, 3, 4, and 5.)
E76-330	DOT-E 6602	Great Lakes Chemical Corp., West Lafayette, Ind.	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To become a party to exemption 6602 (see application No. 76-366). (Modes 1 and 2.)
E76-136	DOT-E 6629	The Boeing Co., Seattle, Wash.	49 CFR 173.304(a)(1), 173.305(c).	To become a party to exemption 6629 (see application No. 75-136). (Modes 1, 4, and 5.)
E76-194	DOT-E 6641	Dow Chemical Co., Freeport, Tex.	49 CFR 173.139(a)(4)	To ship ethylene imine, inhibited in DOT specification 105A100W tank cars. (Mode 2.)



## NOTICES

Applica- tion No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
Grants				
E76-211	DOT-E 6671	Dow Chemical Co., Midland, Mich.	49 CFR 173.1; subpt. C; subpt. E; subpt. G; and 177.854.	To ship flammable liquids, class B poisons, and corrosive liquids in DOT specification 17-C or 17-E open-head steel drums overpacked in a larger 17-C or non-DOT stainless steel drum. (Modes 1 and 2.)
E76-125	DOT-E 6686	Alreo Welding Prod- ucts, Union, N.J.	49 CFR 173.304, 178.65.	To become a party to exemption No. 6686 (see application No. 75-125). (Modes 1 and 2.)
E76-219	DOT-E 6733	Honeywell, Inc., Lexington, Mass.	49 CFR 173.21(a), 173.304(a).	To ship nonflammable and flammable compressed gases in a solid cryogen cooler. (Modes 1 and 4.)
E76-341	DOT-E 6738	El Paso Products Co., Odessa, Tex.	49 CFR 172.5, 173.315(a).	To become a party to exemption No. 6738 (see application No. 76-128). (Mode 1.)
E76-205	DOT-E 6749	Airwick, Inc., Teter- boro, N.J.	49 CFR 173.217(b)....	To become a party to exemption 6749 (see application No. 75-205). (Modes 1 and 2.)
E76-307	DOT-E 6759	Atlas Powder Co., Dallas, Tex.	49 CFR 177.835(g)(2), 178.87.	To ship class A or class B explosives in accordance with § 177.835(g)(2) with certain exemptions. (Mode 1.)
E76-207	DOT-E 6759	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.		
E76-187	DOT-E 6765	Gardner Cryogenics Division, Bethle- hem, Pa.	46 CFR 146.24-100; 49 CFR 172.5, 173.315.	To become a party to exemption 6765 (see application No. 76-64). (Modes 1 and 3.)
E76-296	DOT-E 6765	Air Products & Chemicals, Inc., Allentown, Pa.		
E76-188	DOT-E 6769	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.314, 173.315.	To ship trifluoromethane in DOT specification MC-331 tank motor vehicle and DOT specification 105A 600W tank car. (Modes 1 and 2.)
E76-169	DOT-E 6773	do.....	49 CFR 173.314(c)....	To ship vinylidene fluoride in DOT 105A600W tank cars. (Mode 2.)
E76-198	DOT-E 6798	Allied Chemical Corp., Morristown, N.J.	49 CFR 173.164(a)....	To ship chromic acid in a steel portable tank. (Mode 1.)
E76-195	DOT-E 6843	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.245(a); 46 CFR 146.23-100; 14 CFR 103.9(a)(2).	To ship certain corrosive liquids in DOT specification 5K nickel drums. (Modes 1, 2, 3, and 4.)
E76-223	DOT-E 6852	Petroleum Tech- nology Corp., Redmond, Wash.	49 CFR 173.154(a)....	To ship oxidizing material n.o.s. in a specially designed DOT specification MC-307 cargo tank. (Mode 1.)
E76-148	DOT-E 6867	The 3M Co., St. Paul, Minn.	49 CFR 177.842.....	To ship cement and liquid, n.o.s. in a DOT specification 57 metal portable tank. (Modes 1 and 2.)
E76-147	DOT-E 6870	Edlow International Co., Washington, D.C.	49 CFR 177.842(b)....	To ship radioactive materials under specified conditions in exclusive use service. (Mode 1.)
E76-305	DOT-E 6870	Babeock & Wilcox Co., Lynchburg, Va.		
E76-235	DOT-E 6874	ICI United States, Inc., Wilmington, Del.	49 CFR 173.370(a) (13).	To ship sodium cyanide in a strong non-DOT specification 34-in thick plywood box. (Modes 1 and 3.)
E76-253	DOT-E 6876	Continental Wall Panel, Gardena, Calif.	49 CFR 173.304(a)(1), 178.51.	To ship certain nonflammable com-pressed gases in a non-DOT specifi-cation spherical, steel pressure vessel (Modes 1 and 2.)
E76-86	DOT-E 6889	McDonnell Douglas Corp., Tulsa, Okla.	49 CFR 173.304(a)(1); 46 CFR 146.24-100.	To ship anhydrous ammonia in a non-refillable steel pipe. (Modes 1, 2, and 3.)
E76-295	DOT-E 6905	The Parker Co., Morenci, Mich.	49 CFR 173.245(a)(24), 178.225-2; 46 CFR 146.23-100.	To ship certain corrosive liquids in a 55-gal capacity DOT specification 21P/28L composite container. (Modes 1, 2, and 3.)
E76-152	DOT-E 6913	Continental Oil Co., Houston, Tex.	49 CFR 173.315(a)(1)...	To ship vinyl chloride in a 1,900-gal water capacity cargo tank. (Mode 1.)
E76-70	DOT-E 6923	Dow Chemical Co., Midland, Mich.	49 CFR 172.5, 173.315 (a)(1).	To ship liquefied ethylene in a 10,800-gal capacity cargo tank. (Mode 1.)
E76-121	DOT-E 6943	Lawrence Livermore Laboratory, Liver- more, Calif.	49 CFR 173.65(d); 14 CFR 103.9.	To ship certain class A explosives in ac-cordance with 49 CFR 173.65(d). (Modes 1, 2, and 4.)
E76-108	DOT-E 6943	Mason & Hanger- Silas Mason Co., Amarillo, Tex.		
E76-121	DOT-E 6943	U.S. Energy Re- search and Devel- opment Adminis- tration, Washing- ton, D.C.		
E76-319	DOT-E 6943	Rockwell Interna- tional Corp., Canoga Park, Calif.		
E76-260	DOT-E 6957	Hooker Chemicals & Plastics Corp., Niagara Falls, N.Y.	49 CFR 173.272(a)(11).	To ship phosphorus trichloride in a DOT specification 103CW tank car. (Mode 2.)
E76-313	DOT-E 6958	Ethyl Corp., Baton Rouge, La.	49 CFR 173.252(a)(5); 46 CFR 146.23-100.	To ship elemental bromine in a lead-lined portable tank. (Modes 1 and 3.)
E76-391	DOT-E 6965	American Bicenten- nial Everest Expe- dition, Washington, D.C.	49 CFR 173.302(a)(1); 46 CFR 146.24-100; 14 CFR 103.9.	To ship oxygen in a non-DOT specifi-cation (FWRP) seamless aluminum cyl-inder. (Modes 1, 3, and 4.)
E76-216	DOT-E 6973	North Texas LPG Corp., Houston, Tex.	49 CFR 173.315(a)(1), 173.315(c)(1).	To ship liquefied ethane-propane mixture in a MC-331 tank motor vehicle. (Mode 1.)
E76-199	DOT-E 6985	Monsanto Research Corp., Miamisburg, Ohio.	49 CFR 173.86(a), 173.154(a)(7).	To ship a flammable solid, n.o.s., over-packed in a DOT specification 15A wooden box. (Mode 1.)



Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
Grants				
E76-208	DOT-E 6985	U.S. Energy Research and Development Administration, Washington, D.C.; and		
E76-232	DOT-E 6985	The Bendix Corp., Kansas City, Mo.		
E76-217	DOT-E 6986	K & M Rubber Co., Elk Grove Village, Ill.	49 CFR pt. 173; 46 CFR 146.23-100.	To ship certain corrosive liquids in a non-DOT specification reusable blow-molded polyethylene container. (Modes 1, 2, and 3.)
E76-186	DOT-E 7000	Mobay Chemical Corp., Pittsburgh, Pa.	49 CFR 173.247(a)(7); 46 CFR 146.23-100.	To ship thionyl chloride in foreign-made non-DOT specification closed-head steel drums. (Modes 1, 2, and 3.)
E76-323	DOT-E 7005	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.119, 173.141(a)(10); 46 CFR 146.21-100.	To ship certain flammable liquids in a non-DOT specification portable tank. (Modes 1 and 3.)
E76-332	DOT-E 7005	Virginia Chemicals, Inc., Portsmouth, Va.		
E76-167	DOT-E 7005	Pennwalt Corp., Philadelphia, Pa.		
E76-151	DOT-E 7008	Pacific Molasses Co., San Francisco, Calif.	49 CFR 173.245(a)(31).	To ship phosphoric acid in MC-303 and MC-306 tank motor vehicles. (Mode 1.)
E76-125	DOT-E 7009	Carleton Controls Corp., East Aurora, N.Y.	49 CFR 173.302(a)(4).	To ship nitrogen in a welded nonrefillable non-DOT specification steel container. (Mode 1.)
E76-179, E76-257	DOT-E 7010	Great Lakes Chemical Corp., West Lafayette, Ind.	49 CFR 173.252(a)(4); 46 CFR 146.23-100.	To ship bromine in a single-compartment, lead-lined portable tank. (Modes 1 and 3.)
E76-336	DOT-E 7010	Solchem, Inc., New York, N.Y.		
E76-171	DOT-E 7017	Phillips Petroleum Co., Bartlesville, Okla.	49 CFR 173.346(a)(10).	To ship 2-mercaptoethanol in DOT specification 109A300ALW tank car. (Mode 2.)
E76-268	DOT-E 7021	Hercules, Inc., Wilmington, Del.	49 CFR 173.63(a)(2).	To ship high explosives in DOT specification 12H fiberboard box. (Mode 1.)
E76-355	DOT-E 7025	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 172.5, 173.315(a)(1).	To become a party to exemption No. 7025 (see application No. 76-115). (Mode 1.)
E76-85	DOT-E 7036	McDonnell Douglas Astronautics Co., Huntington Beach, Calif.	49 CFR 173.304(a)(1); 46 CFR 146.24-100.	To ship anhydrous ammonia in non-refillable heat pipes. (Modes 1, 2, 3, 4, and 5.)
E76-363	DOT-E 7052	GTE Laboratories, Waltham, Mass.	49 CFR 173.206(d)(1).	To become a party to exemption No. 7052 (see application No. 75-108). (Modes 1, 2, 3, and 4.)
E76-293	DOT-E 7060	Baltimore Airways, Inc., Clarksville, Md.	14 CFR 103.19(b), 103.23(a).	To ship radioactive materials in small aircraft with certain exceptions. (Mode 4.)
E76-92	DOT-E 7067	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.315(a)(1); 46 CFR 146.24-100.	To ship dichlorodifluoromethane in British-made portable tanks. (Modes 1 and 3.)
E76-200	DOT-E 7072	Container Corp. of America, Wilmington, Del.	49 CFR pt. 173; 46 CFR 146.23-100.	To ship certain corrosive liquids in a non-DOT specification molded polyethylene container. (Modes 1, 2, and 3.)
E76-239	DOT-E 7189	Chuglak Aviation, Chuglak, Alaska.	14 CFR 103.9.	To ship liquefied petroleum gas in a DOT specification 4BW240 cylinder not exceeding 750 lb. (Mode 4.)
E76-333	DOT-E 7189	Northern Air Cargo, Inc., Anchorage, Alaska.		
E76-347	DOT-E 7189	Wien Air Alaska, Inc., Anchorage, Alaska.		
E76-242	DOT-E 7191	Nenana Fuel Co., Nenana, Alaska.	14 CFR 103.37(c)(1).	To ship combustible liquids via air without the proper supplemental-type certificate. (Mode 4.)
E76-284	DOT-E 7210	S. C. Johnson & Son, Inc., Racine, Wis.	46 CFR pt. 146.	To ship certain flammable liquids, flammable solids, oxidizing materials, corrosive materials, class B poisons, and compressed gases in accordance with 46 CFR pt. 146. (Mode 3.)
E76-334	DOT-E 7223	Western Airlines, Los Angeles, Calif.	14 CFR 103.19(c).	To become a party to exemption No. 7233 (see application No. 76-29, 7-10). (Modes 4 and 5.)
E76-77	DOT-E 7239	Atlas Powder Co., Dallas, Tex.	49 CFR 173.182(c).	To ship nitrocarbonitrate in a collapsible rubber container called Sealtank. (Mode 1.)
E76-272	DOT-E 7250	Dart Containerline, Inc., New York, N.Y.	46 CFR pt. 146.	To ship certain explosives in accordance with the International Maritime Dangerous Goods Code. (Mode 3.)
E76-276	DOT-E 7250	United States Navigation, New York, N.Y.		
E76-285	DOT-E 7250	Seatrains Lines, Inc., New York, N.Y.		
E76-277	DOT-E 7250	United States Lines, New York, N.Y.		
E76-359	DOT-E 7250	Tilston Roberts Corp., New York, N.Y.		
E76-270	DOT-E 7251	Department of Defense, Washington, D.C.	46 CFR 146.07-40(b), 146.24-55(a), 146.24-100.	To waive certain stowage and packaging requirements for shipment of flammable compressed gases and non flammable compressed gases. (Mode 3.)



Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
<b>Grants</b>				
E76-289	DOT-E 7252	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.93; 46 CFR 146.20-200.	To ship certain class B explosives in DOT specification 17H metal drums. (Mode 3.)
E76-281	DOT-E 7253	Lithium Corp. of America, Freeport, Tex.	46 CFR 146.23-100.	To ship certain corrosive solids, n.o.s., authorizing deviation to the stowage requirements specified in 46 CFR 146.23-100. (Mode 3.)
E76-310	DOT-E 7253	Alpha International Chemical, New York, N.Y.	46 CFR 146.27-100.	To ship ethylene dibromide in portable tanks built to the requirements of 46 CFR 98.35. (Mode 3.)
E76-273	DOT-E 7254	Dow Chemical Co., Freeport, Tex.	46 CFR 146.29-15(a), 146.29-45(c).	To authorize simultaneous loading of military explosives aboard vessels in the same hatch under certain conditions. (Mode 3.)
E76-121	DOT-E 7255	Naval Weapons Station, Concord, Calif.	49 CFR 173.302(a)(1), 173.402(a)(2); 46 CFR 146.24-100.	To ship compressed air or nitrogen in non-DOT specification, single-trip, welded steel tanks. (Modes 1, 2, and 3.)
E76-106	DOT-E 7256	State Industries, Ashland City, Tenn.	46 CFR 146.23-100.	To ship hydrochloric acid and phosphoric acid in non-DOT specification portable tanks. (Mode 3.)
E76-275	DOT-E 7257	Brewer Chemical Corp., Honolulu, Hawaii.	46 CFR 146.23-100.	To ship trifluoroacetic acid in a DOT specification 34 polyethylene container. (Mode 3.)
E76-269	DOT-E 7258	Halocarbon Products Corp., Hackensack, N.J.	46 CFR 146.22-40(b).	To load/handle/off-load nitro carbo nitate at nonisolated facilities in accordance with 46 CFR 146.22-40(a) with certain exceptions. (Mode 3.)
E76-273	DOT-E 7260	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	46 CFR 146.25-200.	To waive certain stowage requirements for the shipments of tetraethyl lead. (Mode 3.)
E76-280	DOT-E 7261	Barber Steamship Lines, Inc., New York, N.Y.	49 CFR 173.217(b).	To ship trichloro-s-triazine-trione in accordance with 49 CFR 173.217(b) with certain exceptions. (Modes 1, 2, and 3.)
E76-111	DOT-E 7266	Airwick Industries, Inc., Teterboro, N.J.	46 CFR 90.05-35.	To ship combustible liquid, n.o.s. in non-DOT specification portable tanks. (Mode 3.)
E76-288	DOT-E 7270	Dow Chemical Co., Freeport, Tex.		
<b>Emergency exemptions</b>				
EE7273	DOT-E 7273	Kotzebue Flying Service, Fairbanks, Alaska.	49 CFR 173.28(m).	To ship gasoline in nonreconditioned 55-gal DOT specification 17E drums. (Mode 4.)
EE7276	DOT-E 7276	Keller Flying Service, Keller, Alaska.	49 CFR 173.28(m); 14 CFR 103.37(a).	Do.

**DENIALS**

- D-7400—Request by Thiokol Chemical Corp., Huntsville, Ala.—49 CFR 107.103(b) (9) to ship Ultra-Fire Ammonium Perchlorate as a Class B explosive, denied 5/24/76.
- D-7442—Request by JSR America, Inc., New York, N.Y.—46 CFR 98.35-3, 90.05-25 for an emergency exemption to allow a start-to-discharge setting of 10 psig for the pressure relief valves on the portable tanks prescribed therein, denied 5/5/76.
- D-7445—Request by Seatrain Lines, Inc., 49 CFR 173.119(b), (a) (17) or (25); 46 CFR 146.21-100 for an emergency exemption to ship alcohol (beverage) in marine portable tanks, denied 5/15/76.

ALAN I. ROBERTS,

Director, Office of  
Hazardous Materials Operations.

[FR Doc.76-19644 Filed 7-9-76; 8:45 am]

**ADMINISTRATIVE CONFERENCE  
OF THE UNITED STATES****INTERPRETIVE RULES AND POLICY  
STATEMENTS****Proposed Recommendation Concerning  
the Procedures Used in Adopting**

The Administrative Conference's Committee on Rulemaking and Public Information has under consideration the proposed recommendation set forth below.

The recommendation is intended to provide greater public input to the process by which agencies promulgate inter-

pretive rules of general applicability and general statements of policy.

All interested persons are invited to submit comments on the proposed recommendation in writing by August 23, 1976, to the Executive Director, Administrative Conference of the U.S., Suite 500, 2120 L Street, NW., Washington, D.C. 20037. Comments will be available for public inspection at the above address during normal business hours.

**RECOMMENDATION****INTERPRETIVE RULES AND POLICY  
STATEMENTS**

A significant amount of agency law and policy is set forth in interpretive rules and policy statements. Although many of these rules are relatively insignificant, many others have substantial favorable or unfavorable impacts on members of the public.

The Administrative Procedure Act presently requires statements of general policy and interpretations of general applicability formulated and adopted by an agency to be published in the Federal Register. However, it does not require public notice of a proposed interpretive rule or policy statement, nor does it re-

<sup>1</sup> The word "interpretive" is used in place of the more cumbersome "interpretative" now employed in the Administrative Procedure Act.

quire the agency to give interested persons an opportunity to participate in making such rules. Such rules need not be published prior to their effective date.

Many agencies now utilize the procedures set forth in section 553 for public notice and comment in connection with the adoption of interpretive rules and policy statements, but such is not the general practice. However, a number of court decisions have held that compliance with section 553 is required where such rules have a substantial impact upon members of the public. Other cases have held the contrary.

There are serious definitional problems in distinguishing policy statements and interpretive rules from legislative rules. Moreover, the differences between interpretive and legislative rules have narrowed greatly as a result of recent decisions. Nevertheless, it is not recommended that the existing exemptions for interpretive rules and policy statements be repealed, because of the substantial administrative burdens which would result and because the formulation of these rules might be discouraged.

Recommendation 1 provides a mechanism to facilitate public input into the process of adopting interpretive rules of general applicability and general policy statements without requiring the relatively time-consuming processes now provided by section 553. It proposes a new section 553(f) which allows adoption of such rules without any prior notice and comment. However, it would impose several procedural requirements. It would require a concise statement of the basis and purpose of the rule, such as is now required by section 553(c). In addition it would obligate the agency to reconsider the rule in light of public comments, which would be solicited by the agency when it published the rule. The agency would be required to publish a good-faith response to the comments.

Recommendation 1 also observes that a reviewing court would be at liberty to refuse to give effect to a rule adopted without complying with section 553(f). However, the court might also decide to give effect to the rule notwithstanding a failure to comply with the section.

Recommendation 2 emphasizes the desirability of employing the prior notice and comment procedures of section 553 when particularly important interpretive rules or policy statements are adopted. The legislative history of the Administrative Procedure Act clearly indicates that agencies have discretion to employ all appropriate procedures in formulating such rules. They should exercise that discretion in favor of utilizing prior notice-and-comment procedures if the agency personnel know, or have reason to know, that the rule will have a substantial practical impact (either favorable or unfavorable) on an appreciable number of persons or entities. Recommendation 2 thus endorses the result of recent cases which require section 553 procedures to be followed in cases where an interpretive rule or policy statement will have a substantial impact on members of the public.



By emphasizing the agency's discretion to adopt appropriate procedures, Recommendation 2 also suggests that a reviewing court may refuse to give effect to an interpretive rule or policy statement if it was adopted by means of procedures that were an abuse of discretion.

#### RECOMMENDATIONS

1. The Administrative Procedure Act should be amended by the adoption of a new section 553(f):

(f) When the agency adopts an interpretive rule of general applicability or a general statement of policy, the publication of such rule in the Federal Register pursuant to section 552(a)(1)(D) of this Chapter shall include a concise statement of basis and purpose and an invitation to interested persons to submit written data, views or arguments, with or without opportunity for oral presentation, during a period of not less than 30 days following such publication. The agency shall reconsider the rule in light of such data, views, or arguments, and publish its response to them in the Federal Register not later than 60 days after the end of the period during which they were solicited.

In the event an agency failed to follow the procedures set forth in section 553(f), or failed to respond to public comments, a reviewing court may find the interpretation or policy invalidly adopted and refuse to give it effect.

2. Agencies have discretion to utilize the procedures set forth in present section 553 prior to the adoption of interpretive rules or policy statements. They should do so when the agency personnel know, or have reason to know, that the rules will or may have a substantial impact on an appreciable number of persons or entities.

Dated: July 6, 1976.

EMMETT J. GAVIN,  
Executive Director.

[FR Doc.76-20053 Filed 7-9-76; 8:45 am]

#### ADVISORY COMMITTEE ON FEDERAL PAY MEETING

The Advisory Committee on Federal Pay will meet in executive session on July 26, August 5, and August 11 to prepare its report to the President on the Fiscal 1977 adjustment in Federal pay. The July 26 and August 5 discussions will take place in New York City—425 Park Avenue (17th floor). The August 11 discussion will be held in the Advisory Committee office—Suite 205, 1730 K Street, NW., Washington, D.C. All discussions will start at 9:30 a.m. This report will incorporate the Committee's findings and recommendations to the President, based on the material presented by the individuals and organizations that have submitted their views to the Committee and on the experience, knowledge and judgment of the members of the Committee. Materials, which the Committee will use in making its decision, will have been presented in open discussions or in written reports, available for public inspection.

The Advisory Committee on Federal Pay, established as an independent establishment by Section 5306 of Title V,

United States Code (Pub. L. 91-656, the Federal Pay Comparability Act) is charged with assisting the President in carrying out the policies of Section 5301 of Title V, United States Code. The Committee's fundamental obligation is to afford the President an independent judgment respecting Federal pay. Section 5306 of Title V requires the Committee to make findings and recommendations to the President with respect to the annual adjustment in Federal pay, after considering the written views of employee organizations, the President's Agent, other officials of the government of the United States and such experts as the Committee may consult.

The Committee consists of three members appointed by the President, who are experts in the field of labor relations and pay policy and, who are generally recognized for their impartiality. Their initial views may well be diverse. In order to facilitate the independent development of consensus findings and recommendations, the members must be free to take tentative and subjective positions, to be frank and candid about their views, to experiment with various proposals, and to make assumptions and present conclusions arguendo. Tentative individual opinions, preliminary judgments and policy positions will be so integrated throughout the deliberations with factual matters that separation would not be feasible. Under the Pay Comparability Act, these deliberations of the Committee are analogous to the development of policy within an agency exercising statutory functions. The exposure of this predecisional deliberative process would have a "chilling" effect upon the frank and candid exchange of views that is essential to the development of considered independent recommendations.

The Federal Advisory Committee Act (5 U.S.C.A. App. I, Pub. L. 92-463) does not require public participation in the development of the Committee's findings and recommendations. The Freedom of Information Act authorizes the exemption from disclosure of inter- or intra-agency memoranda or letters where the documents are not final determinations and such exemptions are necessary to prevent undue inhibition of pre-decisional processes (5 U.S.C. 552(b)(5)). The deliberative process by which the Advisory Committee on Federal Pay arrives at independent judgments to transmit to the President is a predecisional process which must remain uninhibited and thus undisclosed in order that the Committee may supply maximum assistance to the President in making his final decision. This process is therefore, within the above exemption of the Freedom of Information Act extended to advisory committees through the Federal Advisory Committee Act.

Therefore, by authority of section 10 (d) of Pub. L. 92-463, the Federal Advisory Committee Act, the Director of the Office of Management and Budget has determined that the meetings of the Advisory Committee on Federal Pay on July 26, August 5, and August 11, 1976, to develop its findings and recommendations with respect to the annual adjustment in Federal pay will concern mat-

ters within section 552(b)(5) of Title 5, United States Code, and therefore shall, not be open to the public.

The final findings and policy recommendations of the Committee will be made public by the President.

JEROME M. ROSOW,  
Chairman, Advisory Committee on  
Federal Pay.

[FR Doc.76-20152 Filed 6-9-76; 8:45 am]

#### CIVIL AERONAUTICS BOARD

[Docket No. 29480; Order 76-7-12]

COMPAGNIE NATIONALE AIR FRANCE,  
SOCIETE ANONYME BELGE d'EXPLOI-  
TATION DE LA NAVIGATION AERIENNE  
(SABENA) AND TRANS WORLD AIR-  
LINES, INC.

#### Premium Live Animal Rates; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of June 1976.

By tariff revisions filed for effect July 9, 1976, Compagnie Nationale Air France (Air France) seeks to reinstate premium rates for carriage of live animals at 125 percent of the applicable general commodity rate for certain cold-blooded animals<sup>1</sup> and at 150 percent for all other live animals. Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (Sabena) has filed identical premium live animal rates, effective July 18, 1976, to "match" Air France.

As support for its action, Air France maintains that the premium rates are necessary due to the handling and maintenance costs incurred in connection with live animal shipments and notes that Trans World Airlines, Inc. (TWA) has identical rates, which expire September 30, 1976, in effect in its current tariffs.

The premium live animal rates at issue herein are identical to those contained in a previous agreement reached by the carrier members of the International Air Transport Association (IATA). Before acting upon that agreement, the Board gave the carriers ample opportunity to submit cost data in support of their general allegations that the particular circumstances of international live animal carriage justified higher premium rates than those found lawful for domestic live animal carriage.<sup>2</sup> Of all the carriers, only TWA made any serious attempt to cost-justify the proposed premium rates. After careful review of all the carrier submissions, especially that of TWA, the Board determined that the justification was deficient and unpersuasive and that the proposed premium rates were unwarranted. That portion of the agreement establishing the live ani-

<sup>1</sup> Fish, frogs, iguanas, insects, reptiles, turtles, and worms.

<sup>2</sup> Investigation of Premium Rates for Live Animals and Birds, Docket 21474, decided June 26, 1973. The Board found therein that the maximum lawful rates for cold-blooded animals were the general commodity rates and that the maximum lawful rates for warm-blooded animals were no more than 110 percent of the general commodity rates.



mal rates was then disapproved by Order 76-1-17, January 5, 1976.

Since the Board's disapproval of the IATA-proposed premium rates, all other carriers have established live animal rates at 110 percent or less of the applicable general commodity rate.\* However, notwithstanding the Board's disapproval, based largely upon the deficiencies of TWA's cost justification, TWA continues to maintain in its effective tariffs live animal rates at the disapproved levels. Air France and Sabena both seek to match TWA's rates in their instant filings. Neither of the foreign carriers has provided any cost justification for its rates other than the general statements by Air France noted above. Sabena merely "matches" Air France without supplying any additional justification whatsoever. Since these general allegations as to the particular circumstances involved in international live animal carriage were considered and found unpersuasive in Order 76-117, the Board has determined to suspend, pending investigation, the filings of Air France and Sabena as well as the existing live animal rates of TWA.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, 801, and 1002 thereof:

It is ordered, That: 1. An investigation be instituted to determine whether the rates and provisions described in Appendices A and B attached below, and rules, regulations, and practices affecting such rates and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to take appropriate action to prevent the use of such rates and provisions, or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the rates and provisions described in: (1) Appendix A attached below are suspended, and their use deferred from July 9, 1976, to and including July 8, 1977; and (2) Appendix B attached below are suspended, and their use deferred from July 18, 1976, to and including July 17, 1977, unless otherwise ordered by the Board, and that no change be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President\* and shall become effective July 9, 1976;

4. The investigation ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order be filed in the aforesaid tariffs and be served upon Compagnie Nationale Air France, Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (SABENA), and Trans World Airlines, Inc.

\* The United Kingdom has established the higher IATA live animal rates by government order for transportation from the U.K.

\* This order was submitted to the President on June 28, 1976.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLIS T. KAYLOR,  
Acting Secretary.

#### APPENDIX A

TRANSATLANTIC CARGO RATES TARIFF NO. 1-2,  
C.A.B. NO. 50, ISSUED BY AIR TARIFFS CORPORATION, AGENT

All rates and provisions in Item Nos. 10 and 11 on Original Page 186-C and 1st Revised Page 186-C insofar as they apply to/from or via the United States for the account of Compagnie Nationale Air France.

INTERNATIONAL LOCAL AND JOINT AIR CARGO RATE TARIFF NO. 3, C.A.B. NO. 230, ISSUED BY TRANS WORLD AIRLINES, INC.

All rates and provisions in Item No. 1 on 7th Revised Page 29 insofar as they apply locally/jointly for the account of Trans World Airlines, Inc.

[FR Doc.76-20032 Filed 7-9-76;8:45 am]

[Docket No. 22493, etc.]

#### HUGHES AIRWEST

##### Hearing Regarding Los Angeles-Boise/ Spokane Service Subpart M Proceeding

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on September 8, 1976, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Janet D. Saxon.

Dated at Washington, D.C., July 6, 1976.

ROBERT L. PARK,  
Chief Administrative Law Judge.

[FR Doc.76-20030 Filed 7-9-76;8:45 am]

[Docket No. 29445]

#### LAS VEGAS-DALLAS/FORT WORTH NONSTOP SERVICE INVESTIGATION Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on September 22, 1976, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge William H. Dapper.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before September 3, 1976, and the other parties on or before September 13, 1976. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., July 6, 1976.

[SEAL] ROBERT L. PARK,  
Chief Administrative Law Judge.  
[FR Doc.76-20029 Filed 7-9-76;8:45 am]

#### TEXAS INTERNATIONAL AIRLINES INC. ET AL.

##### Certificate of Public Convenience and Necessity; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of June, 1976.

Application of Texas International Airlines, Inc. (Docket 24233) for amendment of its certificate of public convenience and necessity for Route 82 and to add a new segment authorizing service between the terminal point Midland/Odessa, Texas, the intermediate point Albuquerque, New Mexico, and the terminal point Las Vegas, Nevada.

Application of Texas International Airlines, Inc. (Docket 29158) for amendment of its certificate of public convenience and necessity for Route 82 so as to add a segment between the coterminous points Houston, Dallas/Fort Worth, Austin, and San Antonio, Texas, and the terminal point Las Vegas, Nevada.

Application of American Airlines, Inc. (Docket 24228) under Section 401 of the Federal Aviation Act of 1958, as amended.

Application of Braniff Airways, Inc. (Docket 29076) for amendment of its certificate of public convenience and necessity for Route 9.

Application of Continental Air Lines, Inc. (Docket 25945) for amendment of its certificate of public convenience and necessity for Route 29.

Application of Western Air Lines, Inc. (Docket 29196) for amendment of its certificate of public convenience and necessity for Route 63 to add the new segments Las Vegas-Dallas/Fort Worth and Las Vegas-Houston.

Petition for Las Vegas-Texas Service Investigation (Docket 29112); Las Vegas-Dallas/Fort Worth nonstop service investigation (Docket 29445).

Ordering paragraph 9 in Order 76-6-161, June 24, 1976, inadvertently excluded consolidating the application of Western Air Lines, Inc. (Docket 29196) in the Las Vegas-Dallas/Fort Worth Nonstop Service Investigation, Docket 29445. Consequently, ordering paragraph 9 should read as follows: "The applications of American Airlines (Docket 24228), Braniff Airways (Docket 29076), Continental Air Lines (Docket 25945), Western Air Lines (Docket 29196), and Texas International Airlines (Dockets 24233 and 29158), and the petition of Senator Howard W. Cannon (Docket 29112) to the extent they conform with the issues in the proceeding instituted in paragraph 1, above, be and they hereby are consolidated in the Las Vegas-Dallas/Fort Worth Nonstop Service Investigation, Docket 29445;"

\* Published at 41 FR 26948, June 30, 1976.



By the Civil Aeronautics Board.

Dated: July 6, 1976.

[SEAL] PHYLLIS T. KAYLOR,  
Acting Secretary.

[FR Doc.76-20033 Filed 7-9-76; 8:45 am]

[Docket No. 29450; Order 76-7-13]

# VARIOUS CARRIERS

## Domestic Passenger-Fare Increase; Order Amending Findings

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of July, 1976.

By Order 76-6-173, June 25, 1976, the Board suspended a two-percent general domestic fare increase, marked to become effective on various dates in July, proposed by eight trunkline carriers and five local service carriers.<sup>1</sup> The Board's suspension was based principally upon the fact that, after our customary rate-making adjustments were made, the industry's return on investment (ROI) was 13.02 percent, well above the 12 percent standard established in the Domestic Passenger-Fare Investigation (DPFI).

The ratemaking ROI of 13.02 percent represents the end result of an extensive series of calculations performed by the Board when evaluating all 48-state passenger fare proposals. Essentially, the Board begins by adjusting reported 50-state all-service operating data to obtain 48-state scheduled passenger service operating results. From this data base the Board then makes various passenger-related adjustments such as removal of discount-fare traffic and standardization of load factor to arrive at the ratemaking ROI.

Among the adjustments to reported data is the allocation of an appropriate amount of economic cost related to the operation of belly-cargo services performed in combination aircraft. In Phase 7 of the DPFI, the Board determined that this be accomplished by means of reducing the costs of combination service by an amount equal to belly-cargo revenues, a method known as byproduct costing. Consistent with this methodology, the entire investment in combination aircraft was assigned to the passenger service in Phase 7.

In the early periods of fare increase evaluation following the Board's decision in Phase 7 of the DPFI, the Board determined 48-state investment and interest by deriving the ratio of 48-state passenger expense (which had been reduced by an amount equal to belly-cargo revenue) to 50-state expenses, and applying this ratio to 50-state investment and interest. Since 48-state expenses were net of belly-cargo expenses, the unintended effect was to remove the portion of 50-state investment and interest related to belly-cargo through the expense ratio method. Con-

sistent with the methodology, when the equipment operating experience (block hours) was later employed to allocate from 50-state investment and interest to 48-state scheduled combination service, an adjustment was incorporated which assigned a portion of 50-state investment and interest to belly-cargo services.

In recently evaluating revenue need for a different ratemaking entity, the Board discovered that the foregoing methodology was inconsistent with our conclusions and methodology in Phase 7 with regard to the treatment of belly-cargo services in combination aircraft on a byproduct basis.<sup>2</sup> As previously noted, the Board decided in that phase of DPFI that total belly-cargo revenues should be used to offset an equal amount of expenses in the total cost of operating combination aircraft which the current methodology now reflects. Since the costs of the passenger service are reduced by belly-cargo revenues consistency requires that belly-cargo investment and interest not be removed from the passenger rate base. However, it now appears that we have, inadvertently, been eliminating a portion of interest and investment allocated to belly-cargo operations.

Accordingly, the Board has recomputed the industry's present ROI in passenger service. This recomputation has a downward impact which, including the proposed two-percent fare increase, becomes 12.37 percent, rather than the 13.02 percent previously relied upon.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404 and 1002 thereof:

### It is ordered, That:

1. The findings in Order 76-6-173, are amended pursuant to the foregoing.
2. Copies of this order be served upon all scheduled certificated air carriers and the National Passenger Traffic Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,  
Acting Secretary.

[FR Doc.76-20031 Filed 7-9-76; 8:45 am]

## COMMISSION ON CIVIL RIGHTS

### COLORADO 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 Colorado Advisory Committee (SAC) to this Commission will convene at 7:00 p.m. and end at 9:30 p.m. on July 26, 1976, at the

<sup>1</sup> We note that the Board's staff has met on several occasions with interested parties to explain in detail its ratemaking methodology since it began to evaluate fare proposals utilizing these calculations, and, since March 1975, has put in a public file, all the detailed workpapers supporting its calculations.

Executive Tower, 1405 Curtis Street, Denver, Colorado 80202.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, 32nd Floor, Denver, Colorado 80202.

The purpose of this meeting is to discuss followup activities to the Committee's Medical and Legal reports and to plan for future projects.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 6, 1976.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc.76-20005 Filed 7-9-76; 8:45 am]

## KENTUCKY ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting; Amendment

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that the meeting of the Kentucky Advisory Committee (SAC) of the Commission published in the FEDERAL REGISTER on Tuesday, June 15, 1976, on page 24212 (FR Doc. 76-17313) is hereby amended to show change of meeting time from 7:30 p.m. to 6:00 p.m. The place and the ending time will remain the same.

Dated at Washington, D.C., July 6, 1976.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc.76-20006 Filed 7-9-76; 8:45 am]

## MICHIGAN 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 Michigan Advisory Committee (SAC) to this Commission will convene at 1:00 p.m. and end at 5:00 p.m. on July 29, 1976, at the Board Room, Board of Education, Administration Building, 550 Millard, Saginaw, Michigan. The Committee will also hold a press conference, same date and location, at 11:00 a.m. to release volume 2 of their Housing and Community Development study regarding Model Cities phase-out.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn St., 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss and/or review the draft of Sault Ste. Marie report, and program planning through 1976.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

<sup>2</sup> Revisions to Airline Tariff Publishing Company, Agent, C.A.B. Nos. 229 and 259. For a detailed listing see Appendix B of Order 76-6-173, June 25, 1976.

<sup>3</sup> Orders 71-4-59, 71-4-60, dated April 9, 1971, pp. 42-46.



Dated at Washington, D.C., July 6, 1976.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc. 76-20007 Filed 7-9-76; 8:45 am]

[Report No. 813]

# FEDERAL COMMUNICATIONS COMMISSION

## COMMON CARRIER SERVICES INFORMATION

### Applications Accepted for Filing

JULY 6, 1976.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see section 309(c) of the Communications Act), applications filed under Part 68, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier; (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See § 1.227(b)(3) and 21.30(b) of the Commission's rules.)

FEDERAL COMMUNICATIONS COMMISSION,  
VINCENT J. MULLINS,  
Secretary.

### APPLICATIONS ACCEPTED FOR FILING

#### DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

22328-CD-P-76, Communications Equipment and Service Company (KWA632), C.P. for additional facilities to operate on 454.175 MHz at Loc. No. 1: Ester Dome, Alaska.

22330-CD-P-(3)-76, Business Communications, Inc. d/b/a New Orleans Mobilphone (KLB759), C.P. to relocate facilities, change antenna system and replace transmitter operating on 152.15 and 152.21 MHz from Loc. No. 2 to Loc. No. 4; and for additional facilities to operate on 152.12 MHz at Loc. No. 4: 300' N. of U.S. Post Office, W. of Highway 23, Venice, Louisiana.

22331-CD-P-76, Comex, Inc. (KCI295), C.P. to relocate facilities and change antenna system operating on 43.22 MHz at Loc. No. 4: West Hill, 2 miles WSW. of Keene, New Hampshire.

22332-CD-P-76, Mobilphone of Texas, Inc. (KQZ708), C.P. to change antenna system operating on 158.70 MHz at Loc. No. 2: Old U.S. Highway 90, near Vidor, Texas.

22333-CD-P-76, Answering Service of Trenton, Inc. (KED352), C.P. for additional facilities to operate on 35.58 MHz at a new Loc. No. 2: 3200 Brunswick Pike, Clarks-ville, New Jersey.

22334-CD-P-76, Empire Mobilcomm Systems, Inc. (KLF955), C.P. to change antenna system and change frequency from 152.21 MHz to 152.06 MHz at Loc. No. 2: 0.7 mile NW. on Aubrey Butte, Bend, Oregon.

22335-CD-P-76, Illinois Bell Telephone Company (KSD676), C.P. to change antenna system operating on 152.66 MHz located on Schomer Road, near Mallyn Lane, 1 mile N. of Aurora, Illinois.

22336-CD-P-(2)-76, S.M.W., Inc. (KCI297), C.P. to change antenna system and replace transmitter operating on 454.200 MHz at Loc. No. 1: 350 Cedar Street, Needham, and change antenna system, replace transmitter and relocate facilities operating on 454.200 MHz at Loc. No. 2: John Hancock Tower Building, Boston, Massachusetts.

22337-CD-P-76, Page Boy, Incorporated (KCI299), C.P. to relocate facilities and change antenna system operating on 35.22 MHz located on Baldwin Drive, West Rock Ridge, New Haven, Connecticut.

22338-CD-MP-(4)-76, New Jersey Mobile Telephone Company, Inc. (KWU200), C.P. to change antenna system and replace transmitter operating on 454.125, 454.300, 454.325 and 454.350 MHz located adjacent to RR. tracks on Mizzen Avenue, Beachwood, New Jersey.

22339-CD-P-76, Specialized Telephone Service (KWH348), C.P. for additional facilities to operate on 152.24 MHz located at 300 E. Collins Drive, Casper, Wyoming.

22340-CD-P-76, William L. Eisele d/b/a Lake Shore Communications (KUC931), C.P. for additional facilities to operate on 158.70 MHz at a new Loc. No. 2: 4 miles N. of Valparaiso, Junction of Route 49 and Road 750 North, Indiana.

22341-CD-P-(2)-76, South Shore Radio-Telephone, Inc. (KSB591), C.P. for additional facilities to operate on 152.21 MHz at Loc. No. 3: 2505 Martin Luther King Drive, Gary, Indiana; and for additional facilities to operate on 454.200 MHz at a new Loc. No. 4: Hines Hospital, Maywood, Illinois.

22342-CD-P-76, Empire Dispatch, Inc. (KAA 279), C.P. for additional facilities to operate on 152.21 MHz at Loc. No. 3: Buckhorn Mountain, 15.5 miles WNW. of Fort Collins, Colorado.

22343-CD-P-76, South Shore Radio-Telephone, Inc. (KUC967), C.P. to replace transmitter operating on 454.225 MHz located at 2915 Bernice Road, Lansing, Illinois.

### Correction

21063-CD-P-76, Central Mobile Radio Phone Service (KUO557), Correct entry to include: C.P. for additional facilities to operate on 35.22 MHz located at 505 Jefferson Avenue, Toledo, Ohio. All other particulars to remain as reported on PN No. 786, dated December 29, 1975.

### POINT TO POINT MICROWAVE RADIO SERVICE

4288-CF-P-76, South Central Bell Telephone Company (KIA53), White Oak Mtn., 3.1 miles SW. of Georgetown, Tennessee, Lat. 35°14'43" N., Long. 84°58'32" W. C.P. to replace and move antennas for frequencies 6286.2H MHz toward Benton Spring, Tennessee and 6226.9H MHz toward Spring City, Tennessee.

4289-CF-P-76, Same (KJW83), Benton Springs, 3 miles SE. of Benton, Tennessee, Lat. 35°08'05" N., Long. 84°37'21" W. C.P. to replace and move antennas for frequencies 6034.2H MHz toward Copperhill, Tennessee and 6004.5H MHz toward White Oak Mtn., Tennessee.

4290-CF-P-76, Same (KIA55), 0.9 mile W. of Spring City, Tennessee, Lat. 35°41'29" N., Long. 84°52'38" W. C.P. to correct street address and ground elevation; replace and move antennas for frequency 5945.2H MHz toward White Oak Mtn., Tennessee.

4301-CF-P-76, New England Telephone and Telegraph Company (New), Springfield 2, 351 Bridge Street, Springfield, Massachusetts, Lat. 42°06'16" N., Long. 72°35'26" W. C.P. for a new station on frequencies 11035V, 10875V MHz toward Holyoke, Massachusetts on azimuth 338.3°.

4302-CF-P-76, Same (KEM78), 2.8 miles NW. of Holyoke, Massachusetts, Lat. 42°13'32" N., Long. 72°39'19" W. C.P. to add points of communication on frequencies 11485V, 11325V MHz toward a new station at Springfield 2, Massachusetts on azimuth 158.3°, and 11485V, 11325H MHz toward Chesterfield, Massachusetts on azimuth 321.5°.

4303-CF-P-76, Same (KTQ52), Munson Road, Chesterfield, Massachusetts, Lat. 42°21'36" N., Long. 72°47'58" W. C.P. to add a point of communication on frequencies 11035V, 10875H MHz toward Holyoke, Massachusetts on azimuth 141.4°, and add 11525V, 11285V MHz toward Windsor, Massachusetts on azimuth 304.3°.

4304-CF-P-76, Same (KCM76), Nobody's Road, 1.3 miles SSW. of Windsor, Massachusetts, Lat. 42°29'36" N., Long. 73°03'51" W. C.P. to add frequencies 11075V, 10835V MHz toward Chesterfield, Massachusetts on azimuth 124.1°, and 10795H, 11035H MHz toward Pittsfield, Massachusetts on azimuth 252.4°.

4305-CF-P-76, Same (KCM77), 24 Federal Street, Pittsfield, Massachusetts, Lat. 42°26'56" N., Long. 73°15'09" W. C.P. to add frequencies 11245H, 11485H MHz toward Windsor, Massachusetts on azimuth 72.3°.

4389-CF-R-76 Same (KGP58), Location: Within the territory of the Grantee. Application for Renewal of Radio Station License (Developmental) expiring August 1, 1976. Term: August 1, 1976 to August 1, 1977.

4394-CF-P-76, American Telephone and Telegraph Company (KQE72), Hopetown, 3.5 miles NNE. of Chillicothe, Ohio, Lat. 39°22'42" N., Long. 82°55'45" W. C.P. to change polarization from Vertical to Horizontal on frequencies 3750, 3830, 3910, 3990, 4070, 4150 MHz, and from Horizontal to Vertical on 3770, 3850, 4010 MHz toward New Vienna, Ohio.

4395-CF-P-76, Same (KQI60), 1.3 miles NE. of New Vienna, Ohio, Lat. 39°19'44" N., Long. 83°39'57" W. C.P. to change polarization from Vertical to Horizontal on frequencies 3710, 3790 MHz, and from Horizontal to Vertical on 3730, 3810, 3890, 3970, 4050, 4130 MHz toward Hopetown, Ohio.

4176-CF-P-76, Mid-Kansas, Inc. (KZA 42), 1.6 mile E. of McPherson, Kansas, (Lat. 38°22'32" N., Long. 97°35'56" W.): Construction permit to add 6004.5V MHz toward Lindsborg, Kansas, on azimuth 345°08'.



4182-CF-P-76, Mid-Kansas, Inc. (KBC 61), 1.2 mile N. of Abilene, Kansas. (Lat. 38°57'32" N., Long. 97°12'18" W.): Construction permit to add 6197.2V and 6315.9V MHz toward Minneapolis, Kansas, on azimuth 294.2°.

4183-CF-P-76, Eastern Microwave, Inc. (KTG 27), 2.4 miles SSW of Humphrey, New York. (Lat. 42°10'16" N., Long. 78°32'58" W.): Construction permit to add 5960.0H, 6019.3H, 6078.6H, 6137.9H, 5989.7V, and 6049.0V MHz toward Olean, New York via power split, on azimuth 157.0°.

4184-CF-P-76, Eastern Microwave, Inc. (WQR 72), U.S. Rte. 1.4 mile SE of Hookstown, Pennsylvania. (Lat. 40°34'37" N., Long. 80°27'24" W.): Construction permit to add 10815.0H and 11135.0H MHz toward MHz toward Salem-2, Ohio, on azimuth 311.8°.

4185-CF-P-76, Eastern Microwave, Inc. (WQR 71), Salem, Ohio. (Lat. 40°51'22" N., Long. 80°52'06" W.): Construction permit to add 6197.2V and 6345.6H MHz toward Sharon, Pennsylvania, on azimuth 40.9°.

4209-CF-P-76, United Video, Inc. (WAS 472), Tulsa, Oklahoma. (Lat. 36°05'58" N., Long. 95°54'05" W.): Construction permit to add 10955.0H MHz toward Sand Springs, Oklahoma, on azimuth 298.6°.

4210-CF-P-76, United Video, Inc. (WAY 25), Joplin, Missouri. (Lat. 37°04'49" N., Long. 94°33'25" W.): Construction permit to add 11135.0H MHz toward Miami, Oklahoma, on azimuth 224.2°.

4299-CF-P-76, American Telephone & Telegraph Company. (KSA 77), 2.0 miles ESE of Glenwood, Indiana. (Lat. 39°37'20" N., Long. 85°15'48" W.): Construction permit to add 8910.0H MHz toward Richmond, Indiana, on azimuth 49.8°.

4310-CF-P-76, Midwestern Relay Company. (WJL 50), 2.0 miles E. of Stockbridge, Wisconsin. (Lat. 44°04'20" N., Long. 88°15'27" W.): Construction permit to add 6256.5H MHz toward Deperes, Wisconsin, on azimuth 97.5°.

4380-CF-P-76, Eastern Microwave, Inc. (KZA 86), 6 miles NW. of Tyrone, Pennsylvania. (Lat. 40°43'56" N., Long. 78°19'33" W.): Construction permit to add 5989.7V and 6049.0V MHz toward Huntingdon, Pennsylvania, on azimuth 138.6°.

4381-CF-P-76, Eastern Microwave, Inc. (WDD 82), 0.9 mile SE. of Bell Point, Pennsylvania. (Lat. 40°32'03" N., Long. 79°31'59" W.): Construction permit to add 11175.0V and 10895.0H MHz toward Kittanning, Pennsylvania, on azimuth 4.0°.

4382-CF-P-76, Eastern Microwave, Inc. (KCK 71), 7 miles east of Marlboro, New Hampshire. (Lat. 42°54'41" N., Long. 72°04'11" W.): Construction permit to add 11265.0H MHz toward Keene, New Hampshire, on azimuth 277.5°.

4383-CF-P-76, Eastern Microwave, Inc. (KFN 21), New York, New York. (Lat. 40°46'09" N., Long. 73°58'55" W.): Construction permit to add 11545.0V MHz toward Monsey, New York, on azimuth 348.1°.

4384-CT-P-76, South Central Bell Telephone Company. (KJL 97), Montgomery, Alabama. (Lat. 32°22'33" N., Long. 86°18'30" W.): Construction permit to replace transmitter (6219.5H MHz) to 11035.0V MHz toward WKAB-TV, Montgomery, Alabama, on azimuth 101°55'.

#### Corrections

4198-CF-P-76, United Video, Inc. (New), 1.1 mile north of Iola, Kansas. (Lat. 37°56'47" N., Long. 95°23'43" W.): This entry, appearing in Public Notice of June 28, 1976, is corrected to show 6167.6V MHz toward Erie and Humboldt, Kansas. All other particulars remain the same.

4214-CF-P-76, Navajo Communications Company, Inc. (New), Hunts Mesa, Arizona.

Correct frequency 2176.2M MHz to read 2126.8H Mz toward Kayenta, Arizona. All other particulars remain the same as in Public Notice No. 812, dated June 28, 1976.

#### MULTIPOINT DISTRIBUTION SERVICE

4012-CM-P-76, Vision Cable Communications Inc. (New), New Iberia, Louisiana. (Lat. 29°58'10" N., Long. 91°49'43" W.): Construction permit for new station—2154.75V, 2150.25V and 2154.75H, 2150.25H MHz. Primary service area: New Iberia, Louisiana.

4212-CM-P-76, Evans/Lorenz Communications Corp. (New), Green Bay, Wisconsin. (Lat. 44°01'11" N., Long. 83°03'15" W.): Construction permit for new station—2154.75V and 2150.25V MHz. Primary service area: Green Bay, Wisconsin.

4291-CM-P-76, J. McCarthy Miller and Al Brooks (New), Macon, Georgia. (Lat. 32°50'12" N., Long. 83°37'46" W.): Construction permit for new station—2154.75V and 2150.25V MHz. Primary service area: Macon, Georgia and vicinity.

4401-CM-P-76, Viking Communications (New), Newport, Rhode Island. (Lat. 41°29'30" N., Long. 71°18'30" W.): Construction permit for new station—2154.75H and 2150.25H MHz. Primary service area: Newport, Rhode Island.

#### MULTIPOINT DISTRIBUTION RADIO SERVICE

##### Correction

This entry, erroneously appearing in Public Notice of June 21, 1976, No. 811-A, should have appeared in the Applications accepted for filing section, No. 811.

6984-C1-P-72, Western Telecommunications Inc. Application amended to change applicant to Channel View, Inc. Station location: Salt Lake City, Utah. All other particulars remain the same.

Informative: The above amendment reflects a joint venture by Tekkom, Inc. (4976-C1-P-72), Electro-Media Multipoint Service, Inc. (4752-C1-P-72) and Western Telecommunications, Inc. (6984-C1-P-72) to resolve mutually exclusive application in Salt Lake City, Utah. Upon grant of the above applications it is requested that the remaining applications for Salt Lake City be dismissed. This amendment does not affect applicants' status under the "cutoff" rule. (See 44 FCC 2d 556.)

[FR Doc.76-20017 Filed 7-9-76; 8:45 am]

[Report No. I-245]

#### COMMON CARRIER SERVICES INFORMATION

##### International and Satellite Radio Applications Accepted for Filing

JUNE 30, 1976.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

#### FEDERAL COMMUNICATIONS COMMISSION,

VINCENT J. MULLINS,  
Secretary.

#### SATELLITE COMMUNICATIONS SERVICES

369-DSE-P-76, The State of Alaska, Belkofski, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 55°05'35" N., Long. 162°01'52" W. Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

370-DSE-P-76, the State of Alaska, Chignik Lake, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 56°15'17" N., Long. 158°45'48" W. Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

371-DSE-P-76, the State of Alaska, False Pass, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 54°51'23" N., Long. 163°24'44" W. Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

372-DSE-P-76, the State of Alaska, Ivanof Bay, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 55°54'10" N., Long. 159°29'04" W. Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

373-DSE-P-76, the State of Alaska, Kongiganak, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 59°57'38" N., Long. 162°53'22" W. Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

374-DSE-P-76, the State of Alaska, Kwiglilingok, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 59°51'50" N., Long. 163°08'04" W. Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

375-DSE-P-76, the State of Alaska, Manly Hot Springs, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 65°00'00" N., Long. 150°38'10" W. Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

376-DSE-P-76, the State of Alaska, Meshik, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 56°54'45" N., Long. 158°40'56" W. Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

377-DSE-P-76, The State of Alaska, Nelson Lagoon, Alaska. For authority to construct and establish channels of communication by means of a communication satellite earth station at this location. Lat. 56°00'04" N., Long. 161°12'03" W. Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

378-DSE-P-76, the State of Alaska, Old Harbor, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 57°12'12" N., Long. 153°18'09" W. Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425



[FCC 76-610]

MHz. Emission 25.7F9. Using a 4.5 meter antenna.

379-DSE-P-76, the State of Alaska, Perryville, Alaska. For authority to construct and establish channels of communication by means of a communication satellite earth station at this location. Lat. 55° 54' 45", Long. 159° 08' 34". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

380-DSE-P-76, the State of Alaska, Minto, Alaska. For authority to construct and establish channels of communication by means of a communications satellite earth station at this location. Lat. 65° 09' 25", Long. 149° 19' 48". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. Using a 4.5 meter antenna.

381-DSE-P-76, RCA Alaska Communications, Inc., Galena, Alaska. For authority to construct a communications satellite earth station at this location for operation with a domestic communication satellite system. Lat. 64° 42' 15.5", Long. 156° 43' 24.2". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 4000F9. Using a meter antenna.

[FR Doc. 76-20020 Filed 7-9-76; 8:45 am]

[FCC 76-605]

# REGIONAL SPECTRUM MANAGEMENT PROGRAM

## Action

JUNE 29, 1976.

On June 25, 1976, the FCC voted to reconfirm its commitment to the regional spectrum management program which began as a pilot system in Chicago in 1972. It approved a limited, long-term expansion of the regionalization effort but, in light of current budgetary constraints, has decided to make extensive changes to the prototype system. In particular, it moved to strike a new balance between the Commission's obligation to insure fair and efficient use of the radio spectrum and the role of the private sector in meeting specific communication requirements.

The Commission's primary effort in land mobile will be the creating of a nationwide data base of private land mobile systems. The system for capturing the data will be similar to the successful Chicago model. Rather than emphasizing the selection of frequencies for individual systems, the Commission will concentrate on measuring and evaluating the overall performance of the private sector. The objective is to provide accurate information to the users, vendors, and frequency coordinators and to protect existing users of the spectrum from undue interference while assisting new users to find the best available frequencies.

A monitoring program will remain a substantial part of the FCC's information process. The mobile monitoring plan currently used in Chicago will be altered and significantly reduced. The monitoring vans will measure utilization of the channels sufficient to describe "gross" levels of occupancy. This will serve to isolate frequencies that have reached saturation and, conversely, to identify channels that have the capacity for adding compatible new users.

The Commission intends to work with the private sector to develop a mutual level of confidence in both the nationwide licensee data base and the monitoring data and will encourage the use of these data in radio system design. After establishing confidence in the monitoring and licensee data bases, the Commission will revisit the feasibility of frequency sharing, or regional reallocation of frequencies, to correct deficiencies in the block allocation concept.

The Spectrum Management Task Force, which developed the Chicago pilot system, has virtually completed the assignment for which it was created and will disband. Current plans call for reassigning the Task Force personnel within the Office of Chief Engineer to other high priority missions. Responsibility for the new land mobile program will be centralized in a new office established in the Safety and Special Radio Services Bureau. This office will design and implement an automated licensing system and will be responsible for all land mobile processing.

Many details of the Commission's decision remain to be worked out this summer. Applications for land mobile facilities in the Chicago Region will be processed in Washington after arrangements have been made. A Public Notice will be released at least sixty days before the effective date of such transfer. In the interim, the processing of applications in Chicago will not change. Many of the personnel who have performed so ably for the Commission in the Chicago pilot office will be transferred to Washington to implement the nationwide automated system. Monitoring and liaison personnel will stay in Chicago to maintain an effective presence of the FCC in the local land mobile community. After redesign of the monitoring program, and with the counsel of the land mobile sector, the Commission may visit other metropolitan areas of critical congestion.

The Commission will work closely with the users, vendors, and frequency coordinators in developing this new program. The role of the frequency coordinator will be re-examined, and rulemaking will be initiated to develop a coordination system that best meets the needs of the land mobile community. To effect maximum utilization of land mobile spectrum with minimum intervention in the performance of the private sector, the FCC will seek a closer liaison with all land mobile representatives throughout the implementation of its new program for spectrum management in the land mobile services.

Action by the Commission June 28, 1976. Commissioners Reid, Quello, Washburn and Robinson with Commissioners Wiley (Chairman) and Hooks concurring and Commissioner Lee not participating.

FEDERAL COMMUNICATIONS  
COMMISSION,

VINCENT J. MULLINS,  
Secretary.

[FR Doc. 76-20019 Filed 7-9-76; 8:45 am]

# USE OF "TONE CLUSTERS" AND OTHER AUDIO ATTENTION-GETTING DEVICES AT AM, FM, AND TV BROADCAST STATIONS

JULY 2, 1976.

Numerous inquiries have been received by the Commission from broadcast licensees and equipment manufacturers concerning the propriety of transmitting audio tones to attract the attention of listeners and viewers to important news bulletins, local weather announcements, and other situations which may warrant interruption of regularly scheduled programming but which do not warrant activation of the State or Local Operational Area Emergency Broadcast System (EBS). The purpose of this Public Notice is to clarify the circumstances in which the use and testing of such techniques and devices are permissible.

There is no objection to the transmission of audio tones and tone clusters by broadcast stations as an attention-getting method. However, the tones employed must be well removed from the audio tones used for EBS inter-station signaling (853 and 960 Hertz), and must not be presented, tested, announced, or promoted in a way that confusion with the EBS would be created in the minds of the public.

In keeping with the Commission's policy against the use of broadcast frequencies for strictly point-to-point communications, any use of such tones for receiver control purposes must be secondary to the basic purpose of informing the general public using conventional receivers. This means that the use of audio tones as an attention-getting device must be of primary benefit to the general public, and of only incidental benefit to persons with special circuitry receivers designed to demute upon transmission of the particular audio tones employed.

Licensees are also cautioned that the transmission of such tones is not a substitute for activation of the EBS under a State or Local Operational Area plan, where the public interest requires the participation of other stations by means of the authorized two-tone EBS Attention Signal. Moreover, licensees and users of such devices are cautioned that the Commission can assume no responsibility for the technical integrity of non-EBS receiver control systems, for which no technical standards have been prescribed.

Systems of this type may be field-tested during the nighttime experimental period reserved for transmitter maintenance and, in addition, no more than once each week during daytime hours. Daytime testing, however, may not exceed 60 seconds nor be announced in a way that it could be confused with the weekly random off-the-air monitor test of the EBS required of all AM, FM, and TV broadcast licensees. Finally, should abuses in the use and testing of such equipment be brought to the attention of the Commission, it may become necessary to initiate rulemaking to prohibit the transmission of non-EBS main channel control tones altogether.



Any use of such systems must, of course, be immediately suspended upon activation of the EBS at the National State, or Local Operational Area levels. Action by the Commission June 29, 1976. Commissioners Wiley (Chairman), Lee, Reid, Hooks, Quello, Washburn and Robinson.

FEDERAL COMMUNICATIONS  
COMMISSION,  
VINCENT J. MULLINS,  
Secretary.

[FR Doc.76-20018 Filed 7-9-76;8:45 am]

## FEDERAL DEPOSIT INSURANCE CORPORATION

### TIME LIMITS FOR FILING REPORTS OF CONDITION

#### Statement of Policy

The Board of Directors of the Federal Deposit Insurance Corporation approved the following Statement of Policy at its offices in Washington, D.C. on the 6th day of July, 1976.

Pursuant to section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)), each insured State non-member bank (except a District bank) is required to make to the Corporation Reports of Condition in such form and containing such information as the Board of Directors of the Federal Deposit Insurance Corporation may require. The section further provides that every insured State nonmember bank which fails to make or publish any such report within 10 days shall be subject to a penalty of not more than \$100 for each day of such failure recoverable by the Corporation for its use. The Board of Directors of the Federal Deposit Insurance Corporation has determined that a greater period of time is required to enable banks to prepare and file Reports of Condition and that the Reports of Condition and Reports of Income filed with the Corporation should be filed at the same time. Accordingly, the instructions for the preparation and filing of Form 64: Consolidated Report of Condition (Including Domestic Subsidiaries); Form 64 (Savings); Consolidated Report of Condition (Including Domestic Subsidiaries); Form 73: Consolidated Report of Income (Including Domestic and Foreign Subsidiaries); and Form 73 (Savings): Consolidated Report of Income (Including Domestic Subsidiaries) are amended to require submission of such reports no later than 30 days after the dates of the call for Reports of Condition. No action to enforce the penalty prescribed in section 7(a)(1) will be taken until after the expiration of the prescribed 30-day period and no penalty will be sought for any failure to file such report within the prescribed 30-day period.

Paragraph 3 of section 7(a) provides that the dates for the Reports of Condition shall be selected by the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, the

Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System or a majority thereof. By mutual agreement of the foregoing officials, the dates selected for such reports are: March 31, June 30, September 30, and December 31 of each year. Additional Reports of Condition may be required pursuant to section 7(a)(1) and the announcement of any such additional reports that may hereafter be required and the date of the report will be announced and published in accordance with applicable provisions of law.

By order of the Board of Directors,  
July 6, 1976.

FEDERAL DEPOSIT INSURANCE  
CORPORATION,  
ALAN R. MILLER,  
Executive Secretary.

[FR Doc.76-19961 Filed 7-9-76;8:45 am]

## UNITY STATE BANK; DAYTON, OHIO

### Suspension of Trading

It appearing to the Federal Deposit Insurance Corporation that the summary suspension of trading in the common stock of Unity State Bank being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

Therefore, pursuant to sections 12(d) and 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended for the period beginning at 9:00 a.m. (d.s.t.) on July 7, 1976 through July 16, 1976.

By order of the Board of Directors,  
July 6, 1976.

FEDERAL DEPOSIT INSURANCE  
CORPORATION,  
ALAN R. MILLER,  
Executive Secretary.

[FR Doc.76-19963 Filed 7-9-76;8:45 am]

## FEDERAL ENERGY ADMINISTRATION

### STATE CONSERVATION PROGRAM SUBCOMMITTEE OF THE FOOD INDUSTRY ADVISORY COMMITTEE

#### Change in Meeting Date

This notice is given to advise of a change in meeting date for the State Conservation Program Subcommittee of the Food Industry Advisory Committee. The Subcommittee will meet on Tuesday, July 27, 1976, at 1:30 p.m. rather than Tuesday, July 20, 1976, at 1:30 p.m. as was previously announced. A Notice of Meeting was published in the issue of June 30, 1976, (41 FR 26955).

Issued at Washington, D.C. on July 7, 1976.

MICHAEL F. BUTLER,  
General Counsel.

[FR Doc.76-20052 Filed 7-7-76;3:35 pm]

## FEDERAL POWER COMMISSION

[Docket Nos. RP73-112; RP74-92]

## ALGONQUIN GAS TRANSMISSION CO.

### Extension of Time

JULY 2, 1976.

On June 18, 1976, Algonquin Gas Transmission Company filed a motion requesting extensions of time for the filing of Briefs on Exceptions to the Initial Decision issued in Docket No. RP74-92 on June 8, 1976 and the Initial Decision issued in Docket No. RP73-112 on June 15, 1976. The Algonquin Customer Group filed a response to this motion requesting a comparable extension of time for the filing of Briefs Opposing Exceptions.

Upon consideration, notice is hereby given that the time for filing Briefs on Exceptions in both proceedings is extended to and including July 30, 1976, and the time for filing Briefs Opposing Exceptions is extended to and including September 3, 1976, for all parties.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19998 Filed 7-9-76;8:45 am]

[Docket Nos. ER76-717, ER76-721; and ER76-530]

## ARIZONA PUBLIC SERVICE CO.

### Order Accepting Rate Schedule for Filing and Consolidating for Purpose of Hearing and Decision

JUNE 30, 1976.

On June 1, 1976, Arizona Public Service Company (APS) tendered for filing pursuant to § 35.12 of the Commission's rules and regulations two Wholesale Power Supply Agreements with the United States Bureau of Indian Affairs (BIA) on behalf of San Carlos Indian Irrigation Project (SCIIP) (Docket No. ER76-721) and the Colorado River Indian Irrigation Project (CRIIP) (Docket No. ER76-717). The proposed effective date is June 1, 1976. The Commission shall accept the filing and grant waiver of the Commission's regulations to allow an effective date of June 1, 1976. The Commission shall further consolidate proceedings ordered herein with Docket No. ER76-530 for purposes of hearing and decision.

Public notices of the subject filings were issued on June 10, 1976, and June 11, 1976, with protests or petitions to intervene due on or before June 23, 1976.

The rates that APS proposes to charge are identical to the rates that are in effect subject to refund in Docket No. ER76-530. Accordingly, the Commission shall permit the rates proposed herein to be effective subject to refund should the rates be found excessive in Docket No. ER76-530. APS requests waiver of

\*Note that these are separate, not consolidated, proceedings.

\*See attached Appendix for rate schedule designations.



§ 35.11 of the Commission's regulations to permit the rates to be effective June 1, 1976 because both CRIP's and SCIP's former supplier will not be able to supply them with service after May 31, 1976. APS makes the request on behalf of the two customers. APS has shown good cause for waiver of § 35.11 and accordingly waiver shall be granted.

The proposed rate schedules have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, they shall be accepted for filing, subject to refund pending a hearing and decision thereon. The two instant filings raise similar issues of law and fact and shall therefore be consolidated with ER76-530.

The Commission finds: (1) Good cause exists to grant waiver of § 35.11 of the Commission's regulations and accept APS two instant filings to be effective June 1, 1976, subject to refund.

(2) Good cause exists to consolidate these proceedings with Docket No. ER 76-530 for purposes of hearing and decision.

The Commission orders: (A) APS' two instant filings are hereby accepted for filing to be effective June 1, 1976, subject to refund.

(B) Waiver of § 35.11 of the Commission's regulations is hereby granted in order that the filings may be effective June 1, 1976.

(C) Docket Nos. ER76-717, ER76-721 and ER76-530 are hereby consolidated for purposes of hearing and decision.

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

By the Commission.

KENNETH F. PLUMB,  
Secretary.

#### APPENDIX

#### ARIZONA PUBLIC SERVICE CO.

Designation	Description
Rate Schedule FPC No. 65.	Agreement dated May 17, 1976, with Colorado River Indian Irrigation Project.
Supplement No. 1 to Rate Schedule FPC No. 65.	Exhibit A.
Supplement No. 2 to Rate Schedule FPC No. 65.	Exhibit B.
Rate Schedule FPC No. 66.	Agreement dated May 17, 1976, with San Carlos Indian Irrigation Project.
Supplement No. 1 to Rate Schedule FPC No. 66.	Exhibit A.
Supplement No. 2 to Rate Schedule FPC No. 66.	Exhibit B.

[FR Doc.76-19984 Filed 7-9-76;8:45 am]

[Docket No. CP76-398]

#### ALGONQUIN LNG, INC. AND ALGONQUIN GAS TRANSMISSION CO.

#### Application

JULY 2, 1976.

Take notice that on June 17, 1976, Algonquin LNG, Inc. (Algonquin LNG)

and Algonquin Gas Transmission Company (Algonquin Gas), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP76-398 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Algonquin LNG for the period through May 31, 1977, to operate its intrastate LNG storage facilities at Providence, Rhode Island, to receive, store, and redeliver in liquid and gaseous phase liquefied natural gas (LNG) belonging to certain participating resale companies (Customers) and authorizing Algonquin during the same period to redeliver, on a best-efforts basis and by displacement through its existing pipeline, such volumes of LNG as would be gasified, transported in Algonquin Gas' pipeline, and redelivered by displacement to customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Algonquin LNG states that it has a 600,000 bbl. capacity LNG storage tank at Providence, Rhode Island, which is currently being used and will continue to be used, in part, for the benefit of Providence Gas Company (Providence Gas). It is said that during the 1976-77 heating season, Algonquin LNG will have approximately 419,000 bbls. (after allowance for tank heel) of available capacity in its LNG storage tank over and above the 174,000 bbls. of capacity which has been dedicated to Providence Gas under a long-term arrangement to supply its intrastate local distribution system. Algonquin LNG proposes to utilize its storage facilities at Providence to receive, store, and redeliver the total volume of LNG subscribed to by all of the participating Customers, with an aggregate total volume of 419,032 bbls.

The following lists the Customers which have executed letter agreements with Algonquin LNG together with the related volumes of LNG:

Company name:	LNG to be stored (barrels)
Bay State Gas Co.	269,032
Delmarva Power & Light Co.	90,000
The Connecticut Gas Co.	60,000
Total	419,032

It is stated that Customers would be charged a rate of \$1.30 per million Btu's (\$4.50 per barrel) to be paid in equal monthly installments over the period of service and that the deliveries by a Customer to the Algonquin LNG Providence storage facility would be made by truck. Applicants indicate that redelivery of stored gas to Customers may be made either in liquid form, by truck, or in gaseous phase, by pipeline. Further, it is stated that redeliveries may also be accomplished in gaseous phase by displacement whereby Algonquin LNG would gasify the LNG and physically deliver it to Providence Gas; and Algonquin Gas, in turn, would deliver equivalent volumes on a best-efforts basis to the Customer by displacement. Algonquin Gas proposes to charge 15.0 cents per million Btu's of gas so delivered to the Customers. It is stated that redeliveries of regasified LNG would be on

a best-efforts basis and are not expected to exceed an aggregate volume of approximately 50,000 million Btu's per day.

It is indicated that operation of the storage project proposed would enable participating Customers to maintain service and enhance their ability to cope with the deep curtailments expected to be experienced this coming winter. Additionally, it is asserted that this added flexibility would permit Customers to protect high-priority needs to the fullest extent possible under present conditions of gas shortage.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 26, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20002 Filed 7-9-76;8:45 am]

[Docket No. RI75-132]

#### CABOT CORP. (SW)

#### Rescheduling of Settlement Conference

JULY 2, 1976.

Take notice that the settlement conference in the above-designated proceeding scheduled for July 14, 1976, is hereby rescheduled for July 21, 1976, at 10 a.m. (e.d.t.), at the Federal Power Commission, 825 North Capitol Street, NE., Room 8402, Washington, D.C. 20426.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19994 Filed 7-9-76;8:45 am]



[Docket Nos. RP76-94, RP76-95]

**COLUMBIA GULF TRANSMISSION CO. AND  
COLUMBIA GAS TRANSMISSION CORP.****Order Granting Rehearing and Granting  
Petitions To Intervene**

JULY 2, 1976.

Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt.

On June 2, 1976, the City of Charlottesville, Virginia (Charlottesville), petitioned for rehearing of the Commission's order issued in these dockets on May 28, 1976. Charlottesville requests that the outcome of the consolidated tax issue in Docket Nos. RP75-105 and RP75-106 govern that issue in the instant proceeding. The Commission herein grants Charlottesville's petition for rehearing. Additionally, the Commission grants various petitions to intervene.

On April 29, 1976, Columbia Gulf Transmission Company (Columbia Gulf) and Columbia Gas Transmission Corporation (Columbia Gas) tendered for filing proposed tariff revisions which will increase Columbia Gulf's jurisdictional revenues by \$4,661,000 and will increase Columbia Gas' jurisdictional revenues by \$36,786,900. Both applicants requested that the Commission permit the proposed tariff sheets to become effective on June 1, 1976.

On May 28, 1976, the Commission issued an order in which it accepted the proposed tariff sheets for filing, suspended their effectiveness for five months until November 1, 1976, conditionally granted waiver of § 154.63(e) (2) (H) of the Commission's Regulations, consolidated Docket Nos. RP76-94 and RP76-95, established procedures, and granted fifteen petitions to intervene.

On June 2, 1976, Charlottesville filed a petition for rehearing of the Commission's May 28, 1976, order. Charlottesville notes that by order issued on December 1, 1975, in Docket No. RP73-86, Docket No. RP73-85, and Docket Nos. RP75-105 and RP75-106 (Consolidated Taxes), the Commission established procedures in Docket Nos. RP75-105 and RP75-106 (Consolidated Taxes) for determining the issue of whether Federal income taxes should be calculated on the basis of the statutory rate or on the basis of the consolidated effective tax rate.

The issue of how Federal income taxes should be calculated also arises in the instant proceeding. Thus, Charlottesville requests that the decision in Docket Nos. RP75-105 and RP75-106 (Consolidated Taxes) determine the issue in this proceeding of whether Federal income taxes should be calculated on the basis of the statutory rate or on the basis of the consolidated effective tax rate. The Commission concludes that good cause exists to grant Charlottesville's petition for rehearing and to grant Charlottesville's

ville's request regarding disposition of the consolidated tax issue.

Public notices of Columbia Gulf's and Columbia Gas' filings were issued on May 6, 1976, with comments, protests, and petitions to intervene due on or before May 24, 1976. Various petitions to intervene were granted in the Commission's order of May 28, 1976. Additional petitions to intervene have been received from several parties.<sup>1</sup> The Commission believes that intervention of such parties may be in the public interest. Accordingly, they will be permitted to intervene in the proceedings established in the Commission's order of May 28, 1976.

The Commission finds: (1) Good cause exists to order that the final decision in Docket Nos. RP75-105 and RP75-106 (Consolidated Taxes) shall determine the issue in the instant proceeding of whether Federal income taxes should be calculated on the basis of the statutory rate or on the basis of the consolidated effective tax rate.

(2) Good cause exists to grant the intervention of the parties listed in Appendix A below.

The Commission orders: (A) The final decision in Docket Nos. RP75-105 and RP75-106 (Consolidated Taxes) shall determine the issue in the instant proceeding of whether Federal income taxes should be calculated on the basis of the statutory rate or on the basis of the consolidated effective tax rate.

(B) The parties listed in Appendix A attached hereto are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however*, That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; *And provided, further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The interventions granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

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

By the Commission.

KENNETH F. PLUMB,  
Secretary.

**APPENDIX A**

National Fuel Gas Supply, Corp.  
West Ohio Gas Co.  
Commonwealth Natural Gas Corp.  
Corning Natural Gas Corp.  
Baltimore Gas & Electric Co.

<sup>1</sup> See: Appendix A.

Roanoke Gas Co.

Orange &amp; Rockland Utilities, Inc.

Public Service Commission of West Virginia  
City of Columbus, Ohio

[FR Doc.76-19996 Filed 7-9-76;8:45 am]

[Docket No. ER76-746]

**DUKE POWER CO.****Tendered Contract Supplement**

JULY 1, 1976.

Take notice that on June 17, 1976, Duke Power Company tendered for filing a supplement to its electric power contract with the City of Albemarle, North Carolina. The supplement provides for an increase in contract demand from 35,000 KW to 40,000 KW which Duke Power states was made at the request of the customer. The requested effective date is July 21, 1976.

Duke Power states that a copy of the filing has been mailed to the customer.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 14, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19988 Filed 7-9-76;8:45 am]

[Docket No. CP76-393]

**EAST TENNESSEE NATURAL GAS CO.****Application**

JULY 2, 1976.

Take notice that on June 14, 1976, East Tennessee Natural Gas Company (Applicant), 8200 Kingston Pike, Knoxville, Tennessee 37919, filed in Docket No. CP76-393 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to render an interim one-year storage service to eleven of its customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the service proposed herein would be rendered by the customers' making available to Applicant from their allocation of gas during the 1976 summer the necessary quantity to utilize their total storage volumes, as set forth below:



Customer:	Total storage volume (1,000 ft. <sup>3</sup> )
Chattanooga Gas Co.	200,000
Colonial Natural Gas Co.	100,000
City of Fayetteville, Tenn.	3,000
City of Lewisburg, Tenn.	3,000
City of Loudon, Tenn.	2,000
Natural Gas Utility District of Hawkins County, Tenn.	5,000
Roanoke Gas Co.	100,000
Sevier County Utility District of Sevier County, Tenn.	12,000
City of Sweetwater, Tenn.	4,000
United Cities Gas Co.	50,000
Volunteer Natural Gas Co.	21,000
Total	500,000

Applicant states the proposed storage service was offered to each of its customers but that only the eleven customers listed above elected to participate in said service.

Applicant states that it would make such volumes available to its supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), for storage by Consolidated Gas Supply Corporation (Consolidated) and subsequent redelivery of the stored volumes would be made by Tennessee to Applicant and Applicant to each customer upon request of such customers. It is asserted that all such deliveries would be made only when the operating conditions of Applicant, Tennessee and Consolidated permit.

It is indicated that the total storage volume of 500,000 Mcf would be made available to Applicant by Tennessee out of an additional 500,000 Mcf of total storage capacity which Consolidated has agreed in turn to make available to Applicant by Tennessee out of an additional 500,000 Mcf of total storage capacity which Consolidated has agreed in turn to make available to Tennessee.

Applicant states that the proposed storage arrangements would allow its customers to store gas in the summer months for delivery to high priority customers in winter months. Applicant states that it can perform the proposed interim storage service by utilizing the storage service to be acquired from Tennessee, along with the existing off-peak capacity of Applicant's existing facilities, without the need for any additional facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the

Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commissions' rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under this procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20001 Filed 7-9-76;8:45 am]

[Docket No. ER76-756]

### EDISON SAULT ELECTRIC CO.

#### Filing of Interconnection Agreement

JULY 1, 1976.

Take notice that on June 10, 1976, Edison Sault Electric Company (ESELCO) tendered for filing copies of an interconnection agreement dated November 1, 1975, between ESELCO and Cloverland Electric Cooperative, Inc. (Cloverland). ESELCO states that such agreement provides for a physical interconnection which will include a normally open, manually operated switch which can be closed to provide electric service to either party during an emergency.

ESELCO states further that copies of the subject agreement have been furnished to Cloverland, and that Cloverland will file its Certificate of Concurrence with the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19987 Filed 7-9-76;8:45 am]

[Docket Nos. CP73-334, CP74-289 and CP75-360]

### EL PASO NATURAL GAS CO.

#### Extension of Time

JULY 1, 1976.

On June 25, 1976, the City of Wilcox and Arizona Electric Power Cooperative

filed a motion to extend the date fixed for the filing of Briefs Opposing Exceptions to the Initial Decision in the above-designated proceeding which had been modified by notice of June 15, 1976.

Upon consideration, notice is hereby given that the time for filing Briefs Opposing Exceptions is extended to and including July 9, 1976, for all parties.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19992 Filed 7-9-76;8:45 am]

[Docket No. RP75-94]

### GREAT LAKES GAS TRANSMISSION CO.

#### Certification of Settlement Agreement

JULY 2, 1976.

Take notice that on June 21, 1976, Presiding Administrative Law Judge Israel Convisser certified to the Commission a proposed settlement involving Great Lakes Gas Transmission Company's proposed rate increase in the above-captioned docket. In his memorandum of certification, Presiding Judge Convisser states that the only unsettled issue, that of rate design, has been reserved by the parties for further proceedings.

Copies of the subject settlement agreement are on file with the Commission and are available for public inspection. Any person desiring to comment on the matters contained therein should file such comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 14, 1976. Any reply comments should be filed on or before July 26, 1976.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19997 Filed 7-9-76;8:45 am]

[Docket No. ER76-678]

### MAINE ELECTRIC POWER CO.

#### Filing of Supplement No. 5 to Rate Schedule FPC No. 1 of Maine Electric Power Company, Inc.

JULY 1, 1976.

Take notice that Maine Electric Power Company, Inc. (MEPCO) on May 4, 1976, filed a "Unit Participation Agreement" between the New Brunswick Electric Power Commission and MEPCO, to be filed as Supplement No. 5 to Rate Schedule FPC No. 1 of MEPCO.

Pursuant to this Agreement, dated November 15, 1971, MEPCO is entitled to receive power in accordance with entitlements and charges specified therein. MEPCO will purchase said electric power from New Brunswick Power Commission for the account of certain New England Utility Participants, a list of whom is attached to the filing. Such list also indicates the entitlements of each participant in the electric power MEPCO purchases under the Unit Participation Agreement. MEPCO will transmit over its transmission system said purchased electric power under MEPCO Rate Schedule FPC No. 1.

Copies of the filing have been sent to all participants.



Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 19, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19993 Filed 7-9-76;8:45 a.m.]

[Docket No. E-7534]

**MAINE ELECTRIC POWER CO., INC., ET AL.**  
**Filing of Application for Amendment to**  
**Authorization to Transmit Electric En-**  
**ergy to a Foreign Country**

JULY 1, 1976.

Take notice that Maine Electric Power Company, Inc. (MEPCO), Maine Public Service Company and Eastern Maine Electric Co-Operative, Inc., on May 5, 1976, filed an application for amendment to authorization to transmit electric energy to a foreign country under Section 202(e) of the Federal Power Act.

MEPCO presently transmits electric energy from the United States to Canada for delivery to The New Brunswick Electric Power Commission ("New Brunswick Commission"). Fredericton, Province of New Brunswick, Canada, pursuant to authority granted MEPCO under Section 202(e) of the Federal Power Act by order of the Federal Power Commission dated July 21, 1970, in Docket No. E-7534. The facilities of MEPCO used for such transmission are as authorized by a permit signed by the Chairman of the Federal Power Commission on July 25, 1969, in Docket No. E-7486.

This Application seeks to amend the authority granted to MEPCO under Docket No. E-7534 to enable the above-named applicants to transmit electric energy to Canada for delivery to New Brunswick Commission for redelivery to Maine Public Service and Eastern Maine Co-Op, pursuant to the terms of individual contracts to be negotiated between each of the receiving companies and New Brunswick Commission.

The proposed Amendment requested by the Applicants will not change or influence existing authority but seeks only to make it possible to transmit energy to areas in Maine which are not connected to the New England transmission grid.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the

Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 19, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19985 Filed 7-9-76;8:45 am]

[Docket No. RP74-100]

**NATIONAL FUEL GAS SUPPLY CORP.**

**Extension of Time**

JULY 1, 1976.

On June 21, 1976, National Fuel Gas Supply Corporation filed a motion to extend the time for filing briefs on exceptions and briefs opposing exceptions to the initial decision issued March 15, 1976, in the above-designated proceeding. The motion states that all parties agree to the request.

Upon consideration, notice is hereby given that the time for filing briefs on exceptions in Docket No. RP74-100 is extended to and including July 30, 1976. The time for filing briefs opposing exceptions is extended to and including August 19, 1976.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19991 Filed 7-9-76;8:45 am]

[Docket No. ER76-762]

**NIAGARA MOHAWK POWER CORP.**

**Cancellation**

JULY 1, 1976.

Take notice that on June 23, 1976, the Niagara Mohawk Power Corporation (Niagara) tendered for filing a notice of cancellation of Niagara's Rate Schedule FPC No. 24 and Supplement No. 4 thereto, under which Niagara has supplied wholesale electric service to the Village of Holley, New York (Holley). Niagara states that effective May 10, 1976, the Power Authority of the State of New York superseded Niagara as the supplier to Holley.

Niagara requests a waiver of the notice requirements of the Commission's regulations so as to permit to proposed cancellation to become effective as of May 10, 1976. Niagara states that Holley has been notified of this filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 14, 1976. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19986 Filed 7-9-76;8:45 am]

[Docket No. E-9155]

**NORTHERN STATES POWER CO.**  
**(WISCONSIN)**

**Tender of Rate Schedules Pursuant to**  
**Commission Settlement Order**

JULY 1, 1976.

Take notice that by letter dated June 17, 1976, Northern States Power Company (Wisconsin) tendered for filing rate schedules for its eleven wholesale customers pursuant to the Commission's Order Accepting Settlement Agreement, issued June 2, 1976, Ordering Paragraph (B), in the above-captioned docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 12, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19988 Filed 7-9-76;8:45 am]

[Docket No. CP76-389]

**NORTHWEST PIPELINE CORP.**

**Application**

JULY 2, 1976.

Take notice that on June 10, 1976, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP76-389 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, a contractual arrangement with Mountain Fuel Resources, Inc. (Resources), and the delivery of natural gas to Mountain Fuel Supply Company (Mountain Fuel) for redelivery to Resources on a temporary basis, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application indicates that Applicant and Resources have entered into an agreement, dated June 8, 1976, whereby Applicant is to purchase a natural gas storage service commencing on a best-



efforts basis with injections beginning during the summer of 1976 and withdrawals beginning during the 1976-77 heating season and continuing on a firm basis for each heating season thereafter through 1986.<sup>1</sup> Initially, during the best-efforts period which is from the date of initial deliveries to Resources for storage through March 31, 1977, Applicant contemplates delivering approximately 4,240,000 Mcf to Resources for injection into the Dakota reservoir. It is stated that of this amount, 3,040,000 Mcf would be considered cushion gas delivered for Applicant's account and 1,200,000 Mcf would be considered as being available for withdrawal over approximately a 100-day period at an even withdrawal rate of approximately 12,000 Mcf per day. Applicant states that to the extent that the entire 4,240,000 Mcf is not injected during the summer of 1976, Resources and Applicant would determine what portion of the 1976 injections would be available for withdrawal and the maximum daily withdrawal rates.

Applicant proposes to deliver during the summers of 1977 and 1978 to Resources sufficient volumes of gas to provide a working gas inventory of 10,000,000 Mcf for withdrawal during the 1977-78 heating season and a working gas inventory of 20,000,000 Mcf for withdrawal during the 1978-79 heating season. It is presently contemplated that the seasonal working gas inventory would remain at no less than 20,000,000 Mcf for each heating season beyond the 1978-79 heating season subject to future review by Applicant of its available gas supply and the requirements of its customers. In addition to the working gas which Applicant proposes to deliver to Resources, Applicant also proposes to deliver up to 12,987,000 Mcf and 6,177,000 Mcf during the summers of 1977 and 1978, respectively, for injection into Dakota reservoir as cushion gas. Applicant states that to the extent the cushion gas proposed to be injected during the summer of 1976 falls short of that presently projected, additional volumes of cushion gas would be injected during the summers of 1977 and 1978 in order to assure that the cushion gas inventory is not less than 10,219,000 Mcf as of October 31, 1977, and not less than 22,144,000 Mcf as of October 31, 1978, and thereafter.

It is indicated that the natural gas delivered to storage would be withdrawn at a uniform rate over a period of approximately 150 days commencing each November 1 and continuing until 10,000,000 Mcf shall have been withdrawn during the 1977-78 heating season and 20,000,000 Mcf shall have been withdrawn during the 1978-79 heating season and thereafter. The daily withdrawal rate, it is stated, would not exceed 75,000 Mcf per day during the 1977-78 heating season

and 150,000 Mcf per day during the 1978-79 heating season. Applicant states that the daily withdrawals, as contemplated, are intended to be used primarily as a base supply to assist Applicant in meeting the existing contract demands of all of its existing customers.

The application indicates that the subject proposals would allow Applicant to increase the volumes of Canadian natural gas it purchases from Westcoast Transmission Company Limited in the summer months and deliver such volumes to storage for withdrawal during the subsequent heating seasons. Further, it is asserted that the availability of additional underground storage would also enable Applicant to schedule its domestic supply so as to meet the minimum take requirements of its gas purchase contracts and to take full advantage of proration allowances allocated to Applicant in the San Juan Basin. Applicant states that it does not propose to impose any curtailments of its firm contractual obligations during the summer months to provide volumes of gas for storage, but that the volumes to be injected would be from volumes of gas presently available from existing supply sources which are surplus to firm summer sales requirements of Applicant's customers.

In order to effectuate the subject proposals, Applicant proposes to construct and operate the following facilities:

#### 1976

One 20-inch tap connection on its main transmission system.

#### 1978

1. 10.4 miles of 26-inch pipeline looping at the suction side of the Green River Station, an existing compressor station.
2. 6.4 miles of 22-inch pipeline looping at the discharge side of the Green River Station.
3. 27.6 miles of 22-inch pipeline looping at the discharge side of the Kemmerer Compressor Station, an existing compressor station.
4. Two 3830 horsepower units at a new compressor station to be located near Pegram, Idaho.
5. Two 3300 horsepower compressor units at a new compressor station to be located in the vicinity Lava Hot Springs, Idaho.
6. One 3300 horsepower compressor unit at a new compressor station to be located in the vicinity of Raft River, Idaho.
7. One 1080 horsepower compressor unit to be located at an existing compressor station in the vicinity of Mountain Home, Idaho.
8. Miscellaneous piping and valves to permit dual directional control of flow gas at two existing compressor stations, and
9. All necessary appurtenant facilities.

The application indicates that the cost of the 1976 and 1978 facilities is estimated to be \$165,000 and \$25,449,000, respectively. Applicant states that the 1976 costs would be provided from funds on hand and the 1978 costs would be financed through short-term borrowings to be repaid from funds generated from a permanent form of financing which would be determined at a later date.

It is asserted that Applicant would deliver injection gas to Resources, during May through September, at the proposed

point of interconnection between the two companies in Dutch John, Daggett County, Utah, and upon request by Applicant, during November through March, Resources would withdraw from storage and redeliver the requested volumes of gas to Applicant at the Daggett County point. Initially, in order to provide gas for injection during the 1976 summer season, Applicant proposes to deliver gas to Mountain Fuel at an existing point of interconnection between the two companies' facilities for delivery by displacement to Resources for injection into storage. Deliveries by Applicant to Mountain Fuel would take place only during the 1976 summer.

Applicant states that its gas transmission system has sufficient capacity to receive and transport the 75,000 Mcf of gas per day which Resources can make available from the proposed storage field during the 1977-78 heating season without the addition of any mainline transmission facilities but that the addition of the incremental 75,000 Mcf per day to be available for the 1978-79 heating season requires the installation of the facilities proposed for construction during 1978.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 23, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20003 Filed 7-9-76; 8:45 am]

<sup>1</sup>To render the proposed storage service, Resources would utilize the Dakota formation in the Clay Basin Field, Daggett County, Utah, as proposed in Resources' pending application in Docket No. CP76-285.



[Docket Nos. CP74-138; CP74-139; CP74-140]  
**TRUNKLINE LNG CO. AND TRUNKLINE  
 GAS CO.**

**Amendments to Applications**

JULY 2, 1976.

Take notice that on June 23, 1976, Trunkline LNG Company (Trunkline LNG) and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket Nos. CP74-138, CP74-139, CP74-140 amendments pursuant to sections 3 and 7 of the Natural Gas Act to their respective applications in said dockets for certificates of public convenience and necessity and for authorization to import liquefied natural gas, all as more fully set forth in the amendments which are on file with the Commission and open to public inspection.

Applicants state that the project proposed in the amended applications herein involves importation of approximately 165,000,000 Mcf per year of LNG which is to be purchased by Applicants from Sonatrach, the national oil and gas company of Algeria. It is said that the LNG would be delivered by tanker pursuant to the proposed transportation arrangements to the terminal located near Lake Charles, Louisiana, and that following revaporization, the gas would be transported to Trunkline's existing facilities through a new supply line for sale to existing customers of Trunkline presently experiencing severe curtailments.

Applicants indicate that the applications in these dockets were submitted on November 15, 1973, to implement an agreement with Sonatrach, dated August 17, 1973, and that the 1973 contract with Sonatrach was terminated because of the failure to obtain governmental approval within the time contemplated by Sonatrach. It is stated that subsequently, Applicants negotiated a replacement contract, dated September 17, 1975, which is similar, except with respect to price, to the contract earlier presented in these proceedings, and that, in addition, Applicants have now arranged for a substantial portion of the transportation under terms and conditions which enable Applicants to present the economic feasibility of the project on a more definitive basis than was possible in the earlier phase of the project.

It is asserted that, with respect to the September 17, 1975, contract with Sonatrach, the changes from the earlier agreement relate to the following aspects: (a) Price; (b) transportation; (c) anticipated date of first regular delivery; and (d) time for satisfaction of conditions precedent to effectiveness of the agreement. It is said that the agreement specifies a base price (which is also a minimum price) of \$1.30 per million Btu's as of July 1, 1975. Applicants state that the FOB Algerian coast price would be the base price escalated by one of the two following methods, with the higher result being used: One escalation method is to adjust as the New York Harbor District prices for No. 2 fuel oil and No. 6 fuel oil vary, and the other is to adjust as the commercial monetary exchange

rates for the currencies of Belgium, France, West Germany, Italy, Switzerland, and the United Kingdom, averaged together, fluctuate against the U.S. dollar. It is stated that, as before, the date of first regular delivery is defined as the first day of that month during which the quantity of LNG delivered in Algeria equals or exceeds  $\frac{1}{2}$  of the annual contract quantity of 45 billion thermies; however, the parties have agreed to make every effort to have such first regular delivery occur during the first quarter of 1980.

Applicants indicate that the first three conditions precedent to the new agreement's becoming fully effective, receipt of Algerian authority permitting the sale and export, Sonatrach's obtaining acceptable financing, and receipt of United States authority permitting the sale and export, must be fulfilled by April 1, 1977. Trunkline LNG states that the fourth condition precedent, its obtaining the necessary transportation to be furnished by it has occurred and the formal notification thereof to Sonatrach is filed therein.

It is stated that under the contract with Sonatrach, three vessels of approximately 125,000 cubic meters capacity are to be supplied by Sonatrach or another entity of the Algerian government, and the remaining transportation, requiring two such vessels, is to be furnished by Trunkline LNG. It is further stated that Trunkline LNG has now completed arrangements for the transportation for which it is responsible and has entered into a transportation agreement, dated May 7, 1976, with Lachmar, a partnership organized under the laws of the State of Delaware.

It is stated that because of the change in contract price and the consummation of transportation arrangements and the revision in capital and operating costs associated with the project, new economics and financial feasibility exhibits are filed with these amendments and a first-year unit cost of service of \$2.94 per Mcf of 1,000 Btu per cubic foot of gas is indicated.

It is asserted that except for construction cost updating, the project remains as previously presented and the facilities to be installed in the existing industrial park located 12 miles south of Lake Charles are estimated to cost \$164,340,000. Applicants further assert that no changes are proposed in the facilities nor in the volumes of LNG to be received, stored and processed there.

Any person desiring to be heard or to make any protest with reference to said amendments should on or before July 26, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons having previously filed in these dockets need not do so again.

KENNETH F. PLUMB,  
*Secretary.*

[FR. Doc. 76-2000 Filed 7-11-76; 8:45 am]

[Docket No. CP76-407]

**UNITED GAS PIPE LINE CO.**

**Application**

JULY 2, 1976.

Take notice that on June 24, 1976, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-407 an application pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's Statement of General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing a transportation service for a two-year term for Glass Containers Corporation (Glass) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an agreement, dated May 10, 1976, whereby Applicant has agreed to transport volumes of natural gas for Glass from a point of receipt on its 18-inch Sarepta-Sterlington line in Union Parish, Louisiana, to a point of interconnection where Applicant would redeliver volumes so transported for the account of Glass to Trunkline Gas Company (Trunkline) at the inlet of Trunkline's measuring station located at Exxon's Garden City plant in St. Mary Parish, Louisiana.

It is said that the gas to be transported by Applicant would be purchased from Glenda Petroleum Corporation (Glenda) from the Monroe Field in Ouachita, Union, and Morehouse Parishes, Louisiana, and would be consumed for high priority end use at Glass's manufacturing plant in Indianapolis, Indiana. Applicant proposes to transport up to 1,100 Mcf of natural gas per day for Glass and to redeliver 98.5 percent of such gas to Trunkline. It is stated that Panhandle Eastern Pipe Line Company (Panhandle) would, in turn, transport and deliver such gas to Citizens Gas & Coke Utility (Citizens) at Indianapolis for ultimate redelivery to Glass. Applicant states that the  $\frac{1}{2}$  percent deduction is an allowance for gas used, lost, and unaccounted for while in Applicant's system.

It is indicated that Glass has purchased such gas in an effort to offset the loss of its gas supply because of curtailed deliveries by Citizens.

The application shows the following information submitted by Applicant:

1. Applicant proposes to transport 1,100 Mcf of gas on peak and average days and 377,300 Mcf annually.
2. The proposed transportation would have no effect on Applicant's ability to provide systemwide deliveries for its Priority 1 requirements.



3. The initial rate for the transportation service would be 16.87 cents for each Mcf of gas transported.

4. The subject gas was not secured as part of Applicant's system gas supply because the producer is unwilling to make any sale to interstate purchasers for resale or be subject to any form of federal regulation as a result of such sales.

5. The transportation of gas proposed would not modify curtailments on Applicant's system during the period of the transportation.

The application shows that Glass would pay Glenda a rate of \$1.50 per million Btu's.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 27, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rule of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19999 Filed 7-9-76;8:45 am]

[Docket No. RP76-109]

#### UTAH GAS SERVICE CO.

Order Accepting for Filing, Suspending, and Setting for Hearing Proposed Rate Increase, and Denying Waiver of Notice  
JULY 2, 1976.

On June 4, 1976, Utah Gas Service Company (Utah Gas) tendered for filing a revised tariff sheet<sup>1</sup> reflecting an in-

<sup>1</sup>Third Revised Sheet No. 18A to its FPC Gas Tariff, Original Volume No. 1.

crease from \$0.61715 per Mcf to \$0.84275 per Mcf in the cost of natural gas being sold by Utah Gas to Northwest Pipeline Corporation in accordance with a Gas Purchase Agreement dated September 19, 1973, as amended. Utah Gas states that the proposed change in rate is attributable entirely to an increase from 10¢ per Mcf to 32.56¢ per Mcf in the transportation charge. Utah Gas requests that the Commission waive the 30-day notice requirement for rate increase filings and allow the increase to become effective immediately. For the reasons hereinafter stated, the Commission shall deny the request for waiver of the notice requirement and shall suspend Utah Gas' rate filing for one day to become effective July 5, 1976, subject to refund.

Public notice of the filing was issued on June 15, 1976, with comments, protests, or petitions to intervene due on or before June 28, 1976. No responses have been received.

In support of its proposed rate increase Utah Gas submitted a cost of service study relating to the jurisdictional plant (the Altonah-Jensen Pipeline) based on actual operations for the twelve months ended February 29, 1976, adjusted for known and measurable changes that it will incur during the subsequent nine months. Utah Gas claims an overall rate of return of 10.60%, utilizing a 15% return on common equity (which comprises 34.5% of the capital structure).

The Commission's review of Utah Gas' proposed rate schedule reveals that it has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall suspend the effective date of the rates for one day until July 5, 1976, subject to refund.

Utah Gas requests that the tendered rate increase be made effective immediately. Upon review, good cause has not been demonstrated to warrant granting Utah Gas' requested waiver of the Commission's notice requirement. Accordingly, Utah Gas' request for waiver of the notice requirement will be denied.

The Commission finds: (1) Good cause does not exist to grant the requested waiver of the notice requirements of the Commission's Regulations.

(2) Good cause exists to accept for filing the proposed revised tariff sheet, tendered by Utah Gas Service Company on June 4, 1976, and to suspend its use one day, until July 5, 1976, and until such further time as it is made effective, subject to refund, by motion filed in the manner prescribed by Section 4(e) of the Natural Gas Act.

(3) It is proper and necessary in the public interest and to aid in the enforcement of the Natural Gas Act that a hearing concerning the lawfulness of Utah Gas Service Company's rates be commenced.

The Commission orders: (A) Utah Gas' request for waiver of the Commission's notice requirements is hereby denied.

(B) Utah Gas' filing tendered June 4, 1976, is hereby accepted for filing and

suspended for one day, or until July 5, 1976, and until such further time as it is made effective, subject to refund, by motion filed in the manner prescribed by section 4(e) of the Natural Gas Act.

(C) Pursuant to the authority of the Natural Gas Act, particularly Section 4 thereof, and the Commission's Rules and Regulations, a hearing shall be held concerning the lawfulness and reasonableness of the subject increased rates.

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before July 28, 1976 (See Administrative Order No. 157).

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

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

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-19995 Filed 7-11-76;8:45 am]

[Docket No. RP72-110 (PGA76-9a)]

#### ALGONQUIN GAS TRANSMISSION CO. Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

JULY 6, 1976.

Take notice that Algonquin Gas Transmission Company (Algonquin Gas), on June 25, 1976, tendered for filing Substitute Seventeenth Revised Sheet No. 10 and Substitute Revised Seventeenth Revised Sheet No. 10 to its FPC Gas Tariff, First Revised Volume No. 1.

These sheets are being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in section 17 of the General Terms and Conditions of its FPC Gas Tariff, First Revised Volume No. 1. The rate changes are being filed to reflect revised alternative rates filed by its supplier, Texas Eastern Transmission Corporation, on June 14, 1976.

The proposed effective date of these tariff sheets is July 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions



or protests should be filed on or before July 16, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20049 Filed 7-9-76;8:45 am]

[Docket Nos. E-7738 and E-7784]

# BOSTON EDISON CO.

## Extension of Time

JULY 2, 1976.

On June 23, 1976, the Municipal Light Board of Reading, Massachusetts (Reading) filed an "Alternative Motion for Extension of Time" in which to file briefs on exceptions to the Initial Decision issued in the above-designated proceeding on June 2, 1976. Reading has concurrently filed a motion for remand of the proceeding to the Presiding Administrative Law Judge, and asks for the extension of time so that the Commission may first act on the remand motion.

Upon consideration, notice is hereby given that the time is extended to and including August 6, 1976 for filing briefs on exceptions in this proceeding. The time for filing briefs opposing exceptions is extended to and including August 26, 1976.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20043 Filed 7-9-76;8:45 a.m.]

[Docket No. ER76-495 (Phase I)]

# CAROLINA POWER & LIGHT CO.

## Electric Rates; Order Accepting Agreement Deferring Resolution of an Issue

JULY 6, 1976.

Phase I of this docket concerns one issue, the lawfulness of a "temporary surcharge rider", included within the most recent general rate increase filing by Carolina Power and Light Company (CP&L) and designed to recover deferred fuel expenses which assertedly should be recouped either through this filing or the preceding filing in Docket No. E-8884 (Phase I). The Commission herein approves a settlement agreement deferring resolution of this rider issue until a final Commission order is issued in Docket No. E-8884. (Phase I).

In an order in this docket issued on April 12, 1976, the Commission, inter alia, refused to reject summarily CP&L's fuel surcharge rider, but severed that issue as Phase I of this docket and ordered an expedited hearing. On May 19, 1976, CP&L filed an agreement of the parties concerning the fuel surcharge rider and moved for its approval. The agreement, signed by counsel for the intervenors, defers resolution of the rider issue and collection of any revenues com-

puted under the rider, pending a final decision in Docket No. E-8884 (Phase I), CP&L's preceding general rate case. The agreement notes that CP&L will withdraw the rider tendered in this docket, if the Commission ultimately approves the position on deferred fuel cost accounting espoused by CP&L in Docket No. E-8884 (Phase I).

Notice of the submission of this agreement was issued on June 18, 1976, with all comments due on or before June 25, 1976. No responses have been received. Upon review, the Commission has determined that approval of this unopposed agreement will serve the public and that resolution of this rider issue should be deferred as requested.

The Commission finds: Good cause exists to approve without modification the agreement submitted by CP&L in this docket on May 19, 1976.

The Commission orders: (A) The agreement submitted by CP&L on May 19, 1976, in this docket is incorporated herein by reference and hereby approved and accepted.

(B) All procedural dates heretofore established in Docket No. ER76-495 (Phase I) are hereby deferred pending Commission decision in Docket No. E-8884 (Phase I).

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20044 Filed 7-9-76;8:45 am]

[Docket No. E-9407]

# COLUMBUS & SOUTHERN OHIO ELECTRIC CO.

## Electric Rates; Order Approving Settlement Agreement

JULY 6, 1976.

On April 4, 1976, the Presiding Administrative Law Judge in this proceeding certified to the Commission a proposed settlement agreement (Agreement) together with the record in this case. The Agreement would resolve all issues among the parties and terminate proceedings. The Commission finds that the Agreement is just and reasonable and accordingly accepts and approves it subject to certain conditions as hereinafter specified.

Public notice of the Presiding Judge's certification was issued on April 21, 1976, with comments due on or before April 30, 1976. Comments in support of the Agreement were filed by the Commission Staff on April 27, 1976.

Proceedings in this docket were initiated on April 29, 1975, when the Columbus and Southern Ohio Electric Company (C&S) tendered for filing a proposed rate schedule which would supersede the provisions of the rate schedule contained in Docket No. E-8650. The changes would increase the rates to the City of Westerville, the City of Jackson, and the Village of Glouster in the amount of \$826,425, based on the 12-month period ended December 31, 1974. C&S also requested a waiver of the filing requirements contained in § 35.13(b)(4)(i) and section

35(b)(5)(i) to permit it to make its proposed rate schedule effective June 1, 1975.

By order issued May 30, 1975, the Commission accepted the proposed rates for filing and suspended their use for one day to become effective June 2, 1975, and established hearing procedures to determine the lawfulness of the proposed rates and charges.

The proposed settlement, executed by the Cities of Westerville and Jackson, the only intervenors in this proceeding, (1) Reduces the originally-proposed rate increase of \$826,425 to \$736,425, to be effective June 2, 1975, (2) provides for refunds with 9 percent interest of all revenues collected since June 2, 1975 in excess of the negotiated rates, and, (3) imposes a moratorium against further rate increase filings prior to July 1, 1977.

The Commission's review of the proposed settlement rates indicates that such rates are supported by cost evidence and are otherwise just and reasonable. Accordingly, the Agreement should be incorporated herewith by reference and approved. In conjunction with acceptance and approval of the subject Agreement, the Commission shall require C&S to: (1) Tender for filing revised tariff sheets reflecting the settlement rate level; (2) refund all amounts collected since June 2, 1975, in excess of the settlement rate level, together with interest calculated at nine percent per annum; and (3) file refund compliance reports.

The Commission finds: The Agreement certified to the Commission by the Presiding Administrative Law Judge in this proceeding is supported by cost evidence and should be accepted, incorporated herewith by reference, and approved, as hereinafter ordered and conditioned.

The Commission orders: (A) The Agreement certified to the Commission in this docket is hereby accepted, incorporated herewith by reference, and approved, subject to the conditions set forth below.

(B) Within 30 days of issuance of this order, C&S shall file revised tariff sheets to become effective as of June 2, 1975, reflecting the settlement rate level incorporated into the subject Agreement.

(C) Within 30 days after the revised tariff sheets required in paragraph (B), supra, are accepted for filing, C&S shall refund all amounts collected since June 2, 1975, in excess of the settlement rate level, together with interest calculated at nine percent per annum.

(D) C&S shall file with the Commission a report within 15 days after the refunds described in paragraph (C), supra, have been made. Such report shall show, for the entire refund period, monthly billing determinants and revenues under prior, present and settlement rates. The report shall also show the monthly interest computation, together with a summary of such information for the entire refund period.

(E) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions



which may be made by the Commission, its Staff, C&S, or any other party or person affected by this order in any proceedings now pending or hereafter instituted by or against Union or any other person or party.

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

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20040 Filed 7-9-76; 8:45 am]

[Docket No. ES76-1]

# COMMONWEALTH EDISON CO.

## Application

JULY 6, 1976.

Take notice that on June 25, 1976, Commonwealth Edison Company (Applicant) of Chicago, Illinois, filed an application seeking authority pursuant to section 204 of the Federal Power Act to extend to December 31, 1977 the latest issue date and extend to December 31, 1978 the final maturity date, of short-term promissory notes authorized to be issued under the Commission's order of April 2, 1968 and supplemental orders of August 29, 1969, September 20, 1971, September 22, 1972, November 8, 1973 and December 11, 1974 in Docket No. E-7396 and its supplemental order of August 5, 1975 in Docket No. ES76-1.

Applicant is incorporated under the laws of the State of Illinois, with its principal business office at Chicago, Illinois, and is principally engaged in the electric utility business in a service area of approximately 11,525 square miles in northern Illinois, including the City of Chicago.

The notes, including primarily bank notes and commercial paper, are to have maturities of twelve months or less from the dates of issuance, and in any event are to be payable on or before December 31, 1978. The interest rate for notes issued to commercial banks with which the Applicant has lines of credit is to be generally the prime rate as from day to day in effect and for commercial paper is to be the prevailing rate at time of issuance for paper of comparable quality and maturity.

The proceeds from the issuance of any notes will be added to working capital primarily for ultimate application toward the cost of gross additions to utility properties and to reimburse the Applicant's treasury for construction expenditures. Applicant's construction program, as now scheduled, calls for plant expenditures of approximately \$4,600,000,000 for the five-year period 1976-1980. The extension of one year is necessary to provide flexibility needed to meet financing requirements.

Any person desiring to be heard or to make protest with reference to the application should on or before July 22, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it

in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20039 Filed 7-9-76; 8:45 am]

[Docket No. ER76-768]

# CONNECTICUT LIGHT & POWER CO.

## Purchase Agreement

JULY 6, 1976.

Take notice that on June 28, 1976, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a Purchase Agreement between CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and together with CL&P and HELCO, the NU Companies) and Long Island Lighting Company (LILCO) dated as of April 30, 1976.

CL&P states that the Purchase agreement provides for a sale to LILCO of varying percentages of capacity and energy from the NU Companies' entitlements of Vermont Electric Power Company's entitlements in Vermont Yankee (the VELCO Contract) and Merrimack Unit No. 2 of the Public Service Company of New Hampshire (the Merrimack Contract) during weekend and holiday periods from May 1, 1976 to October 31, 1976.

CL&P also requests that in order to permit LILCO to receive the capacity and energy pursuant to the Purchase Agreement, the Commission, pursuant to § 35.11 of its regulations, waive the thirty-day notice period and permit the rate schedule to become effective on May 1, 1976.

CL&P states that a copy of the rate schedule has been mailed or delivered to HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and LILCO, Hicksville, New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20050 Filed 7-9-76; 8:45 am]

[Docket No. RP72-157 (FGA76-8)]

# CONSOLIDATED GAS SUPPLY CORP.

## Proposed Changes in FPC Tariff

JULY 6, 1976.

Take notice that on June 29, 1976 Consolidated Gas Supply Corporation (Consolidated) tendered for filing Twelfth Revised Sheet Nos. 8 and 9 to its FPC Gas Tariff, Second Revised Volume No. 1. The implementation of these revised sheets would increase Consolidated's revenues by \$6.2 million annually.

Consolidated states that this tender was triggered by rate increases filed by Texas Eastern Transmission Corporation, Texas Gas Transmission Corporation proposed to be effective on August 1, 1976 and by Transcontinental Gas Pipe Line Corporation proposed to be effective on July 1, 1976.

Consolidated requests waiver of the notice requirements in order to permit the proposed tariff sheets to become effective on August 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20048 Filed 7-9-76; 8:45am]

[Docket No. CP76-392]

# NATURAL GAS PIPELINE CO. OF AMERICA

## Application

JULY 2, 1976.

Take notice that on June 14, 1976, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP76-392 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of up to 6,000 Mcf of natural gas per day for United Gas Pipe Line Company (United) and the construction and operation of certain facilities necessary for such transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that it has entered into an agreement with United, dated May 24, 1976, providing for the proposed transportation service. It is stated that under the proposal United would cause to be delivered for its account to Applicant at a proposed point of delivery in Cameron Parish, Louisiana, natural



gas which United has the right to purchase from Gamble-Daniel Operating Company and Applicant would transport such gas and redeliver thermally equivalent volumes to United at an existing point interconnection in Vermilion Parish, Louisiana. Applicant also proposes to construct a measuring facility at the Cameron delivery point at an estimated cost of \$16,300, which cost would be reimbursed to Applicant by United.

Applicant states that the proposed service would allow United to receive into its system gas it has the right to purchase without the need to construct extensive gas purchase facilities. It is indicated that the rate to be charged United by Applicant for the proposed service is 2.6 cents per Mcf of gas transported.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 28, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20046 Filed 7-9-76;8:45 am]

[Docket Nos. RP73-109, RP74-95 (Refund Report)]

#### NORTHWEST PIPELINE CORP.

##### Refund of Reports

JULY 6, 1976.

Take notice that Northwest Pipeline Corporation ("Northwest") on June 23, 1976 tendered for filing a report of re-

funds due each of its jurisdictional customers under the terms of the Settlement Agreement approved by the Commission's Order dated April 19, 1976 in Docket Nos. RP73-109 and RP74-95.

Northwest states that a copy of this filing has been served on each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 16, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20047 Filed 7-9-76;8:45 am]

[Docket No. ER76-2]

#### PACIFIC GAS & ELECTRIC CO.

##### Tariff Filing

JULY 2, 1976.

Take notice that on June 21, 1976, Pacific Gas and Electric Company (PG&E) tendered for filing a rate schedule applicable to supplemental electric power and energy delivered to the City and County of San Francisco for resale to the Modesto and Furlong Irrigation Districts (Districts) and the Riverbank Energy Ammunition Plant. On June 30, 1975, PG&E filed in this docket a similar rate schedule which filing was found deficient with respect to certain filing requirements of the Commission's regulations. PG&E has submitted with the instant filing various information intended to cure the outstanding deficiencies. By the instant filing PG&E also proposes to revise the rate schedule previously tendered to reflect a settlement reached among PG&E, San Francisco and Districts. PG&E requests that the proposed rate schedule become effective on July 1, 1976.

PG&E states that copies of the instant filing were served upon all customers served under the proposed rate schedule.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10).

All such petitions or protests should be filed on or before July 14, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protes-

tants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20041 Filed 7-9-76;8:45 am]

[Docket No. CP76-391]

#### SEA ROBIN PIPELINE CO.

##### Application

JULY 2, 1976.

Take notice that on June 11, 1976, Sea Robin Pipeline Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-391 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7 (b) of the regulations thereunder (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction, during the twelve-month period from the date of authorization, and operation of facilities to enable Applicant to take natural gas purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction of gas-purchase facilities to enable Applicant to connect its system with the facilities of an independent producer or other similar seller, authorized by the Commission to make a sale of gas to Applicant for resale in interstate commerce, or the system of another natural gas company authorized to transport gas for the account of, or for the exchange of gas with, Applicant.

Applicant states that the total cost of said facilities would not exceed \$3,205,000 and the cost of any single project would not exceed \$801,000. The application indicates that these costs would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 26, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without



further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20042 Filed 7-9-76;8:45 am]

[Docket No. CP75-17]

# TRANSWESTERN PIPELINE CO.

## Petition To Amend

JULY 6, 1976.

Take notice that on June 21, 1976, Transwestern Pipeline Company (Petitioner), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP75-17 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act, by which petition Petitioner requests authorization to construct and operate facilities for the sale of natural gas to three right-of-way grantors along its interstate natural gas pipeline system, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner proposes to construct and operate the following facilities:

- (1) A one-inch tap, meter and related equipment located in the W/2 of Section 26, Block 4T, T&NO RR Co. Survey, Ochiltree County, Texas, for the delivery of natural gas to Gus O. Birdwell;
- (2) A one-inch tap, meter, and related equipment located in Section 41, Block A, Capital Syndicate Subdivision, Parmer County, Texas, for the delivery of natural gas to L. L. Norton, et al.; and
- (3) A one-inch tap, meter and related equipment located in Section 36, Block 3T, T&NO RR Co. Survey, Sherman County, Texas, for the delivery of natural gas to Clay Spurlock.

The estimated cost of the proposed facilities is \$37,120. Petitioner states that it will be partially reimbursed by the customers.

Petitioner proposes to deliver up to 200 Mcf of gas per day at each of the proposed taps. The petition to amend indicates that in 1977 Gus O. Birdwell would require 10,000 Mcf of gas for irrigation pump fuel, L. L. Norton, et al., would require 54,000 Mcf of gas for irrigation pump fuel, crop drying, cooking and water heating, and residential heating, and Clay Spurlock would require 3,800 Mcf of gas for irrigation pump fuel.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 28, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20045 Filed 7-9-76;8:45 am]

[Project No. 20]

# UTAH POWER & LIGHT CO.

## Issuance of Annual License(s)

JULY 6, 1976.

On June 26, 1970, Utah Power and Light Company, Licensee for Soda Project No. 20, located on the Bear River in Caribou County, Idaho, filed an application for a new license under the Federal Power Act and Commission regulations thereunder.

The license for Soda Project No. 20, was issued effective July 5, 1923, for a period ending July 4, 1973. Since the original date of expiration, the project has been maintained and operated under annual licenses, the most recent of which will expire on July 4, 1976. In order to authorize the continued operation and maintenance of the project pursuant to the Federal Power Act, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Utah Power and Light Company.

Take notice that an annual license is issued to Utah Power and Light Company under the Federal Power Act for the period July 5, 1976, to July 4, 1977, or until the issuance of a new license for the project, or until Federal takeover, whichever comes first, for the continued operation and maintenance of the Soda Project No. 20, subject to the terms and conditions of its present license. Take further notice that if issuance of a new license does not take place on or before July 4, 1977, a new annual license will be issued each year thereafter, effective July 5 of each year, until Federal takeover, or until such time as a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.76-20051 Filed 7-9-76;8:45 am]

# INTERNATIONAL TRADE COMMISSION

[303-TA-1]

## CERTAIN ZORIS FROM THE REPUBLIC OF CHINA

### Investigation, Hearing, and Request for Written Views

Having received advice from the Department of the Treasury on June 22, 1976, that a bounty or grant is being paid with respect to footwear known as zoris imported from the Republic of China (Taiwan), entered under item 700.54 of the Tariff Schedules of the United States and accorded duty-free treatment under section 501 of Title V (Generalized System of Preferences) of the Trade Act of 1974, the United States International Trade Commission on July 6, 1976, instituted investigation No. 303-TA-1 under section 303(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(b)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

**Hearing.** A public hearing in connection with the investigation will be held in the Commission's Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10 a.m., e.d.t., on Tuesday, August 17, 1976. All interested persons will be given an opportunity to be present, to produce evidence, and to be heard at such hearing.

Requests to appear at the public hearing should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and should be received not later than noon on Friday, August 13, 1976.

**Written statements.** In addition to, or in lieu of, an appearance at the hearing, interested persons are requested to submit to the Commission, in writing, any information pertinent to whether an industry in the United States is being or is likely to be injured or is prevented from being established, by reason of the importation of the subject zoris. Written statements should be addressed to the Secretary of the Commission at the Commission's office in Washington, D.C., and should be submitted not later than August 3, 1976.

By order of the Commission.

Issued: July 7, 1976.

KENNETH R. MASON,  
Secretary.

[FR Doc.76-20070 Filed 7-9-76;8:45 am]

# NATIONAL COMMUNICATIONS SYSTEM

## TELECOMMUNICATIONS: BIT ORIENTED DATA LINK CONTROL PROCEDURES

### Proposed Federal Standard 1003

The Administrator of the General Services Administration (GSA) is re-



sponsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the National Communications System (NCS) was designated by the Administrator, GSA, as the responsible agent for the development of telecommunication standards for NCS interoperability and the computer-communications interface. The Federal Telecommunication Standards Committee (FTSC) was established under the administration of NCS to accomplish this mission. Additionally, the Secretary of Commerce is authorized, under the provisions of Pub. L. 89-306, to develop and establish uniform Federal automatic data processing standards.

The proposed Federal standard will adopt the content of the American National Standards Institute (ANSI) document X3S34/589, April 9, 1976, with the exceptions set forth in paragraph 2, "Applicable Documents." The ANSI document specifies the data communication control procedures, which define the means for exchanging data between business machines (for example, computers, concentrators and terminals) over communication circuits. The data communication control procedures described are synchronous, bit oriented (that is, use bit patterns instead of ASCII characters for control), code independent (that is, capable of handling any data code or pattern), and interactive (that is, have relatively high efficiency in an interactive application). The proposed ANSI document was developed by an ANSI task group with Federal Government participation and has been recommended for processing as a Federal standard by the FTSC in response to requirements specified by various Government agencies.

A previous version of this proposed Federal standard, published on December 19, 1975 in the FEDERAL REGISTER, Volume 40, Number 245, was not approved in order that impending improvements by ANSI could be included. These improvements were primarily in the areas of error recovery procedures and classes of procedure.

Prior to submission of the final endorsement of the proposed Federal standard to the Office of Telecommunications Policy (OTP) of the Executive Office of the President and to GSA, it is essential that proper consideration is given to the needs and views of industry, the public, and State and local governments. The purpose of this notice is to solicit such views. Interested parties may submit their comments to the Office of the Manager, National Communications System, Attn: Technology and Standards Office, Washington, D.C. 20305. All comments should be submitted to NCS by August 31, 1976.

<sup>1</sup> DoD Directive 5100.41, "Arrangements for Discharge of Executive Agent Responsibilities for the NCS"—filed as part of original document. NCS Circular 175-1 and FIPS Publication 23 are also filed with original.

Dated: July 6, 1976.

LEE M. PASCHALL,  
Lieutenant General, USAF, Manager.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, OASD (Comptroller).

PROPOSED FEDERAL STANDARD TELECOMMUNICATIONS: BIT ORIENTED DATA LINK CONTROL PROCEDURES

FEDERAL STANDARD 1003, SEPTEMBER 1976

This standard is issued by the General Services Administration pursuant to the Federal Property and Administrative Services Act of 1949, as amended. Its application to both data processing systems and telecommunications systems is mandatory on all Federal agencies to the extent specified herein. Do not use prior to approval.

#### FOREWORD

The Telecommunication series of Federal Standards are designed to facilitate interoperability between telecommunication facilities and systems of the Federal Government and compatibility of these facilities and systems at the computer-communications interface with data processing equipment (systems).

1. *Scope.* This standard specifies the frame structure, elements of procedures, and codes of practice (classes of procedure) for data communications systems that transmit synchronous binary data, including binary coded data, by electrical or electromagnetic means and which have automatic error detection capabilities.

1.1. *Application.* This standard shall be used by all Federal agencies in the design and procurement of equipment and systems. It applies to equipment and systems that are procured after the effective date of this standard. Those new systems and equipments on which substantial technical design has been completed before the effective date or which are procured as replacements in or extensions to existing systems may file for exception.

2. *Applicable documents.* This Federal standard embodies the contents of the American National Standards Institute (ANSI) document X3S34/589, Proposed American National Standard for Advanced Data Communication Control Procedures (ADCCP), dated April 9, 1976 and modified June 22, 1976, except for the aspects listed below. The references, in parentheses, to the ANSI document are not exhaustive, but indicate the primary sections where the topics are described.

a. All systems conforming to this Federal standard shall be able to implement the 16-bit frame check sequence (FCS) in the aforementioned ANSI document 589. In addition, if a 32-bit FCS is required, it shall use the generating polynomial  $X^{32}+X^{28}+X^{27}+X^{26}+X^{25}+X^{24}+X^{23}+X^{22}+X^{21}+X^{20}+X^{19}+X^{18}+X^{17}+X^{16}+X^{15}+X^{14}+X^{13}+X^{12}+X^{11}+X^{10}+X^9+X^8+X^7+X^6+X^5+X^4+X^3+X^2+X+1$ . (See paragraph 3.5, section 12, and appendix D.)

b. Federal networks shall exclude single octet addresses starting with a 0 (bit number one) except for the null address of eight 0's. (See paragraphs 4.3.1, 4.3.2, and 4.5.)

c. All primary stations shall incorporate functional extension number 8, the frame reject (FRMR) command. (See figures 11-1 and 11-2 and paragraph 7.4.3.)

d. All stations shall assume the normal disconnected mode when in the logically disconnected state. (See paragraph 6.2.)

e. The nonreserved commands and responses shall not be used. (See paragraphs 7.4.4.2 and 7.5.4.2.)

f. Receivers shall accept a single flag which closes one frame and also is the opening flag

of the next frame. In addition, it shall accept multiple flags between frames. (See paragraph 3.1.)

g. When in the logically disconnected state, stations shall assume the nonextended control field format. (See paragraph 6.2.)

h. The unnumbered acknowledgment (UA) sent in response to a set initialization mode (SIM) or disconnect (DISC) command shall be in the nonextended control field format. (See paragraphs 7.4.1.7 and 7.4.1.8.)

3. *Changes.* When a Federal agency considers that this standard does not provide for its essential needs, a statement citing inadequacies shall be sent in duplicate to the General Services Administration, Federal Supply Service, FMH, Washington, D.C. 20406 (in accordance with provisions of Federal Property Management Regulations 4, CFR 101-29.3). The General Service Administration will determine the appropriate action to be taken and will notify the agency.

Preparing Activity: Office of the Manager, National Communications System (NCS-TS), Washington, D.C. 20305.

Records of coordination with affected Federal agencies are maintained by the preparing activity.

NOTE.—This document is available from the General Services Administration (GSA), acting as agent for the Superintendent of Documents. A copy for bidding and contracting purposes is available from GSA, Specification Sales, Building 197 (Washington, Navy Yard), Washington, DC 20407, for — cents each.

[FR Doc.76-20011 Filed 7-9-76; 8:45 am]

## NUCLEAR REGULATORY COMMISSION

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEE ON EMERGENCY CORE COOLING SYSTEMS

#### Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on Emergency Core Cooling Systems (ECCS) will hold a meeting on July 29 and 30, 1976 in Idaho Falls, ID. Details pertaining to meeting facilities will be announced later. The purpose of this meeting is to discuss research and development efforts associated with emergency core cooling.

The agenda for the subject meeting shall be as follows:

Thursday, July 29, and Friday, July 30, 1976, 8:00 a.m., until the conclusion of business each day. The Subcommittee with any of its consultants who may be present will meet in open session to hear presentations by the NRC Staff concerning research and development programs associated with emergency core cooling.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do



so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 22, 1976 to Mr. T. G. McCreless, ACRS, NRC, Washington, D.C. 20555 will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on July 27, 1976 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. T. G. McCreless) between 8:15 a.m. and 5:00 p.m., e.d.t.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) A copy of the transcript of the meeting will be available for inspection on or after August 5, 1976 at the NRC Public Document Room, 1717 H St., N.W., Washington, D.C. 20555. Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, D.C. 20555 after November 1, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: July 2, 1976.

JOHN C. HOYLE,  
Advisory Committee,  
Management Officer.

[FR Doc.76-19866 Filed 7-9-76;8:45 am]

[Docket No. 50-324]

**CAROLINA POWER & LIGHT CO.**  
**Issuance of Amendment to Facility**  
**Operating License**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. DPR-62 issued to the Carolina Power and Light Company, which revised Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit No. 2, located in Brunswick County, North Carolina. The amendment is effective as of the date of issuance.

This amendment revises the trip setting for the turbine control valve fast closure scram to not less than 500 psig control oil pressure.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 3, 1976, as supplemented June 7, 1976, (2) Amendment No. 18 to License No. DPR-62, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Southport-Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 23d day of June 1976.

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
Chief, Operating Reactors  
Branch No. 1, Division of Operating Reactors.

[FR Doc.76-19870 Filed 7-9-76;8:45 am]

[Docket No. 50-324]

**CAROLINA POWER & LIGHT CO.**  
**Issuance of Amendment to Facility**  
**Operating License**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. DPR-62 issued to the Carolina Power and Light Company, which revised Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit No. 2, located in Brunswick County, North Carolina. The amendment is effective as of the date of issuance.

This amendment clarifies instrumentation operability requirements during periods of functional testing, and reduces the period of time a Low Pressure Coolant Injection pump can be inoperable during reactor operation from thirty to seven days.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 21, 1976, (2) Amendment No. 17 to License No. DPR-62, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Southport-Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 23d day of June 1976.

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
Chief, Operating Reactors  
Branch No. 1, Division of Operating Reactors.

[FR Doc.76-19875 Filed 7-9-76;8:45 am]



[Docket No. 50-213]

**CONNECTICUT YANKEE ATOMIC POWER CO.****Issuance of Amendment to Facility Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 8 to Facility Operating License No. DPR-61 issued to Connecticut Yankee Atomic Power Company for operation of the Haddam Neck Plant, located in Middlesex County, Connecticut. The amendment is effective as of the date of issuance.

This amendment revises the Technical Specifications to (1) add references to the new fuel (Batch 9) and delete references to those batches being removed from the core; (2) add a requirement to reduce the allowable linear heat generation rates for operation with three reactor coolant loops; and (3) change the allowable power versus incore axial offset for operation with the Cycle VII core.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d) (4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 3, 1976, as supplemented June 15, 22, and 25, 1976, (2) Amendment No. 8 to License No. DPR-61 and (3) the Commission's related Safety Evaluation. All of the above items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Russell Library, 119 Broad Street, Middletown, Connecticut 06457. A copy of items (2), and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 30th day of June 1976.

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
Chief, Operating Reactors Branch  
No. 1 Division of Operating  
Reactors.

[FR Doc. 76-19871 Filed 7-9-76; 8:45 a.m.]

[Docket Nos. 50-269, 50-270 and 50-287]

**DUKE POWER CO.****Issuance of Amendments to Facility Operating Licenses**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 25, 25, and 22, to Facility Operating License No. DPR-38, DPR-47, and DPR-55, respectively, issued to Duke Power Company (the licensee) which revised Technical Specifications for operation of the Oconee Nuclear Station Units Nos. 1, 2, and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments restructure the Oconee Station Organization for Maintenance by establishing two separate branches for mechanical and electrically-related maintenance. These amendments also revise the provisions in the Technical Specifications to require annual reporting of the nonradiological environmental data.

The applications for these amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of these amendments was not required since the amendments did not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d) (4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated May 7, 1976, (2) Amendment Nos. 25, 25, and 22, to License Nos. DPR-38, DPR-47 and DPR-55, respectively. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Oconee County Library, 201 South Spring, Walhalla, South Carolina 29691.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 23d day of June, 1976.

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
Chief, Operating Reactors  
Branch No. 1, Division of  
Operating Reactors.

[FR Doc. 76-19874 Filed 7-9-76; 8:45 a.m.]

[Docket Nos. 50-440, 50-441]

**DUQUESNE LIGHT CO., ET AL.****Hearing**

In the Matter of Duquesne Light Co., Ohio Edison Co., The Cleveland Electric Illuminating Co., Pennsylvania Power Co., and The Toledo Edison Co. (Perry Nuclear Power Plant, Units 1 and 2).

A hearing in the above proceeding will be held commencing at 10:30 a.m., on Monday, July 26, 1976, in Room 2069, Federal Building, 1240 East 9th Street, Cleveland, Ohio 44199, to consider an amendment to a previously-issued Limited Work Authorization (LWA) to include the pouring of the reactor building foundation, placement of the reactor building steel base liner plate and anchorages, construction of internal floors and foundations for safety-related structures, components and systems, and excavation and construction of the intake and discharge tunnels.

Dated this 2d day of July 1976 at Bethesda, Md.

For the Atomic Safety and Licensing Board.

JOHN M. FRYSIAK,  
Chairman.

[FR Doc. 76-19868 Filed 7-9-76; 8:45 a.m.]

[Docket No. 50-298]

**NEBRASKA PUBLIC POWER DISTRICT****Issuance of Amendment to Facility Operating License**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-46, issued to the Nebraska Public Power District (the licensee), which revised Technical Specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebraska. The amendment is effective 30 days from its date of issuance.

The amendment requires operability and surveillance of shock suppressors (snubbers) required to protect the primary coolant system and all other safety related systems and components of the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d) (4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in



connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 19, 1976, (2) Amendment No. 29 to License No. DPR-46, and (3) the Commission's concurrently issued Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Auburn Public Library, 118-15th Street, Auburn, Nebraska 68305. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Nebraska 68305. A copy of items (2) and Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 28 day of June, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,  
Chief, Operating Reactors  
Branch No. 2 Division of  
Operating Reactors.

[FR Doc.76-19873 Filed 7-9-76;8:45 am]

#### REGULATORY GUIDE Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.64, Revision 2, "Quality Assurance Requirements for the Design of Nuclear Power Plants," describes a method acceptable to the NRC staff for complying with the Commission's regulations with regard to quality assurance requirements for the design of all types of nuclear power plants. This guide endorses ANSI Standard N45.2.11-1974, "Quality Assurance Requirements for the Design of Nuclear Power Plants."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic dis-

tribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 30th day of June 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,  
Director, Office of  
Standards Development.

[FR Doc.76-19872 Filed 7-9-76;8:45 am]

[Docket No. 50-260]

#### TENNESSEE VALLEY AUTHORITY Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR-52, issued to Tennessee Valley Authority which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit No. 2, located in Limestone County, Alabama. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to allow loading the fuel of Unit No. 2 in the Unit No. 2 reactor vessel. Operation is not authorized by this amendment.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration, or environmental impact appraisal need not be prepared in connections with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated May 28, 1976 as supplemented June 1, 1976, (2) Amendment No. 20 to License No. DPR-52, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Athens Public Library, South Forrest, Athens, Alabama 35611.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 18th day of June, 1976.

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
Chief, Operating Reactors  
Branch No. 1, Division of  
Operating Reactors.

[FR Doc.76-19869 Filed 7-9-76;8:45 am]

[Docket Nos. 50-338 OL, 50-339 OL]

#### VIRGINIA ELECTRIC AND POWER CO. (NORTH ANNA POWER STATION, UNITS 1 AND 2)

##### Oral Argument

Notice is hereby given that oral argument on the applicant's appeal from the June 9, 1976 order of the Licensing Board granting the petition of Sun Shipbuilding and Dry Dock Company for leave to intervene in this operating license proceeding is calendared for 9:00 a.m., Monday, July 19, 1976 in the NRC Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland.

Dated: July 2, 1976.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,  
Secretary to the Appeal Board.

[FR Doc.76-19867 Filed 7-9-76;8:45 am]

#### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON EMERGENCY CORE COOLING SYSTEMS

##### Meeting Location and Time Change

The July 21 and 22, 1976 meeting of the ACRS Subcommittee on Emergency Core Cooling Systems (ECCS) announced in FEDERAL REGISTER, Vol. 41, page 27137, July 1, 1976 will be held at the Hanford House Thunderbird, 802 George Washington Way, Richland, WA 99352. The meeting will convene at 2:00 p.m. instead of 1:00 p.m. on Wednesday, July 21, 1976.

All other matters pertaining to this meeting remain the same.

Dated: July 7, 1976.

SAMUEL J. CHILK,  
Secretary of the Commission.

[FR Doc.76-20098 Filed 7-9-76;8:45 am]

#### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON EMERGENCY CORE COOLING SYSTEMS

##### Meeting Location and Time Change

The July 23, 1976 meeting of the ACRS Subcommittee on Emergency Core Cooling Systems (ECCS) announced in FED-



FEDERAL REGISTER, Vol. 41, page 27138, July 1, 1976 will be held at the Hanford House Thunderbird, 802 George Washington Way, Richland, WA 99352. The meeting will convene at 8:00 a.m. instead of 8:30 a.m.

All other matters pertaining to this meeting remain the same.

Dated: July 7, 1976.

SAMUEL J. CHILK,  
Secretary of the Commission.

[FR Doc.76-20100 Filed 7-9-76;8:45 am]

#### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, WORKING GROUP ON PEAKING FACTORS

##### Time Change

The meeting of the ACRS Working Group on Peaking Factors scheduled to be held on July 21, 1976 in Washington, DC announced in FEDERAL REGISTER Vol. 41, page 27140, July 1, 1976, has been rescheduled to convene the Executive Session at 10:00 a.m. instead of 8:30 a.m., and to convene the Open Session at 10:30 a.m. instead of 9:00 a.m.

All other matters pertaining to this meeting remain unchanged.

SAMUEL J. CHILK,  
Secretary of the Commission.

Dated: July 7, 1976.

[FR Doc.76-20099 Filed 7-9-76;8:45 am]

#### JOINT HEARINGS WITH NEW YORK STATE BOARD ON ELECTRIC GENERATION SITING AND ENVIRONMENT

##### Extension of Comment Period

By petition dated July 1, 1976 the member systems of the New York Power Pool requested an extension of the comment period for filing of comments from July 14, 1976 to October 11, 1976 on the draft protocol for the conduct of joint hearings before the U.S. Nuclear Regulatory Commission and the New York State Board on Electric Generation Siting and the Environment. The period for the filing of comments has been extended so that comments will be accepted if they arrive at the offices of the Secretary of the U.S. Nuclear Regulatory Commission in Washington, D.C. and the Secretary of the New York State Board of Electric Generation Siting and the Environment in Albany, New York by close of business on August 2, 1976.

Dated at Washington, D.C., this 6th day of July 1976.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,  
Secretary of the Commission.

[FR Doc.76-20097 Filed 7-9-76;8:45 am]

[Docket Nos. 50-522 and 50-523]

#### PUGET SOUND POWER & LIGHT CO., ET AL. AND SKAGIT NUCLEAR POWER PROJECT, UNIT NOS. 1 & 2

##### Availability of Draft Supplement to Final Environmental Statement

Notice is hereby given that a Draft Supplement to the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed Skagit Nuclear Power Project, Unit Nos. 1 and 2 to be constructed in Skagit County, Washington, by the Puget Sound Power and Light Company, et al. is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the Sedro Woolley Library, 802 Ball Avenue, Sedro Woolley, Washington. The draft supplemental statement is also being made available at the Office of the Governor, Office of Program Planning and Fiscal Management, Olympia, Washington. Requests for copies of the Draft Supplement to the Final Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

On June 2, 1975 the Nuclear Regulatory Commission issued a Final Environmental Statement for the Skagit Nuclear Power Project, Unit Nos. 1 and 2 (40 FR 23786). The purpose of this supplement to the Final Environmental Statement is to identify and evaluate the potential effects of the proposed Skagit Nuclear Power Project on those values for which the Skagit River was named as a study river in the Wild and Scenic Rivers Act (P.L. 90-542).

Interested persons may submit comments on the Draft Supplement to the Final Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the draft supplemental statement (local agencies may obtain these documents upon request). Comments are due by August 23, 1976. Comments by Federal, State and local officials or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Sedro Woolley Library, Sedro Woolley, Washington. Upon consideration of comments submitted with respect to the draft supplemental statement, the Commission's staff will prepare a final supplemental statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Supplement to the Final Environmental Statement from interested persons or the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Md., this 2d day of July 1976.

For the Nuclear Regulatory Commission.

B. J. YOUNGBLOOD,  
Chief, Environmental Projects  
Branch 2, Division of Site  
Safety and Environmental  
Analysis.

[FR Doc.76-20101 Filed 7-9-76;8:45 am]

#### SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1258]

##### NEW YORK

##### Declaration of Disaster Loan Area

As a result of the President's declaration I find that Chemung and Steuben Counties, and adjacent counties within the State of New York, constitute a disaster area because of damage resulting from flash flooding beginning about June 19, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 30, 1976, and for economic injury until the close of business on March 29, 1977, at:

Small Business Administration, Branch Office, 180 State Street, Room 412, Elmira, New York 14904.

or other locally announced locations.

Dated: July 2, 1976.

LOUIS F. LAUN,  
Acting Administrator.

[FR Doc.76-20058 Filed 7-9-76;8:45 am]

#### VETERANS ADMINISTRATION

##### VETERANS ADMINISTRATION WAGE COMMITTEE

##### Annual Report; Availability

Pursuant to the provisions of section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) and OMB Circular A-63 of March 27, 1974, notice is hereby given that the Annual Report of the Veterans Administration Wage Committee for calendar year 1975 has been issued.

The report summarizes activities of the Committee on matters related to wage surveys and pay schedules for Federal prevailing rate employees. It is available for public inspection at two locations:

Library of Congress, Microfilm Reading Room, Room MB-140B, Main Building, 10 First Street, SE., Washington, D.C.

Veterans Administration, Office of the Secretary, VA Wage Committee, Room 1102, 810 Vermont Avenue, NW., Washington, D.C.

Dated: July 6, 1976.

R. L. ROUBEUSH,  
Administrator.

[FR Doc.76-20004 Filed 7-9-76;8:45 am]



# ENVIRONMENTAL PROTECTION AGENCY

[FRL 576-4]

## ALABAMA, GEORGIA, KENTUCKY, NORTH CAROLINA, SOUTH CAROLINA, AND TENNESSEE

### Attainment and Maintenance of National Ambient Air Quality Standards; Call for Revision

On April 30, 1971 (36 FR 8186), pursuant to section 109 of the Clean Air Act, the Administrator promulgated national primary and secondary ambient air quality standards for six pollutants. The Act requires that the primary standards protect the public health with an adequate margin of safety and that the secondary standards protect the public welfare from any known or anticipated adverse effects. Under section 110 of the Act, States are required to prepare and submit to the Administrator plans for implementing the national ambient air quality standards throughout their jurisdiction. On May 31, 1972 (37 FR 10842), the Administrator published his initial approvals and disapprovals of the State implementation plans developed and submitted under these provisions of Federal law.

On March 8, 1973 (38 FR 6279), pursuant to an order of the U.S. Court of Appeals for the District of Columbia in the case of "NRDC, Inc., et al. v. EPA" (4 ERC 1945), the Administrator disapproved all State plans as failing to provide for the maintenance of standards, and announced his intention to propose new implementation plan requirements for the control of indirect sources of air pollution (which he did on April 18, 1973 (38 FR 9599)). When the new requirements were promulgated on June 18, 1973 (38 FR 15834), they were considerably broader: States were called on to identify and analyze any area of their territory where continued economic growth and development could, within the next ten years, cause any national ambient standard to be exceeded; if this analysis should show that additional control measures were needed, the State was to prepare and submit them for the Agency's approval as plan revisions; and requirements for new source review programs were expanded. New implementation plan requirements governing the development of air quality maintenance plans (or AQMA plans) were proposed on October 20, 1975 (40 FR 49048), and promulgated on May 3, 1976 (41 FR 18382). Official designations of Air Quality Maintenance Areas in the eight States that comprise EPA's Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee) were published in the FEDERAL REGISTER on April 29, 1975 (40 FR 18726), and on September 9, 1975 (40 FR 41942), following proposal on July 10, 1974 (39 FR 25330).

Since the mid-1975 statutory attainment date for achieving national standards—in most areas—arrived before the Agency was in a position to take final ac-

tion on the designation of AQMA's and the regulations governing the development of AQMA plans, it was deemed expedient to broaden the initial analysis so as to identify not only areas with maintenance problems, but also those areas where standards had not yet been attained. The purpose of the present notice is to indicate those areas where the State implementation plan requirements are deemed inadequate to assure attainment and/or maintenance of ambient air quality standards. In several cases the area specified is only a portion of a designated AQMA, and in others, no AQMA designation has been made. Additionally, several AQMA's are not addressed in this notice. Studies are presently underway in all AQMA's, and revisions may be called for at a later date with regard to the AQMA's not addressed here. This call for plan revisions represents the present findings of the Agency and is being made for those areas where a call is justified at this time.

For those areas where the plan is inadequate to attain and/or maintain national primary and secondary ambient air quality standards, States are being asked to submit the appropriate revisions according to the following timetable:

1. Stationary source emission limitations representative of reasonable available control technology (as needed), by July, 1977; and

2. Any other measures necessary for attainment (generally more complex controls requiring additional time for planning), by July, 1978.

All such revisions for attainment and/or maintenance of standards shall be submitted in accordance with 40 CFR 51, Subparts A, B, and D.

The following State-by-State summary details the areas for which a revision to the applicable State implementation plan is needed, the type of revision required (for attainment and maintenance or maintenance alone), and the pollutants involved.

#### ALABAMA

Attainment and maintenance of the national primary and secondary ambient air quality standards for total suspended particulates in Jefferson County.

#### GEORGIA

Attainment and maintenance of the national primary ambient air quality standards for photochemical oxidants and carbon monoxide in the Atlanta Metropolitan Area.

#### KENTUCKY

Attainment and maintenance of the national primary ambient air quality standards for photochemical oxidants and carbon monoxide in Jefferson County.

Attainment and maintenance of the national primary ambient air quality standards for photochemical oxidants in Boone, Kenton, and Campbell Counties.

Attainment and maintenance of the national primary and secondary ambient air quality standards for sulfur dioxide in Boyd County.

#### NORTH CAROLINA

Attainment and maintenance of the national primary ambient air quality standards for photochemical oxidants and carbon monoxide in Mecklenburg County.

#### SOUTH CAROLINA

Maintenance of the national primary and secondary ambient air quality standards for total suspended particulates in the Charleston Air Quality Maintenance Area.

Maintenance of the national primary and secondary ambient air quality standards for total suspended particulates in Georgetown County.

#### TENNESSEE

Attainment and maintenance of the national primary ambient air quality standards for photochemical oxidants in the Nashville Metropolitan Area.

Attainment and maintenance of the national primary and secondary ambient air quality standards for total suspended particulates in Hamilton County.

The States are advised that plan revisions should provide for the attainment of the primary standards as expeditiously as practicable—generally not more than three years after the date of expected approval of the revision—and for the attainment of the secondary standards within a reasonable time.

States are hereby requested to develop measures for the above-listed areas within their jurisdictions to remedy the identified deficiencies in their implementation plans.

It should be noted that State and local control agencies have been given the opportunity to take the lead in all of the activities made necessary by the judicial and administrative decisions previously outlined. The present call for additional measures is made with due concern for their potentially disruptive effect on current enforcement programs and for the time required to develop such measures. Moreover, the Agency acknowledges the need of industry and other air pollution sources to know what will be asked of them, and when, so that they can make adequate plans for compliance. It should be carefully noted also that the validity and legality of existing implementation plans are in no way compromised by this notice of their inadequacies, and call for their revision.

In those areas where the appropriate State implementation plan has been found to be inadequate to attain and maintain standards for carbon monoxide and/or photochemical oxidants, the calls for revisions are based almost entirely on measured air quality data which reveal substantial violations of the standards for these pollutants. In those areas where revisions for maintenance or attainment and maintenance of standards for total suspended particulates or sulfur dioxide are called for, in-depth analyses have been underway for some time. The sole exception to this is Georgetown County in South Carolina, where the call for a maintenance plan is based on measured air quality and unique source-receptor relationships.



[FRL 577-3]

## ARIZONA

## Required Revision to Implementation Plan for Phoenix-Tucson Air Quality Control Region

## INTRODUCTION

What specific form these revisions will take for any area is not clearly known at this time. In general, however, control of hydrocarbons from stationary sources and mobile sources may be necessary for attainment and maintenance of photochemical oxidant standards; control of carbon monoxide from mobile sources, for attainment and maintenance of carbon monoxide standards; and more stringent emission limits on fuel burning and process emissions of sulfur dioxide, to attain and maintain standards for this pollutant. Maintenance or attainment and maintenance of particulate standards will require strategies on a case-by-case basis, possibly involving control of new and existing sources to a greater degree, control of fugitive emissions, and control of fugitive dust.

Letters to the Governors of Alabama, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee have provided notification of implementation plan deficiencies, and have requested that they indicate by September 10, 1976 what steps they intend to take to secure the additional controls which are needed, and the agencies responsible for preparing the plan revision. Also, the Governors of Florida and Mississippi have been advised that their plans have not, at this time, been found inadequate to attain or maintain standards. In these two States, as well as in all other States in Region IV, the Governors were asked to continue to review the status of air quality to ensure that future problems are adequately defined, and corrective measures undertaken.

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding of the Regional Administrator which shows that the control strategy for a particular pollutant in a particular area is inadequate and needs to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. Should a State choose not to hold a public hearing on its revision, EPA will hold such a hearing. Should any State choose not to submit the required revision, EPA will propose and promulgate its own regulations, providing, in the process, a period for public comment.

(Sec. 110(a)(2)(H), Clean Air Act, as amended, 42 U.S.C. 1857c-5(a)(2)(H); sec. 110(c), Clean Air Act, as amended, 42 U.S.C. 1857c-5(c))

Dated: June 25, 1976.

JOHN A. LITTLE,  
Acting Regional Administrator  
Region IV.

[FR Doc. 76-19926 Filed 7-9-76; 8:45 am]

In this notice the EPA Regional Administrator for Region IX finds that the implementation plan for the Phoenix-Tucson AQCR is substantially inadequate for the attainment and maintenance of the primary national ambient air quality standards for carbon monoxide, and photochemical oxidants. He is requesting that the State submit a revision to the plan within the next year (7/31/77) to correct certain implementation plan deficiencies. The Regional Administrator has formally notified the Governor of this matter in a letter dated June 30, 1976.

## BACKGROUND

On May 31, 1972 (37 FR 10849), under section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator announced his approvals/disapprovals of control strategies intended to attain and maintain national primary and secondary standards. In the Phoenix-Tucson AQCR, the Administrator approved the control strategy for nitrogen dioxide and disapproved the control strategies for total suspended particulates, and sulfur oxides. Specifically with respect to sulfur oxide emissions the Administrator disapproved the emission regulations for existing copper smelters.

Regarding mobile source pollutants, the Administrator approved the control strategy for attainment of the oxidant standard in 1975, and granted a two-year extension (until May 31, 1977) for attainment of the carbon monoxide standard. The State was required to submit by February 15, 1973 a revised implementation plan for attainment of the carbon monoxide standard, to include appropriate land use and transportation controls. On March 20, 1973, in response to a court order (NRDC v. EPA), the Administrator rescinded the two-year extension and required the State to submit a transportation control plan which demonstrated attainment of the carbon monoxide standard, and which justified the need for the extension. The State submitted their plan to EPA on April 11, 1973. Subsequent to an EPA proposal and a revised State plan, the Administrator approved on December 3, 1973 the Arizona transportation control plan (38 FR 33368) and promulgated supplemental requirements and control measures. The Administrator granted the two-year extension for attainment of the carbon monoxide standard. He also approved the State proposed 1975 attainment of the oxidant standard.

On March 8, 1973 (38 FR 6279), EPA disapproved the Arizona implementation plan with respect to maintenance of the national standards. Following this action, the State identified metropolitan Phoenix and metropolitan Tucson as air quality maintenance areas (AQMA)—

areas which have the potential for failing to maintain national air quality standards during the 1975-1985 time frame. On September 9, 1975, EPA formally designated Phoenix as an AQMA for carbon monoxide, photochemical oxidant, and total suspended particulate, and Tucson as an AQMA for photochemical oxidant and total suspended particulates (40 CFR 41942, published as 52.143).

In Phoenix, the State has initiated an Air Quality Maintenance Task Force composed of local public and private organizations. The Task Force, with technical assistance provided by an EPA contractor, will analyze current and projected air quality and will evaluate various control measures for long-term maintenance of carbon monoxide and oxidant standards.

With regard to Tucson, air quality data obtained subsequent to the Phoenix-Tucson transportation control plan indicated that photochemical oxidant, not carbon monoxide, was the pollutant of concern in Tucson. Accordingly, on February 28, 1975, EPA requested that the State revise its implementation plan to replace the carbon monoxide control plan for Tucson with a photochemical oxidant control plan. On April 1, 1976, the State forwarded to EPA a comprehensive analysis prepared by the Pima County Air Quality Control District which addressed both attainment and maintenance of the oxidant standard. The analysis included an evaluation of the effectiveness and feasibility of various control measures. This analysis will provide the basis for adoption and implementation of a control plan for attainment and maintenance of the oxidant standard.

On July 27, 1972 (37 FR 15096) the Administrator proposed substitute regulations for control of sulfur oxides emitted by all existing smelters in Arizona. In public hearings on EPA's proposed regulations questions were raised on the validity of air quality data used to establish the emission limits. Therefore, because of questionable data and the lack of any new data, the emission limits proposed on July 27, 1973 were not finalized. Instead, EPA established a monitoring network and collected air quality data at 23 sites in the vicinity of the seven copper smelters located in Arizona. Data was collected from these sites during the period between June 1973 and October 1974. On October 22, 1975 (40 FR 49362) the Administrator proposed substitute regulations for control of sulfur oxide emissions at existing copper smelters in the Phoenix-Tucson AQCR. Public hearings were held in December 1975 in each of the smelter communities. At these hearings representatives of the State of Arizona stated that the State would revise their regulations consistent with the form and philosophy of the proposed EPA regulations. The State has subsequently prepared draft regulations and public hearings are expected to be held in late August 1976.



## DISCUSSION OF ACTION

The Regional Administrator of EPA's Region IX finds that the control strategy portion of the implementation plan for carbon monoxide and oxidant is substantially inadequate to attain the national primary ambient air quality standards for carbon monoxide and oxidant.

The EPA analysis of the Phoenix-Tucson AQCR air pollution control strategy indicates:

1. The national primary 8-hour carbon monoxide standard was exceeded in Phoenix in 1973 and 1974, and violations are projected to continue.

2. The national primary 1-hour oxidant standard was exceeded in both Phoenix and Tucson in 1973 and 1974. Violations are projected to continue in both Phoenix and Tucson.

3. The national primary 24-hour and annual geometric mean particulate standards were violated in 1975. Violations are projected to continue through 1985.

4. The national primary 24-hour and annual standards for sulfur oxides were violated in 1975. Violations are expected to decline as regulations for copper smelters are promulgated and enforced.

EPA in its review of the particulate control strategy for the AQCR, has found that the particulate standards are currently being violated and continued violations appear certain. Review of the approved SIP indicates that it contains regulations requiring application of reasonably available control technology. Therefore, no SIP revision for particulate is being requested. This determination could, of course, be changed in the near future based on the results of EPA or State studies. EPA has funded a detailed analysis of the particulate problem in the Phoenix area. This study is expected to be complete in October 1976. Based on the results of this study, an SIP revision may be necessary. Regulations for previously uncontrolled sources may be required.

EPA review of the sulfur oxide ambient air quality data indicates that the standards are currently being violated in the vicinity of copper smelters at Ajo, Hayden and San Manuel, Arizona. Regulations limiting the emissions at each of these copper smelters have been proposed by EPA and are expected to be proposed by Arizona. Either promulgation by EPA or an approvable SIP revision by Arizona will provide regulatory means for achieving sulfur oxide standards in the vicinity of copper smelters. Therefore, no SIP revision for sulfur oxides is being requested.

Subsequent to EPA's original approval on December 3, 1973, the Arizona transportation control plan has evolved to a point where the SIP no longer demonstrates expeditious attainment of carbon monoxide and oxidant standards in Phoenix. In a recent re-analysis of the Arizona transportation control plan, the State confirmed that, with current control measures, carbon monoxide and ox-

idant standards could not be attained until the 1980's.

Based on the foregoing, EPA is requesting that the State revise its implementation plan to include achievable emission limitations and appropriate transportation and land use measures as part of the control strategies for carbon monoxide and oxidant.

In this context, the State and EPA have recognized that attainment planning must now be linked to planning for long-term maintenance of standards. The analysis required by the maintenance designation of Phoenix for carbon monoxide and oxidant will be expanded to address attainment of national standards as expeditiously as practicable. The Arizona State Department of Health Services is now acting as coordinator of an Air Quality Maintenance Task Force, composed of concerned organizations, public and private. This Air Quality Maintenance Plan (AQMP) analysis will project air quality trends throughout the 1980-1995 time frame, and evaluate reasonably available control measures. In this way, a plan will be developed at the local level which will demonstrate both the attainment and maintenance of national standards for carbon monoxide and oxidants.

The State has forwarded to EPA a recommendation that July 31, 1977 be established as the date on which the Phoenix Air Quality Maintenance Plan is to be submitted. EPA considers this reasonable, and the State's recommendation is incorporated into the request for the SIP revision.

Regarding Tucson, the Air Quality Maintenance Analysis submitted in response to EPA's previous SIP revision request indicates that the oxidant standard can be expeditiously attained with reasonably available control technology. The Regional Administrator anticipates that the Tucson AQMP SIP revision can be submitted by December 1, 1976.

## SIP REVISION REQUEST

Because of previously identified inadequacies in control strategies and regulations dealing with carbon monoxide and oxidant controls in Phoenix and oxidant controls in Tucson, the Regional Administrator hereby requests the State to submit revisions as follows:

1. The State shall prepare and submit by December 1, 1976 a plan revision for the Tucson AQMA and by July 31, 1977 a plan revision for the Phoenix AQMA. The plan revisions shall contain:

a. All achievable emission limitations that are needed to provide for the attainment and maintenance of national primary standards for carbon monoxide and oxidant as appropriate, and

b. A demonstration of the effect on air quality concentrations of such measures.

2. If additional control measures such as land use and transportation measures are needed for attainment and maintenance of the national primary standards, the State shall prepare and submit by July 1, 1978—

a. Such measures for the attainment of the primary standards for carbon

monoxide and oxidants as appropriate, and

b. A demonstration that the control strategy will attain the primary standards.

The State shall prepare the revisions for carbon monoxide and oxidants in accordance with the requirements of 40 CFR Part 51, Subparts A, B and D.

The Governor shall submit, within 60 days, a letter of intent to the Regional Administrator, EPA Region IX, which identifies the various steps (along with target dates for completion) which the State will take to develop the plan revisions in accordance with the requirements set forth in this notice. The State must also identify in the letter the agencies that have been given responsibility to prepare the plan revisions. Failure by the State to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revisions will be forthcoming from the State. In this case, EPA will begin to develop for promulgation a Federal plan to attain and maintain national standards.

All of the applicable plan remains in effect until the plan revisions are submitted by the State to EPA and are approved by EPA or until EPA promulgates additional regulations.

A technical report entitled "Environmental Protection Agency Analysis of the Air Pollution Control Strategy for the Phoenix-Tucson Intrastate Air Quality Control Region," is available for inspection at 100 California Street, San Francisco, California 4111; the EPA Contact Office, 300 North Los Angeles Street, Los Angeles, California 90012; and the EPA Freedom of Information Center, 401 "M" Street, SW., Washington, D.C. 20460.

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding of the Regional Administrator which shows that the control strategy for carbon monoxide and oxidants in the Phoenix-Tucson Intrastate AQCR is substantially inadequate and needs to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State held no hearings on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended, (42 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended, 42 U.S.C. 1857c-5(c)).

Dated: July 2, 1976.

PAUL DE FALCO, JR.,  
Regional Administrator, Region  
IX, Environmental Protection  
Agency.

[FR Doc.76-19927 Filed 7-9-76; 8:45 am]



[FRL 577-4]

## ARIZONA

## Required Revision to Implementation Plan for Four Corners Interstate, Clark-Mohave Interstate, and Southern Border Interstate Air Quality Control Regions.

## INTRODUCTION

In this notice, the EPA Regional Administrator for Region IX has noted violations of certain of the national primary and/or secondary ambient air quality standards in the following Air Quality Control Regions (AQCR) in Arizona: Four Corners Interstate—particulate matter; Southern Border Interstate—particulate matter and sulfur oxides; Clark-Mohave Interstate—particulate matter and oxidant. Even though violations of air quality standards exist in these regions, the Regional Administrator has determined that no revision is required at this time. The Regional Administrator has formally notified the Governor of this matter in a letter dated June 30, 1976.

## BACKGROUND

On May 31, 1972 (37 FR 10849), under section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the State control strategy for attainment and maintenance of particulate standards in the Four Corners Interstate, Southern Border Interstate and the Clark-Mohave Interstate AQCRs. Simultaneously, the Administrator disapproved the State control strategy for sulfur oxides in the Southern Border Interstate AQCR since it did not impose specific emission limitations on copper smelters, and in the Four Corners Interstate AQCR since it did not provide the degree of emission control at the Navajo Power Plant necessary to attain and maintain the standard.

On July 27, 1972 (37 FR 15096) the Administrator proposed substitute regulations for control of sulfur oxides emitted by all existing smelters in the Southern Borders Region. In public hearings on EPA's proposed regulations questions were raised on the validity of air quality data used to establish the emission limits. Therefore, because of questionable data and the lack of any new data, the emission limits proposed on July 27, 1972 were not finalized. Instead, EPA established a monitoring network and collected air quality data at 23 sites in the vicinity of the seven copper smelters located in Arizona. Data was collected from these sites during the period between June 1973 and October 1974. On October 22, 1975 (40 FR 49362) the Administrator proposed substitute regulations for control of sulfur oxide emissions at existing copper smelters in the Southern Borders AQCR. Public hearings were held in December 1975 in each of the smelter communities. At these hearings representatives of the State of Arizona stated that the State would revise their regulations consistent with the form and philosophy of the proposed EPA regulations. The State has subsequently prepared draft regulations

and public hearings are expected to be held in late August 1976.

On March 21, 1974 (39 FR 10584), the Administrator promulgated a substitute regulation for fossil fuel-fired steam generators in the Four Corner Interstate Region. This regulation was promulgated to provide the degree of control necessary to attain and maintain the national sulfur oxide standards.

On March 8, 1973 (38 FR 6279), EPA disapproved all state implementation plans with respect to maintenance of national standards. Following this action, the State and EPA designated Air Quality Maintenance Areas in the Phoenix-Tucson AQCR. No such designations were made in the three AQCRs discussed here.

## FINDINGS

The Regional Administrator of EPA's Region IX finds that the control strategy portion of the States submitted implementation plan for particulates in the Four Corners Interstate, Clark-Mohave Interstate and Southern Border Interstate Air Quality Control Regions contains regulations requiring application of reasonably available control technology. Therefore, no SIP revision for particulates is being requested.

EPA review of the sulfur oxide ambient air quality data for the Southern Borders Region indicates that the national standards are currently being violated in the vicinity of copper smelters at Douglas and Morenci, Arizona. Regulations limiting emissions at each of these copper smelters have been proposed by EPA and are expected to be proposed by Arizona. Either promulgation by EPA or an approvable SIP revision by Arizona will provide regulatory means for achieving sulfur oxide standards in the vicinity of copper smelters. Therefore, no SIP revision for sulfur oxides is being requested.

Dated: July 2, 1976.

PAUL DE FALCO, JR.,  
Regional Administrator,  
Region IX.

[FR Doc.76-19928 Filed 7-9-76;8:45 am]

[FRL 577-5]

## CALIFORNIA

## Required Revision to Implementation Plan for San Francisco Bay Area Intrastate Air Quality Control Region

## INTRODUCTION

In this notice the EPA Regional Administrator for Region IX finds that the implementation plan for the San Francisco Bay Area Intrastate AQCR in the State of California is substantially inadequate for the attainment and maintenance of the primary national ambient air quality standards for carbon monoxide, and the secondary national ambient air quality standard for particulate matter, and remains inadequate for the attainment and maintenance of the national standard for oxidants. The Regional Administrator is requesting

that the State submit a revision to the plan within the next year (7/1/77) to correct certain implementation plan deficiencies for carbon monoxide and particulate matter. The Regional Administrator has formally notified the Governor of this matter in a letter dated June 30, 1976.

## BACKGROUND

On May 31, 1972, (37 FR 10842), under section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the control strategy for the attainment and maintenance of the national primary and secondary ambient air quality standards for nitrogen oxides, sulfur oxides, and particulate matter in the San Francisco Bay Area Intrastate AQCR. The control strategy for the attainment and maintenance of the national standards for carbon monoxide and oxidants was disapproved in a subsequent FEDERAL REGISTER. The implementation plan was originally intended to attain these national standards by 1975. The Administrator granted a two-year extension (until May 31, 1977) for the attainment and maintenance of the oxidant standards in the AQCR. The State was required to submit a revised implementation plan for the attainment and maintenance of the carbon monoxide and oxidant standards, to include land use and transportation controls, by February 15, 1973. The State subsequently did not submit an approvable plan, and EPA therefore promulgated such a plan, known as the California Transportation Control Plan (TCP), on November 12, 1973 (38 FR 31232), to attain the carbon monoxide and oxidant standards by May 31, 1977. Certain elements of the EPA's California TCP were successfully challenged in the Ninth Circuit Court of Appeals by the State and others. EPA subsequently petitioned the Supreme Court to review the case, and the Supreme Court has agreed to review the case.

On March 8, 1973 (38 FR 6279), EPA disapproved all implementation plans with respect to maintenance of the national standards. Following this action, on September 9, 1975, EPA identified the San Francisco Bay Area as an air quality maintenance area (AQMA)—an area that has the potential for failing to maintain certain national air quality standards during the 1975-1985 time frame (40 FR 41942, published as 40 CFR 52.267). The designated pollutants for the San Francisco Bay Area AQMA include oxidants, sulfur oxides, and particulate matter.

In designating an AQMA, EPA is encouraging local governments, with assistance from the State, to develop locally acceptable plans for attainment and maintenance of the national air quality standards. Such plans are expected to be submitted as formal revisions to the State Implementation Plan.

In the State of California, the Air Resources Board has initiated aggressive efforts by local decisionmakers, the business community, environmental interest groups and the public to address the



problems identified in the AQMA designations. EPA is supporting these local efforts through technical and financial assistance. Each area has formed a policy task force which performs a confirming analysis to validate the pollutants and boundaries. Based on the confirmation, the policy task force proceeds to develop a work plan for developing the Air Quality Maintenance Plan (AQMA). The policy task force also selects an agency or group of agencies which will undertake the tasks identified in the work plan, and will develop a program for adoption and implementation of the AQMP.

EPA has expanded the basic charge to the State and AQMP groups through a mutual recognition that maintenance planning is not a meaningful activity until standards are attained; therefore attainment is a part of the California AQMP process. EPA endorses this expansion because the majority of the severe air pollution problems in California are significantly affected by mobile sources and industrial expansion, and may require long-term land use and transportation controls for both attainment and maintenance of standards. As discussed previously, the Ninth Circuit Court of Appeals' ruling on EPA's California TCP limits the Agency's ability to promote and enforce such measures through the State. EPA has appealed, and this decision is presently under Supreme Court review. Nevertheless, the Agency believes that implementation of necessary measures will best be achieved through the AQMP process.

The AQMP process is currently underway, but final work plans have not yet been received and approved by EPA. EPA will publish a FEDERAL REGISTER notice by December 31, 1976, announcing the Regional Administrator's decision regarding dates for submission of the locally developed AQMPs by the State as revisions to the State Implementation Plan.

#### DISCUSSION OF ACTION

The Regional Administrator of EPA's Region IX finds that the control strategy portion of the State-submitted implementation plan for carbon monoxide and oxidants remains inadequate for expeditious attainment and maintenance of the national primary ambient air quality standards. He also finds that the current control strategy for particulate matter is inadequate to attain and maintain the national secondary particulate standards.

The EPA analysis of the San Francisco Bay Area Intrastate AQCR air pollution control strategy indicates:

(1) The national primary 8-hour carbon monoxide standard was exceeded in 1973 and 1974, with violations projected to decline from 1973 to 1990. Attainment of the 8-hour standard is projected to occur in 1985 or shortly thereafter.

(2) The national primary 1-hour oxidant standards was exceeded in 1973 and 1974. Violations are projected to decline from 1973 to 1985, then increase beginning in 1985. Standard attainment is not projected.

(3) The national secondary particulate standard was exceeded in 1973 and 1974, and violations are projected to continue. The national annual primary standard is projected to be exceeded between 1980 and 1990.

EPA's California Transportation Control Plan (TCP), promulgated on November 12, 1973, requires implementation in the San Francisco Bay Area AQCR of reasonably available control technology (RACT) such as vehicle inspection/maintenance and various transportation controls (bus/carpool lanes, parking management) and other measures in order to control carbon monoxide and oxidants from mobile sources. The TCP also mandates additional oxidant reduction through implementation of stationary source organic vapor controls.

While the State has implemented various bus and carpool lanes in the AQCR, EPA has determined that a major deficiency exists in the State-submitted carbon monoxide and oxidant control strategies due to the lack of a vehicle inspection/maintenance program. However, EPA is not requesting a revision to the State Implementation Plan at this time to require implementation of an inspection/maintenance program in the AQCR, as that program as well as other RACT measures are contained in EPA's California TCP that is presently under Supreme Court review. Implementation of certain of those EPA-mandated RACT measures will depend upon the Supreme Court's decision.

Among the measures required under the EPA's California TCP for the San Francisco Bay Area AQCR, and not under court challenge, are the stationary source organic vapor control programs designed to help meet the national ambient air quality standards for oxidants. The Bay Area Air Pollution Control District (BAAPCD) subsequently adopted or modified regulations to implement such vapor control programs (Regulation 3). Upon review of the BAAPCD's Regulation 3, EPA Region IX has noted that some deficiencies still exist. Therefore, EPA will continue to enforce organic emissions control regulations for the AQCR, specifically 40 CFR 52.254. There may be specific areas where stationary source regulations can be strengthened or expanded. This possibility is being actively explored by the State and EPA. However, it is determined that basic RACT measures are either being implemented or have been promulgated by the State and EPA. Therefore, no SIP regulatory revision for oxidants is being requested. This determination could, of course, be changed in the near future based on the results of the State and EPA studies.

EPA's review of the State's control strategy for carbon monoxide in the AQCR has identified the lack of a regulation to control stationary sources of that pollutant. We have determined that RACT measures are not being applied, and are requesting a revision to the State Implementation Plan to correct this deficiency through the adoption of a regulation or regulations that will control such

stationary carbon monoxide emission sources as petroleum refinery carbon monoxide boilers and foundry combustion sources.

EPA, in its review of the particulate control strategy for the AQCR, has determined that more stringent control of fugitive dust emissions is justified and that such control could be accomplished if source specific fugitive dust regulations were adopted. These regulations would be in addition to the nuisance regulation which is presently being enforced to control fugitive dust emissions. EPA has identified RACT measures which, when mandated by source specific regulations, would better control fugitive dust emissions from such activities as earth moving and construction. EPA is requesting a revision to the State Implementation Plan to correct the particulate control strategy through the adoption of source specific fugitive dust regulations for the AQCR.

#### DISCUSSION OF FUTURE EPA AQMP ACTIONS

Additional control techniques such as land use and transportation measures may be needed for attainment of the national standards for oxidants, sulfur oxides, and particulate matter. The State is preparing and is expected to submit:

(a) Such measures for attainment and maintenance of the standards for oxidants, sulfur oxides, and particulate matter, and

(b) A demonstration that the control strategy will attain the standards for those pollutants.

In the San Francisco Bay Area, the original AQMP Policy Task Force has combined with the citizens advisory group for the Association of Bay Area Governments' (ABAG) Area-wide Waste (water) Treatment Management Plan, being prepared under an EPA water pollution control planning grant, and the combined group is now designated as the Environmental Management Task Force. EPA endorsed this merger due to the interrelationships between water and air pollution control efforts.

The Task Force has completed a work plan for development of an Environmental Management Plan for water and air pollution control and solid waste management. A joint technical staff is being assembled at ABAG to perform the work plan tasks.

Upon EPA approval of the work plan, and final fiscal assessments, it will be possible to estimate the Management Plan completion date, now anticipated to be the summer of 1978. After the Management Plan is completed, a detailed procedure, to be developed under the work plan, will be implemented to secure the adoption of the Management Plan by all participating and affected agencies. It is this locally approved and legally enforceable Environmental Management Plan that would be submitted through the State to EPA as a revision to the State Implementation Plan. While the specific submittal date for the Implementation Plan revision cannot be



estimated at this time, a determination will be made in December, 1976, after EPA has approved the AQMP task force work plans, and after some work plan tasks have been completed and progress can be assessed by the Regional Administrator.

#### SIP REVISION REQUEST

Because of these identified inadequacies in regulations dealing with carbon monoxide and particulate matter controls, the Regional Administrator hereby requests the State to submit revisions as follows:

(1) The State shall prepare and submit by July 1, 1977, State Implementation Plan revisions containing—

(a) All stationary source control measures incorporating reasonably available control technology (RACT) to provide for the most expeditious attainment of the national ambient air quality standards for carbon monoxide.

(b) Adopted source specific fugitive dust regulations incorporating RACT and providing for reduction in ambient concentrations of particulate matter.

(c) A demonstration of the effect on air quality concentrations of such measures.

The State shall prepare the revisions for carbon monoxide and particulate matter in accordance with the requirements of 40 CFR Part 51, Subparts A and B. It should be noted that when the AQMPs are submitted as revisions to the State Implementation Plan, they must be prepared in accordance with the requirements of 40 CFR Part 51, Subparts A, B, and D.

Furthermore, the control strategy for carbon monoxide, nitrogen oxides, oxidants, sulfur oxides, and particulate matter, as contained in the State Implementation Plan, no longer reflects current air pollution control programs. For example, the oxidizing catalyst retrofit program is no longer a state program and should not be included in the control strategy. The State is to submit, by July 1, 1977, a completely updated control strategy for the above-listed pollutants. This revised control strategy must reflect current and anticipated emission controls, and the effect of such controls on future pollutant emissions and air quality. This is not to be interpreted as a call for AQMP SIP revisions, only to update current programs in the existing SIP.

The Governor shall submit, within 60 days, a letter of intent to the Regional Administrator, EPA Region IX, which identifies the various steps (along with target dates for completion) which the State will take to develop the plan revisions in accordance with the requirements set forth in this notice. The State must also identify in the letter the agencies that have been given responsibility to prepare the plan revisions. Failure by the State to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revisions will be forthcoming from the State. In this case, EPA will begin to develop for promulgation a Federal

plan to attain and maintain national standards.

All of the applicable plan remains in effect until the plan revisions are submitted by the State to EPA and are approved by EPA or until EPA promulgates additional regulations.

A technical report entitled "Environmental Protection Agency Analysis of the Air Pollution Control Strategy for the San Francisco Bay Area Intrastate Air Quality Control Region" is available for inspection at 100 California Street, San Francisco, California 94111; the EPA Contact Office, 300 North Los Angeles Street, Los Angeles, California 90012; and the EPA Freedom of Information Center, 401 M Street, SW., Washington, D.C. 20460.

This notice is not subject to rulemaking procedures. The need for this plan revision is based upon a technical finding of the Regional Administrator which shows that the control strategy for carbon monoxide and particulate matter in the San Francisco Bay Area Intrastate AQCR is substantially inadequate and needs to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State held no hearings on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended, (42 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended, (42 U.S.C. 1857c-5(c)).)

Dated: July 2, 1976.

PAUL DE FALCO, Jr.,  
Regional Administrator,  
Region IX.

[FR Doc. 76-19929 Filed 7-9-76; 8:45 am]

[FRL 567-6]

#### CALIFORNIA

#### Required Revision to Implementation Plan for San Diego Intrastate Air Quality Control Region

##### INTRODUCTION

In this notice the EPA Regional Administrator for Region IX finds that the implementation plan for the San Diego Intrastate AQCR in the State of California is substantially inadequate for the attainment and maintenance of the primary national ambient air quality standards for carbon monoxide, and particulate matter. The Regional Administrator also finds that the control strategy for oxidant remains inadequate for the attainment and maintenance of the national standard. The Regional Administrator is requesting that the State submit a revision to the plan within the next year (7/1/77) to correct certain im-

plementation plan deficiencies for carbon monoxide and particulate matter. The Regional Administrator has formally notified the Governor of this matter in a letter dated June 30, 1976.

##### BACKGROUND

On May 31, 1972, (37 FR 10842), under section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the control strategy for the attainment and maintenance of the national primary and secondary ambient air quality standards for nitrogen oxides, sulfur oxides, and particulate matter in the San Diego Intrastate AQCR. The implementation plan was originally intended to attain these national standards by 1975. The State was required to submit a revised implementation plan for the attainment and maintenance of the carbon monoxide and oxidant standards, to include land use and transportation controls, by February 15, 1973. The State subsequently did not submit an approvable plan, and EPA therefore promulgated such a plan, known as the California Transportation Control Plan (TCP), on November 12, 1973 (38 FR 31232) to attain the carbon monoxide and oxidant standards by May 31, 1977. Certain elements of the EPA's California TCP were successfully challenged in the Ninth Circuit Court of Appeals by the State and others. EPA subsequently petitioned the Supreme Court to review the case, and the Supreme Court has agreed to review the case.

On March 8, 1973 (38 FR 6279), EPA disapproved all implementation plans with respect to maintenance of the national standards. Following this action, on September 9, 1975, EPA identified the San Diego area as an air quality maintenance area (AQMA)—an area that has the potential for failing to maintain certain national air quality standards during the 1975-1985 time frame (40 FR 41942, published as 40 CFR 52.267). The designated pollutants for the San Diego AQMA include carbon monoxide, oxidants, and particulate matter.

In designating an AQMA, EPA is encouraging local governments, with assistance from the State, to develop locally acceptable plans for attainment and maintenance of the national air quality standards. Such plans are expected to be submitted as formal revisions to the State Implementation Plan.

In the State of California, the Air Resources Board has initiated aggressive efforts by local decisionmakers, the business community, environmental interest groups and the public to address the problems identified in the AQMA designations. EPA is supporting these local efforts through technical and financial assistance. Each area has formed a policy task force which performs a confirming analysis to validate the pollutants and boundaries. Based on that confirmation, the policy task force proceeds to develop a work plan for developing the Air Quality Maintenance Plan (AQMP). The policy task force also selects an agency or group of agencies which will



undertake the tasks identified in the work plan, and will develop a program for adoption and implementation of the AQMP. In San Diego, the AQMP responsibility was accepted by the Air Quality Planning Team, which is composed of representatives of local and regional agencies.

EPA has expanded the basic charge to the State and AQMP groups through a mutual recognition that maintenance planning is not a meaningful activity until standards are attained; therefore, attainment is a part of the California AQMP process. EPA endorses this expansion because the majority of the severe air pollution problems in California are significantly affected by mobile sources and industrial expansion, and may require long-term land use and transportation controls for both attainment and maintenance of standards. As discussed previously, the Ninth Circuit Court of Appeals' ruling on EPA's California TCP limits the Agency's ability to promote and enforce such measures through the State. EPA has appealed, and this decision is presently under Supreme Court review. Nevertheless, the Agency believes that implementation of necessary measures will best be achieved through the AQMP process.

The AQMP process is currently underway, but final work plans have not yet been received and approved by EPA. EPA will publish a *FEDERAL REGISTER* notice by December 31, 1976, announcing the Regional Administrator's decision regarding dates for submission of the locally developed AQMPs by the State as revisions to the State Implementation Plan.

#### DISCUSSION OF ACTION

The Regional Administrator of EPA's Region IX finds that the control strategy portion of the implementation plan for carbon monoxide and particulate matter is substantially inadequate to attain and maintain the national primary ambient air quality standards for those pollutants. He also finds that the control strategy portion of the implementation plan remains inadequate for attainment and maintenance of the oxidant standard.

The EPA analysis of the San Diego Intrastate AQCR air pollution control strategy indicates:

(1) The national primary 8-hour carbon monoxide standard was exceeded in 1973 and violations are projected to decline from 1973 to 1985. The 8-hour standard attainment is expected to occur by 1985. However, from 1985 to 1990, emissions are projected to increase, the standard is projected to be slightly exceeded, and this worsening trend is expected to continue through 1995.

(2) The national primary 1-hour oxidant standard was exceeded in 1973. Violations are projected to decline from 1973 to 1980, then increase beginning in 1980. Standard attainment is not projected.

(3) The national annual primary particulate standard was exceeded in 1973, and violations are projected to continue and increase through 1995.

EPA's California Transportation Control Plan (TCP), promulgated on November 12, 1973, requires implementation in the San Diego AQCR of reasonably available control technology (RACT) such as vehicle inspection/maintenance and various transportation controls (bus/carpool lanes, parking management) and other measures in order to control carbon monoxide and oxidants from mobile sources. The TCP also mandates additional oxidant reduction through implementation of stationary source organic vapor controls.

While the State has implemented various transportation-related RACT measures in the AQCR, EPA has determined that a major deficiency exists in the State-submitted carbon monoxide and oxidant control strategies due to the lack of a vehicle inspection/maintenance program. However, EPA is not requesting a revision to the State Implementation Plan at this time to require implementation of an inspection/maintenance program in the AQCR, as that program as well as other RACT measures are contained in EPA's California TCP that is presently under Supreme Court review. Implementation of certain of those EPA-mandated RACT measures will depend upon the Supreme Court's decision.

Among the measures required under the EPA's California TCP for the San Diego AQCR, and not under court challenge, are the stationary source organic vapor control programs designed to help meet the national ambient air quality standards for oxidants. The San Diego County Air Pollution Control District subsequently adopted or modified its regulations to implement such control programs. There may be specific areas where stationary source regulations can be strengthened or expanded. This possibility is being actively explored by the State and EPA. However, it is determined that basic RACT measures are either being implemented or have been promulgated by the State and EPA. Therefore, no SIP regulatory revision for oxidants is being requested. This determination could, of course, be changed in the near future based on the results of the State and EPA studies.

EPA's review of the State's control strategy for carbon monoxide in the AQCR has identified the lack of a regulation to control stationary sources of that pollutant. EPA has determined that RACT measures are not being applied, and is requesting a revision to the State Implementation Plan to correct this deficiency through the adoption of regulations that will control stationary sources of carbon monoxide emissions.

EPA, in its review of the particulate control strategy for the AQCR, has determined that more stringent control of fugitive dust emissions is justified and that such control could be accomplished if source specific fugitive dust regulations were adopted. EPA has identified RACT measures, which, when mandated by source specific regulations, would better control fugitive dust emissions from such activities as earth moving and con-

struction. EPA is requesting a revision to the State Implementation Plan to correct the particulate control strategy through the adoption of source specific fugitive dust regulations for the AQCR.

#### DISCUSSION OF FUTURE EPA AQMP ACTIONS

Additional control techniques such as land use and transportation measures may be needed for attainment of the national standards for carbon monoxide, oxidants, and particulate matter. The State is preparing and is expected to submit:

(a) Such measures for attainment and maintenance of the standards for carbon monoxide, oxidants, and particulate matter, and

(b) A demonstration that the control strategy will attain the standards for those pollutants.

The Air Quality Planning Team has completed the Regional Air Quality Strategy (RAQS) which includes many implementable control techniques. The RAQS is currently being considered for adoption by local government. The Air Resources Board is currently considering a process which will continue air planning in the San Diego area similar to that seen in other AQMP areas in the State. The RAQS and the future air planning efforts will be coordinated with the area-wide wastewater planning efforts being conducted by the Comprehensive Planning Organization under an EPA water pollution control planning grant.

As the process takes form over the summer of 1976, and as the work plan for planning tasks is completed, approved, and implemented, the Regional Administrator will be able to assess the prospects for submission of an enforceable control strategy capable of attaining and maintaining the national ambient air quality standards for carbon monoxide, oxidants, and particulate matter. Upon EPA approval of the work plan, and final fiscal assessments, it will be possible to estimate the AQMPs completion dates, now anticipated to be the summer of 1978. After the AQMPs are completed, detailed procedures, to be developed under the work plans, will be implemented to secure the adoption of the AQMPs by all participating and affected agencies. These locally approved and legally enforceable AQMPs will be submitted through the State to EPA as revisions to the State Implementation Plan. While the specific submittal date for the Implementation Plan revisions cannot be estimated at this time, a determination will be made in December, 1976, after EPA has approved the AQMPs task force work plans, and after some work plan tasks have been completed and progress can be assessed by the Regional Administrator.

#### SIP REVISION REQUEST

Because of these identified inadequacies in regulations dealing with carbon monoxide and particulate matter controls, the Regional Administrator hereby requests the State to submit revisions as follows:



The State shall prepare and submit by July 1, 1977, State Implementation Plan revisions containing—

(a) All stationary source control measures incorporating reasonably available control technology (RACT) to provide for the most expeditious attainment of the national ambient air quality standards for carbon monoxide.

(b) Adopted source specific fugitive dust regulations incorporating RACT and providing for reduction in ambient concentrations of particulate matter.

(c) A demonstration of the effect on air quality concentrations of such measures.

The State shall prepare the revisions for carbon monoxide and particulate matter in accordance with the requirements of 40 CFR Part 51, Subparts A and B. It should be noted that when the AQMPs are submitted as revisions to the State Implementation Plan, they must be prepared in accordance with the requirements of 40 CFR Part 51, Subparts A, B, and D.

Furthermore, the control strategy for carbon monoxide, nitrogen oxides, oxidants, sulfur oxides, and particulate matter, as contained in the State Implementation Plan, no longer reflect current pollution control programs. For example, the inspection/maintenance program has undergone significant changes and the control strategy should be so amended. The State is to submit, by July 1, 1977, a completely updated control strategy for the above-listed pollutants. This revised control strategy must reflect current emission controls, and the effect of such controls on future pollutant emissions and air quality. This is not to be interpreted as a call for an AQMP SIP revision, only to update current programs in the existing SIP.

The Governor shall submit, within 60 days, a letter of intent to the Regional Administrator, EPA, Region IX, which identifies the various steps (along with target dates for completion) which the State will take to develop the plan revisions in accordance with the requirements set forth in this notice. The State must also identify in the letter the agencies that have been given responsibility to prepare the plan revisions. Failure by the State to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revisions will be forthcoming from the State. In this case, EPA will begin to develop for promulgation a Federal plan to attain and maintain national standards.

All of the applicable plan remains in effect until the plan revisions are submitted by the State to EPA are approved by EPA or until EPA promulgates additional regulations.

A technical report entitled "Environmental Protection Agency Analysis of the Air Pollution Control Strategy for the San Diego Intrastate Air Quality Control Region" is available for inspection at 100 California Street, San Francisco, California 94111; the EPA Contact Office, 300 North Los Angeles Street, Los Angeles, California 90012; and the EPA

Freedom of Information Center, 401 M Street, SW., Washington, D.C. 20460.

This notice is not subject to rulemaking procedures. The need for Administrator which shows that the control strategy for carbon monoxide and particulate matter in the San Diego Intrastate AQCR is substantially inadequate and needs to be revised. Authority for such action is provided in sections 110 (a) (2) (H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State held no hearings on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H) of the Clean Air Act, as amended (42 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended (42 U.S.C. 1857c-5(c)).)

Dated: July 2, 1976.

PAUL DE FALCO, Jr.,  
Regional Administrator,  
Region IX.

[FR Doc.76-19930 Filed 7-9-76;8:45 am]

[FRL 577-7]

#### CALIFORNIA

#### Required Revision to Implementation Plan for San Joaquin Valley Intrastate Air Quality Control Region

##### INTRODUCTION

In this notice the EPA Regional Administrator for Region IX finds that the implementation plan for the San Joaquin Valley Intrastate AQCR in the State of California is substantially inadequate for the attainment and maintenance of the primary national ambient air quality standards for carbon monoxide and particulate matter, and remains inadequate for the attainment and maintenance of the national standard for oxidants. The Regional Administrator is requesting that the State submit a revision to the plan within the next year (7/1/77) to correct certain implementation plan deficiencies for carbon monoxide and particulate matter.

The Regional Administrator has formally notified the Governor of this matter in a letter dated June 30, 1976.

##### BACKGROUND

On May 31, 1972, (37 FR 10842), under section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the control strategy for the attainment and maintenance of the national primary and secondary ambient air quality standards for nitrogen oxides and sulfur oxides in the San Joaquin Valley Intrastate AQCR. The control strategy for the attainment and maintenance of the national standards for particulate matter was disapproved. The implementation plan was originally intended to attain these national standards by 1975. The

Administrator granted a two-year extension (until May 31, 1977) for the attainment and maintenance of the oxidant standard in the AQCR. The State was required to submit a revised implementation plan for the attainment and maintenance of the carbon monoxide and oxidant standards, to include land use and transportation controls, by February 15, 1973. The State subsequently did not submit an approvable plan, and EPA therefore promulgated such a plan, known as the California Transportation Control Plan (TCP), on November 12, 1973 (38 FR 31232) to attain the carbon monoxide and oxidant standards by May 31, 1977. Certain elements of the EPA's California TCP were successfully challenged in the Ninth Circuit Court of Appeals by the State and others. EPA subsequently petitioned the Supreme Court to review the case, and the Supreme Court has agreed to review the case.

On March 8, 1973 (38 FR 6279), EPA disapproved all implementation plans with respect to maintenance of the national standards. Following this action, on September 9, 1975, EPA identified certain counties in the San Joaquin Valley as air quality maintenance areas (AQMA's)—areas that have the potential for failing to maintain certain national air quality standards during the 1975-1985 time frame (40 FR 41942, published as 40 CFR 52.267). These four AQMA's include San Joaquin and Stanislaus Counties, Kern County, Fresno County and Tulare County. The designated pollutants for these AQMA's include particulate matter for all four AQMA's, oxidants for all but Tulare County, and carbon monoxide in Kern County.

In designating an AQMA, EPA is encouraging local governments, with assistance from the State, to develop locally acceptable plans for attainment and maintenance of the national air quality standards. Such plans are expected to be submitted as formal revisions to the State Implementation Plan.

In the State of California, the Air Resources Board has initiated aggressive efforts by local decisionmakers, the business community, environmental interest groups and the public to address the problems identified in the AQMA designations. EPA is supporting these local efforts through technical and financial assistance. Each area has formed a policy task force which performs a confirming analysis to validate the pollutants and boundaries. Based on that confirmation, the policy task force proceeds to develop a work plan for developing the Air Quality Maintenance Plan (AQMP). The policy task force also selects an agency or group of agencies which will undertake the tasks identified in the work plan, and will develop a program for adoption and implementation of the AQMP.

EPA has expanded the basic charge to the State and AQMP groups through a mutual recognition that maintenance planning is not a meaningful activity until standards are attained; therefore attainment is a part of the California AQMP process. EPA endorses this expansion.



sion because the majority of the severe air pollution problems in California are significantly affected by mobile sources and industrial expansion, and may require long-term land use and transportation controls for both attainment and maintenance of standards. As discussed previously, the Ninth Circuit Court of Appeals' ruling on EPA's California TCP limits the Agency's ability to promote and enforce such measures through the State. EPA has appealed, and this decision is presently under Supreme Court review. Nevertheless, the Agency believes that implementation of necessary measures will best be achieved through the AQMP process.

The AQMP process is currently underway, but final work plans have not yet been received and approved by EPA. EPA will publish a FEDERAL REGISTER notice by December 31, 1976, announcing the Regional Administrator's decision regarding dates for submission of the locally developed AQMPs by the State as revisions to the State Implementation Plan.

#### DISCUSSION OF ACTION

The Regional Administrator of EPA's Region IX finds that the control strategy portion of the State-submitted implementation plan for carbon monoxide, oxidants, and particulate matter remains inadequate for expeditious attainment and maintenance of the national ambient air quality standards.

The EPA analysis of the San Joaquin Valley Intrastate AQCR air pollution control strategy indicates:

1. The national primary 8-hour carbon monoxide standard was exceeded in 1973 and 1974, with violations projected to decline from 1973 to 1985. Attainment of the 8-hour standard is not projected to occur.
2. The national primary 1-hour oxidant standard was exceeded in 1973 and 1974. Violations are projected to decline from 1973 to 1980, and then to increase through 1995. Standard attainment is not projected.
3. The national particulate standards were exceeded in 1973 and 1974, and violations are projected to continue.

EPA's California Transportation Control Plan (TCP), promulgated on November 12, 1973, requires implementation in the San Joaquin Valley AQCR of reasonably available control technology (RACT) such as vehicle inspection/maintenance and various transportation controls (carpool matching, parking management) and other measures in order to control carbon monoxide and oxidants from mobile sources. The TCP also mandates additional oxidant reduction through implementation of stationary source organic vapor controls.

EPA has determined that a major deficiency exists in the State-submitted carbon monoxide and oxidant control strategies due to the lack of a vehicle inspection/maintenance program. However, EPA is not requesting a revision to the State Implementation Plan at this time to require implementation of an inspection/maintenance program in the

AQCR, as that program as well as other RACT measures are contained in EPA's California TCP that is presently under Supreme Court review. Implementation of certain of those EPA-mandated RACT measures will depend upon the Supreme Court's decision.

Among the measures required under the EPA's California TCP for the San Joaquin Valley AQCR, and not under court challenge, are the stationary source organic vapor control programs designed to help meet the national ambient air quality standards for oxidants. There may be specific areas where stationary source organic control regulations can be strengthened or expanded. This possibility is being actively explored by the State and EPA. However, it is determined that basic RACT measures are either being implemented or have been promulgated by the State and EPA. Therefore, no SIP regulatory revision for oxidants is being requested. This determination could, of course, be changed in the near future based on the results of the State and EPA studies.

EPA's review of the State's control strategy for carbon monoxide in the AQCR has identified the lack of a regulation to control stationary sources of that pollutant in the two counties in which carbon monoxide standard violations occurred in 1973 and 1974, Kern and San Joaquin. We have determined that RACT measures are not being applied, and are requesting a revision to the State Implementation Plan to correct this deficiency through the adoption of a regulation or regulations in these two counties that will control stationary sources of carbon monoxide emissions.

EPA, in its review of the particulate control strategy for the AQCR, has determined that more stringent control of fugitive dust emissions is justified and that such control could be accomplished if source specific fugitive dust regulations were adopted. These regulations would be in addition to the nuisance regulation which is presently being enforced to control fugitive dust emissions. EPA has identified RACT measures which, when mandated by source specific regulations, would better control fugitive dust emissions from such activities as earth moving and construction. EPA is requesting a revision to the State Implementation Plan to correct the particulate control strategy through the adoption of source specific fugitive dust regulations for the AQCR.

#### DISCUSSION OF FUTURE EPA AQMP ACTIONS

Additional control techniques such as land use and transportation measures may be needed for attainment and maintenance of the national standards for carbon monoxide, oxidants, and particulate matter. The State is preparing and shall submit:

1. Such measures for attainment and maintenance of the standards for carbon monoxide, oxidants, and particulate matter; and

2. A demonstration that the control strategy will attain the standards for these pollutants.

Each of the four San Joaquin AQMPs has an established Policy Task Force to develop a work plan for developing the Air Quality Maintenance Plan (AQMP), which will undertake the tasks identified in the work plan, and will develop a program for adoption and implementation of the AQMP.

The four AQMPs are expected to submit a work plan in early summer, 1976. Upon EPA approval of the work plan, and final fiscal assessments, it will be possible to estimate the AQMPs completion dates, now anticipated to be the summer of 1978. After the AQMPs are completed, detailed procedures, to be developed under the work plans, will be implemented to secure the adoption of the AQMPs by all participating and affected agencies. These locally approved and legally enforceable AQMPs will be submitted through the State to EPA as revisions to the State Implementation Plan. While the specific submittal date for the Implementation Plan revisions cannot be estimated at this time, a determination will be made in December, 1976, after EPA has approved the AQMPs task force work plans, and after some work plan tasks have been completed and progress can be assessed by the Regional Administrator.

#### SIP REVISION REQUEST

Because of these identified inadequacies in regulations dealing with carbon monoxide and particulate matter controls, the Regional Administrator hereby requests the State to submit revisions as follows:

The State shall prepare and submit by July 1, 1977, State Implementation Plan revisions containing—

- a. All stationary source control measures incorporating reasonably available control technology (RACT) to provide for the most expeditious attainment of the national ambient air quality standard for carbon monoxide in Kern and San Joaquin Counties.

- b. Adopted source specific fugitive dust regulations incorporating RACT and providing for reduction in ambient concentrations of particulate matter throughout the AQCR.

- c. A demonstration of the effect on air quality concentrations of such measures.

The State shall prepare the revisions for carbon monoxide and particulate matter in accordance with the requirements of 40 CFR Part 51, Subparts A and B. It should be noted that when the AQMPs are submitted as revisions to the State Implementation Plan, they must be prepared in accordance with the requirements of 40 CFR Part 51, Subparts A, B, and D.

Furthermore, the control strategy for carbon monoxide, nitrogen oxides, oxidants, sulfur oxides, and particulate matter, as contained in the State Implementation Plan, no longer reflects current air pollution control programs. For example, the inspection/maintenance program has undergone significant changes and the control strategy should be so



amended. The State is to submit, by July 1, 1977, a completely updated control strategy for the above-listed pollutants. This revised control strategy must reflect current emission controls, and the effect of such controls on future pollutant emissions and air quality. This is not to be interpreted as a call for an AQMP SIP revision, only to update the existing SIP to reflect current programs.

The Governor shall submit, within 60 days, a letter of intent to the Regional Administrator, EPA Region IX, which identifies the various steps (along with target dates for completion) which the State will take to develop the plan revisions in accordance with the requirements set forth in this notice. The State must also identify in the letter the agencies that have been given responsibility to prepare the plan revisions. Failure by the State to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revisions will be forthcoming from the State. In this case, EPA will begin to develop for promulgation a Federal plan to attain and maintain national standards.

All of the applicable plan remains in effect until the plan revisions are submitted by the State to EPA and are approved by EPA or until EPA promulgates additional regulations.

A technical report entitled "Environmental Protection Agency Analysis of the Air Pollution Control Strategy for the San Joaquin Valley Intrastate Air Quality Control Region" is available for inspection at 100 California Street, San Francisco, California 94111; the EPA Contact Office, 300 North Los Angeles Street, Los Angeles, California 90012; and the EPA Freedom of Information Center, 401 "M" Street, SW., Washington, D.C. 20460.

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding of the Regional Administrator which shows that the control strategy for carbon monoxide and particulate matter in the San Joaquin Valley Intrastate AQCR is substantially inadequate and needs to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State held no hearings on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended, (42 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended, (42 U.S.C. 1857c-5(c)))

Dated: July 2, 1976.

PAUL DE FALCO, Jr.,  
Regional Administrator, Region  
IX, Environmental Protection  
Agency.

[FR Doc. 76-19931 Filed 7-9-76; 8:45 am]

[FRL 577-8]

## CALIFORNIA

### Required Revision to Implementation Plan for the Sacramento Valley Intrastate Air Quality Control Region

#### INTRODUCTION

In this notice the EPA Regional Administrator for Region IX finds that the implementation plan for the Sacramento Valley Intrastate AQCR in the State of California is substantially inadequate for the attainment and maintenance of the primary national ambient air quality standards for carbon monoxide and particulate matter. The Regional Administrator also finds that the control strategy for oxidant remains inadequate for the attainment and maintenance of the national standard. The Regional Administrator is requesting that the State submit a revision to the plan within the next year (7/1/77) to correct certain implementation plan deficiencies for carbon monoxide and particulate matter. The Regional Administrator has formally notified the Governor of this matter in a letter dated June 30, 1976.

#### BACKGROUND

On May 31, 1972 (37 FR 10842), under Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the control strategy for the attainment and maintenance of the national primary and secondary ambient air quality standards for nitrogen oxides, sulfur oxides, and particulate matter in the Sacramento Valley Intrastate AQCR. The implementation plan was originally intended to attain these national standards by 1975. The Administrator granted a two-year extension (until May 31, 1977) for the attainment and maintenance of the carbon monoxide and oxidant standards in the AQCR. The State was required to submit a revised implementation plan for the attainment and maintenance of the carbon monoxide and oxidant standards, to include land use and transportation controls, by February 15, 1973. The State subsequently did not submit an approvable plan, and EPA therefore promulgated such a plan, known as the California Transportation Control Plan (TCP), on November 12, 1973 (38 FR 31232) to attain the carbon monoxide and oxidant standards by May 31, 1977. Certain elements of the EPA's California TCP were successfully challenged in the Ninth Circuit Court of Appeals by the State and others. EPA subsequently petitioned the Supreme Court to review the case, and the Supreme Court has agreed to review the case.

On March 8, 1973 (38 FR 6279), EPA disapproved all implementation plans with respect to maintenance of the national standards. Following this action, on September 9, 1975, EPA identified the Sacramento Valley area as an air quality maintenance area (AQMA)—an area that has the potential for failing to maintain certain national air quality standards during the 1975-1985 time frame (40 FR 41942, published as 40 CFR 52.267). The designated pollutants for the Sacra-

mento Valley AQMA include carbon monoxide and oxidants.

In designating an AQMA, EPA is encouraging local governments, with assistance from the State, to develop locally acceptable plans for attainment and maintenance of the national air quality standards. Such plans are expected to be submitted as formal revisions to the State Implementation Plan.

In the State of California, the Air Resources Board has initiated aggressive efforts by local decisionmakers, the business community, environmental interest groups and the public to address the problems identified in the AQMA designations. EPA is supporting these local efforts through technical and financial assistance. Each area has formed a policy task force which performs a confirming analysis to validate the pollutants and boundaries. Based on that confirmation, the policy task force proceeds to develop a work plan for developing the Air Quality Maintenance Plan (AQMP). The policy task force also selects an agency or group of agencies which will undertake the tasks identified in the work plan, and will develop a program for adoption and implementation of the AQMP.

EPA has expanded the basic charge to the State and AQMP groups through a mutual recognition that maintenance planning is not a meaningful activity until standards are attained; therefore attainment is part of the California AQMP process. EPA endorses this expansion because the majority of the severe air pollution problems in California are significantly affected by mobile sources and industrial expansion, and may require long-term land use and transportation controls for both attainment and maintenance of standards. As discussed previously, the Ninth Circuit Court of Appeals' ruling on EPA's California TCP limits the Agency's ability to promote and enforce such measures through the State. EPA has appealed, and this decision is presently under Supreme Court review. Nevertheless, the Agency believes that implementation of necessary measures will best be achieved through the AQMP process.

The AQMP process is currently underway, but final work plans have not yet been received and approved by EPA. EPA will publish a FEDERAL REGISTER notice by December 31, 1976, announcing the Regional Administrator's decision regarding dates for submission of the locally developed AQMPs by the State as revisions to the State Implementation Plan.

#### DISCUSSION OF ACTION

The Regional Administrator of EPA's Region IX finds that the control strategy portion of the State-submitted implementation plan for carbon monoxide and oxidants remains inadequate for expeditious attainment and maintenance of the national primary ambient air quality standards. He also finds that the current control strategy for particulate matter is inadequate to attain and maintain the national primary and secondary particulate standards.



The EPA analysis of the Sacramento Valley Intrastate AQCR air pollution control strategy indicates:

(1) The national primary 8-hour carbon monoxide standard was exceeded in 1973 and 1974, with violations projected to decline from 1973 to between 1980 and 1985, after which emissions are projected to increase and air quality to deteriorate. Attainment of the 8-hour standard is projected to occur in 1980, after which air quality is projected to deteriorate and violations to occur.

(2) The national primary 1-hour oxidant standard was exceeded in 1973 and 1974. Violations are projected to decline from 1973 to 1980, after which air quality is projected to deteriorate. Standard attainment is not projected.

(3) The national particulate standards were exceeded in 1973 and 1974, and violations are projected to continue.

EPA's California Transportation Control Plan (TCP), promulgated on November 12, 1973, requires implementation in the Sacramento Valley Intrastate AQCR of reasonably available control technology (RACT) such as vehicle inspection/maintenance and various transportation controls (carpool matching, parking management) and other measures in order to control carbon monoxide and oxidants from mobile sources. The TCP also mandates additional oxidant reduction through implementation of stationary source organic vapor controls.

EPA has determined that a major deficiency exists in the State-submitted carbon monoxide and oxidant control strategies due to the lack of vehicle inspection/maintenance program. However, EPA is not requesting a revision to the State Implementation Plan at this time to require implementation of an inspection/maintenance program in the AQCR, as that program as well as other RACT measures are contained in EPA's California TCP that is presently under Supreme Court review. Implementation of certain of those EPA-mandated RACT measures will depend upon the Supreme Court's decision.

Among the measures required under the EPA's California TCP for the Sacramento Valley AQCR, and not under court challenge, are the stationary source organic vapor control programs designed to help meet the national ambient air quality standards for oxidants. There may be specific areas where stationary source organic control regulations can be strengthened or expanded. This possibility is being actively explored by the State and EPA. However, it is determined that basic RACT measures are either being implemented or have been promulgated by the State and EPA. Therefore, no SIP regulatory revision for oxidants is being requested. This determination could, of course, be changed in the near future based on the results of the State and EPA studies.

EPA's review of the State's control strategy for carbon monoxide in the AQCR has identified the lack of a regulation to control stationary sources of that pollutant in the two counties in which carbon monoxide standard violations occurred in 1973 and 1974, Sacra-

mento and Butte. We have determined that RACT measures are not being applied, and are requesting a revision to the State Implementation Plan to correct this deficiency through the adoption of a regulation or regulations in these two counties that will control stationary carbon monoxide emission sources.

EPA, in its review of the particulate control strategy for the AQCR, has determined that more stringent control of fugitive dust emissions is justified and that such control could be accomplished if source specific fugitive dust regulations were adopted in the five AQCR counties in which particulate violations occur—Sacramento, Yolo, El Dorado, Sutter, and Butte. These regulations would be in addition to the nuisance regulations which are presently being enforced to control fugitive dust emissions. EPA has identified RACT measures which, when mandated by source specific regulations, would better control fugitive dust emissions from such activities as earth moving, construction, and demolition. EPA is requesting a revision to the State Implementation Plan to correct the particulate control strategy through the adoption of source specific fugitive dust regulations for the AQCR.

These same five counties in the Sacramento Valley AQCR limit visible emissions to 40 percent opacity, while RACT would require a more stringent limitation of 20 percent. Therefore, EPA is requesting a revision to the State Implementation Plan to correct this deficiency.

#### DISCUSSION OF FUTURE EPA AQMP ACTIONS

Additional control techniques such as land use and transportation measures may be needed for attainment and maintenance of the national standards for carbon monoxide and oxidants. The State is preparing and is expected to submit:

(a) Such measures for attainment and maintenance of the standards for carbon monoxide and oxidants.

(b) A demonstration that the control strategy will attain the standards for those pollutants.

In the Sacramento area, the original AQMP Policy Task Force will be combined with the counterpart group responsible for the Sacramento Regional Area Planning Commission's (SRAPC) Areawide Waste(water) Treatment Management Plan, which will be prepared under an EPA water pollution control planning grant, and the combined group is to be designated as the Environmental Management Policy Committee (EMPC). EPA endorses this merger due to the interrelationships between water and air pollution control efforts.

A locally approved and legally enforceable environmental management plan will be developed by the EMPC and submitted through the State to EPA as a revision to the State Implementation Plan. While the specific submittal date for the Implementation Plan revision cannot be estimated at this time, a determination will be made in December,

1976, after EPA has approved the AQMP task force work plans, and after some work plan tasks have been completed and progress can be assessed by the Regional Administrator.

#### SIP REVISION REQUEST

Because of these identified inadequacies in regulations dealing with carbon monoxide and particulate matter controls, the Regional Administrator hereby requests the State to submit revisions as follows:

The State shall prepare and submit by July 1, 1977, State Implementation Plan revisions containing—

(a) All stationary source control measures incorporating reasonably available control technology (RACT) to provide for the most expeditious attainment of the national ambient air quality standards for carbon monoxide in Sacramento and Butte Counties.

(b) Adopted source specific fugitive dust regulations incorporating RACT and providing for reduction in ambient concentrations of particulate matter in Sacramento, Yolo, El Dorado, Sutter, Butte Counties.

(c) A demonstration of the effect on air quality concentrations of such measures.

The State shall prepare the revisions for carbon monoxide and particulate matter in accordance with the requirements of 40 CFR Part 51, Subparts A and B. It should be noted that when the AQMPs are submitted as revisions to the State Implementation Plan, they must be prepared in accordance with the requirements of 40 CFR Part 51, Subparts A, B, and D.

Furthermore, the control strategy for carbon monoxide, nitrogen oxides, oxidants, sulfur oxides, and particulate matter, as contained in the State Implementation Plan, no longer reflect current air pollution control programs. For example, the inspection/maintenance program has undergone significant changes and the control strategy should be so amended. The State is to submit, by July 1, 1977, a completely updated control strategy for the above-listed pollutants. This revised control strategy must reflect current emission controls, and the effect of such controls on future pollutant emissions and air quality. This is not to be interpreted as a request to revise the SIP for AQMP activity, only to update the SIP to reflect current programs.

The Governor shall submit, within 60 days, a letter of intent to the Regional Administrator, EPA Region IX, which identifies the various steps (along with target dates for completion) which the State will take to develop the plan revisions in accordance with the requirements set forth in this notice. The State must also identify in the letter the agencies that have been given responsibility to prepare the plan revisions. Failure by the State to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revisions will be forthcoming from the State. In this case, EPA will begin



to develop for promulgation a Federal plan to attain and maintain national standards.

All of the applicable plan remains in effect until the plan revisions are submitted by the State to EPA and are approved or until EPA promulgates additional regulations.

A technical report entitled "Environmental Protection Agency Analysis of the Air Pollution Control Strategy for the Sacramento Valley Intrastate Air Quality Control Region" is available for inspection at 100 California Street, San Francisco, California 94111; the EPA Contact Office, 300 North Los Angeles Street, Los Angeles, California 90012; and the EPA Freedom of Information Center, 401 M Street, SW., Washington, DC 20460.

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding of the Regional Administrator which shows that the control strategy for carbon monoxide and particulate matter in the Sacramento Valley Intrastate AQCR is substantially inadequate and needs to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State held no hearings on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended, (42 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended, (42 U.S.C. 1857c-5(c))

Dated: July 2, 1976.

PAUL DE FALCO, JR.,  
Regional Administrator,  
Region IX.

[FR Doc. 76-19932 Filed 7-9-76; 8:45 am]

[FRL 578-2]

## CALIFORNIA

### Approval of State Implementation Plans; Required Revisions

#### INTRODUCTION

In this notice the EPA Region Administrator for Region IX finds that the implementation plan for the Southeast Desert Intrastate AQCR in the State of California is substantially inadequate for the attainment and maintenance of the primary and secondary national ambient air quality standards for particulate matter. The Regional Administrator also finds that the control strategy for the attainment and maintenance of the oxidant standard remains inadequate. The Regional Administrator is requesting that the State submit a revision to the plan within the next year (7/1/77) to correct certain implementation plan deficiencies for particulate

matter. The Regional Administrator has formally notified the Governor of this matter in a letter dated June 30, 1976.

#### BACKGROUND

On May 31, 1972, (37 FR 10842), under Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the control strategy for the attainment and maintenance of the national primary and secondary ambient air quality standards for nitrogen oxides, sulfur oxides, and carbon monoxide in the Southeast Desert Intrastate AQCR. The implementation plan was originally designed to attain these national standards by 1975. The Administrator granted a two-year extension (until May 31, 1977) for the attainment and maintenance of the oxidant standard in the AQCR.

On March 8, 1973 (38 FR 6279), EPA disapproved all implementation plans with respect to maintenance of the national standards. Following this action, on September 9, 1975, EPA identified the Southeast Desert area as an air quality maintenance area (AQMA)—an area that has the potential for failing to maintain certain national air quality standards during the 1975-1985 time frame (40 FR 41942, published as 40 CFR 52.267). The designated pollutant for the Southeast Desert AQMA is oxidants.

In designating an AQMA, EPA is encouraging local governments, with assistance from the State, to develop locally acceptable plans for attainment and maintenance of the national air quality standards. Such plans are expected to be submitted as formal revisions to the State Implementation Plan.

In the State of California, the Air Resources Board has initiated aggressive efforts by local decision makers, the business community, environmental interest groups and the public to address the problems identified in the AQMA designations. EPA is supporting these local efforts through technical and financial assistance. Each area has formed a policy task force which performs a confirming analysis to validate the pollutants and boundaries. Based on that confirmation, the policy task force proceeds to develop a work plan for developing the Air Quality Maintenance Plan (AQMP). The policy task force also selects an agency or group of agencies which will undertake the tasks identified in the work plan, and will develop a program for adoption and implementation of the AQMP.

EPA has expanded the basic charge to the State and AQMP groups through a mutual recognition that maintenance planning is not a meaningful activity until standards are attained; therefore attainment is a part of the California AQMP process. EPA endorses this expansion because the majority of the severe air pollution problems in California are significantly affected by mobile sources and industrial expansion, and may require long-term land use and transportation controls for both attainment and maintenance of standards. The Ninth Circuit Court of Appeals' ruling on EPA's

California Transportation Control Plan (TCP) limits the Agency's ability to promote and enforce such measures through the State. EPA has appealed, and this decision is presently under Supreme Court review. Nevertheless, the Agency believes that implementation of necessary measures will best be achieved through the AQMP process.

The AQMP process is currently underway, but final work plans have not yet been received and approved by EPA. EPA will publish a FEDERAL REGISTER notice by December 31, 1976, announcing the Regional Administrator's decision regarding dates for submission of the locally developed AQMPs by the State as revisions to the State Implementation Plan.

#### DISCUSSION OF ACTION

The Regional Administrator of EPA's Region IX finds that the control strategy portion of the State-submitted implementation plan for particulate matter is substantially inadequate for expeditious attainment and maintenance of the national primary ambient air quality standards. He also finds that the current control strategy for oxidants is inadequate to attain and maintain the national oxidant standard.

The EPA analysis of the Southeast Desert Intrastate AQCR air pollution control strategy indicates:

(1) The national primary 1-hour oxidant standard was exceeded in 1973 and 1974. Violations are projected to continue.

(2) The national particulate standards were exceeded in 1973 and 1974, and violations are projected to continue.

EPA concluded in the preamble to its November 12, 1973 California TCP promulgation that significant data support the hypothesis that air pollution from the Metropolitan Los Angeles Intrastate AQCR is transported to and contributes substantially to high oxidant levels in the desert areas east of Los Angeles. EPA continues to believe this to be the case.

EPA further concluded in its November 12, 1973 preamble that because of the dependence of oxidant air quality in the Southeast Desert Region upon emissions and transport from the Los Angeles region, and because of the very small impact that emissions in the Southeast Desert region have upon oxidant air quality there that no additional oxidant control measures should be called for in this AQCR.

EPA, in its review of the particulate control strategy for the AQCR, has determined that more stringent control of fugitive dust emissions is justified and that such control could be accomplished if source specific fugitive dust regulations were adopted in Kern and Imperial Counties. These would be in addition to the present nuisance regulations which can be enforced to control certain fugitive dust emissions. EPA has identified RACT measures which, when mandated by source specific regulations, would better control fugitive dust emissions from such activities as earth moving and construction. EPA is requesting a revision to



the State Implementation Plan to correct the particulate control strategy through the adoption of such source specific fugitive dust regulations for Kern and Imperial Counties.

#### DISCUSSION OF FUTURE EPA AQMP ACTIONS

Additional control techniques such as land use and transportation measures may be needed for attainment and/or maintenance of the national standard for oxidants. The State is preparing and is expected to submit:

(a) Such measures for attainment and maintenance of the standard for oxidants, and

(b) A demonstration that the control strategy will attain the standard for oxidants.

In the Metropolitan Los Angeles AQMA, a Policy Task Force has been formed which has accepted responsibility for the Southeast Desert AQMA as well. The Southeast Desert AQMA includes the southeast desert portions of Los Angeles, Riverside, and San Bernardino Counties. The Policy Task Force has completed its validation phase and has selected the Southeast California Association of Governments (SCAG) to develop the work plan. The work plan is currently in preparation and is expected to be submitted for approval by October 1976. This plan is being coordinated with work plan development for the areawide wastewater planning also being conducted by SCAG under an EPA water pollution control planning grant.

Upon EPA approval of the work plan, and final fiscal assessments, it will be possible to estimate the AQMPs completion dates, now anticipated to be the summer of 1978. After the AQMPs are completed, detailed procedures, to be developed under the work plans, will be implemented to secure the adoption of the AQMPs by all participating and affected agencies. These locally approved and legally enforceable AQMPs will be submitted through the State to EPA as revisions to the State Implementation Plan. While the specific submittal date for the Implementation Plan revisions cannot be estimated at this time, a determination will be made in December, 1976, after EPA has approved the AQMPs task force work plans, and after some work plan tasks have been completed and progress can be assessed by the Regional Administrator.

#### SIP REVISION REQUEST

Because of these identified inadequacies in regulations dealing with particulate matter controls, the Regional Administrator hereby requests the State to submit revisions as follows:

The State shall prepare and submit by July 1, 1977, State Implementation Plan revisions containing—

(a) Adopted source specific fugitive dust regulations incorporating reasonably available control technology (RACT) and providing for reduction in ambient concentrations of particulate matter for Imperial and Kern Counties.

(b) A demonstration of the effect on

air quality concentrations of such measures.

The State shall prepare the revisions for particulate matter in accordance with the requirements of 40 CFR Part 51, Subpart A and B. It should be noted that when the AQMPs are submitted as revisions to the State Implementation Plan, they must be prepared in accordance with the requirements of 40 CFR Part 51, Subparts A, B, and D.

Furthermore, the control strategy for carbon monoxide, nitrogen oxides, oxidants, sulfur oxides, and particulate matter, as contained in the State Implementation Plan, no longer reflects current air pollution control programs. For example, the inspection/maintenance program has undergone significant changes and the control strategy should be so amended. The State is to submit, by July 1, 1977, a completely updated control strategy for the above-listed pollutants. This revised control strategy must reflect current emission controls, and the effect of such controls on future pollutant emissions and air quality. This request to update the State Implementation Plan is not to be construed to require the inclusion of the AQMP strategies, but rather to delete outdated elements of the original SIP and reflect current programs.

The Governor shall submit, within 60 days, a letter of intent to the Regional Administrator, EPA Region IX, which identifies the various steps (along with target dates for completion) which the State will take to develop the plan revisions in accordance with the requirements set forth in this notice. The State must also identify in the letter the agencies that been given responsibility to prepare the plan revisions. Failure by the State to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revisions will be forthcoming from the State. In this case, EPA will begin to develop for promulgation a Federal plan to attain and maintain national standards.

All of the applicable plan remains in effect until the plan revisions are submitted by the State to EPA and are approved by EPA or until EPA promulgates additional regulations.

A technical report entitled "Environmental Protection Agency Analysis of the Air Pollution Control Strategy for the Southeast Desert Intrastate Air Quality Control Region" is available for inspection at 100 California Street, San Francisco, California 94111; the EPA Contact Office, 300 North Los Angeles Street, Los Angeles, California 90012; and the EPA Freedom of Information Center, 401 M Street, SW., Washington, D.C. 20460.

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding of the Regional Administrator which shows that the control strategy for particulate matter in the Southeast Desert Intrastate AQCR is substantially inadequate and needs to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean

Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State held no hearings on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended (40 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended (42 U.S.C. 1857c-5(c))

Dated: July 2, 1976.

PAUL DE FALCO, Jr.  
Regional Administrator,  
Region IX.

[FR Doc.76-19934 Filed 7-9-76; 8:45 am]

[FRL 578-1]

#### CALIFORNIA

#### Approval of State Implementation Plans; Required Revisions

##### INTRODUCTION

In this notice the EPA Regional Administrator for Region IX finds that the implementation plan for the Metropolitan Los Angeles Intrastate AQCR in the State of California is substantially inadequate for the attainment and maintenance of the primary national ambient air quality standards for nitrogen oxides and particulate matter. The Regional Administrator also finds that the control strategy for carbon monoxide and oxidants remains inadequate for the attainment and maintenance of the national standards, and that the control strategy for sulfur oxides is inadequate for maintenance of the national ambient air standard for that pollutant. In this notice, the Regional Administrator is requesting that the State submit a revision to the plan within the next year (7/1/77) to correct certain implementation plan deficiencies for nitrogen oxides and particulate matter. The Regional Administrator has formally notified the Governor of this matter in a letter dated June 30, 1976.

##### BACKGROUND

On May 31, 1972, (37 FR 10842), under section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the control strategy for the attainment and maintenance of the national primary and secondary ambient air quality standards for sulfur oxides in the Metropolitan Los Angeles Intrastate AQCR. The control strategy for the attainment and maintenance of the national standards for nitrogen oxides and particulate matter was disapproved. The implementation plan was originally intended to attain these national standards by 1975. The Administrator granted an 18-month extension (until November 30, 1976) for the attainment and maintenance of the secondary particulate standards, and a two-year extension (until May 31, 1977) for the attainment and maintenance of



the oxidant standard, in the AQCR. The State was required to submit a revised implementation plan for the attainment and maintenance of the carbon monoxide and oxidant standards, to include land use and transportation controls, by February 15, 1973. The State subsequently did not submit an approvable plan, and EPA therefore promulgated such a plan, known as the California Transportation Control Plan (TCP), on November 12, 1973 (38 FR 31232) to attain the carbon monoxide and oxidant standards by May 31, 1977. Certain elements of the EPA's California TCP were successfully challenged in the Ninth Circuit Court of Appeals by the State and others. EPA subsequently petitioned the Supreme Court to review the case, and the Supreme Court has agreed to review the case.

On March 8, 1973 (38 FR 6279), EPA disapproved all implementation plans with respect to maintenance of the national standards. Following this action, on September 9, 1975, EPA identified the Los Angeles area as an air quality maintenance area (AQMA)—an area that has the potential for failing to maintain certain national air quality standards during the 1975-1985 time frame (40 FR 41942, published as 40 CFR 52.267). The designated pollutants for the Metropolitan Los Angeles AQMA include carbon monoxide, nitrogen oxides, oxidants, sulfur oxides, and particulate matter.

In designating an AQMA, EPA is encouraging local governments, with assistance from the State, to develop locally acceptable plans for attainment and maintenance of the national air quality standards. Such plans are expected to be submitted as formal revisions to the State Implementation Plan.

In the State of California, the Air Resources Board has initiated aggressive efforts by local decisionmakers, the business community, environmental interest groups and the public to address the problems identified in the AQMA designations. EPA is supporting these local efforts through technical and financial assistance. Each area has formed a policy task force which performs a confirming analysis to validate the pollutants and boundaries. Based on that confirmation, the policy task force proceeds to develop a work plan for developing the Air Quality Maintenance Plan (AQMP). The policy task force also selects an agency or group of agencies which will undertake the tasks identified in the work plan, and will develop a program for adoption and implementation of the AQMP.

EPA has expanded the basic charge to the State and AQMP groups through a mutual recognition that maintenance planning is not a meaningful activity until standards are attained; therefore attainment is a part of the California AQMP process. EPA endorses this expansion because the majority of the severe air pollution problems in California are significantly affected by mobile sources and industrial expansion and may require long-term land use and transportation control for both attainment and maintenance of standards. As discussed previously, the Ninth Circuit Court of

Appeals' ruling on EPA's California TCP limits the Agency's ability to promote and enforce such measures through the State. EPA has appealed, and this decision is presently under Supreme Court review. Nevertheless, the Agency believes that implementation of necessary measures will best be achieved through the AQMP process.

The AQMP process is currently underway, but final work plans have not yet been received and approved by EPA. EPA will publish a FEDERAL REGISTER notice by December 31, 1976, announcing the Regional Administrator's decision regarding dates for submission of the locally developed AQMPs by the State as revisions to the State Implementation Plan.

#### DISCUSSION OF ACTION

The Regional Administrator of EPA's Region IX finds that the control strategy portion of the State-submitted implementation plan for nitrogen oxides and particulate matter remains substantially inadequate to attain and maintain the national primary ambient air quality standards for those pollutants. He also finds that the control strategy portion of the implementation plan is inadequate for attainment and maintenance of the carbon monoxide and oxidant standards and for the maintenance of the sulfur oxides standards.

The EPA analysis of the Metropolitan Los Angeles Intrastate AQCR air pollution control strategy indicates:

1. The national primary 1-hour and 8-hour carbon monoxide standards were exceeded in 1973 and 1974, and violations are projected to decline from 1973 to 1985, followed by a slight increase through 1995. Standard attainment is not projected.
2. The national primary nitrogen oxide standard was exceeded in 1973 and 1974. Violations are projected to decline from 1973 to between 1985 and 1990, and then increase. The standard is projected to be slightly exceeded between 1980 and 1985, with standard attainment projected between 1985 and 1995.
3. The national primary 1-hour oxidant standard was exceeded in 1973 and 1974. Violations are projected to decline from 1973 to between 1980 and 1985, then increase. Standard attainment is not projected.
4. The national primary annual sulfur oxides standard was not violated in 1973 or 1974. However, sulfur oxides emissions, and therefore sulfur oxides concentrations, are projected to increase between 1973 and 1980. Standard violations are projected between 1980 and 1985, followed by standard attainment by 1990.
5. The national primary particulate standards were exceeded in 1973 and 1974, and violations are projected to continue through 1983. Standard attainment is not projected.

EPA's California Transportation Control Plan (TCP), promulgated on November 12, 1973, requires implementation in the Metropolitan Los Angeles AQCR of reasonably available control technology (RACT) such as vehicle inspection/

maintenance and various transportation controls (bus/carpool lanes, parking management) and other measures in order to control carbon monoxide and oxidants from mobile sources. The TCP also mandates additional oxidant reduction through implementation of stationary source organic vapor controls.

While the State has implemented various bus and carpool lanes in the AQCR, EPA has determined that a major deficiency exists in the State-submitted carbon monoxide and oxidant control strategies due to the lack of a comprehensive vehicle inspection/maintenance program. However, EPA is not requesting a revision to the State Implementation Plan at this time to require implementation of an inspection/maintenance program in the AQCR, as that program as well as other RACT measures are contained in EPA's California TCP that is presently under Supreme Court review. Implementation of certain of those EPA-mandated RACT measures will depend upon the Supreme Court's decision.

Among the measures required under the EPA's California TCP for the Metropolitan Los Angeles AQCR, and not under court challenge, are the stationary source organic vapor control programs designed to help meet the national ambient air quality standards for oxidants. The Los Angeles AQCR Air Pollution Control Districts (APCDs) subsequently adopted or modified their regulations to implement such vapor control programs. There may be specific areas where stationary source regulations can be strengthened or expanded. This possibility is being actively explored by the State and EPA. However, it is determined that basic RACT measures are either being implemented or have been promulgated by the State and EPA. Therefore, no SIP regulatory revision for oxidants is being requested. This determination could, of course, be changed in the near future based on the results of the State and EPA studies.

EPA's review of the State's control strategy for carbon monoxide in the AQCR has shown that RACT is being employed, and no additional measures are being called for at this time.

EPA, in its review of the nitrogen oxides control strategy in the AQCR, has determined that while RACT measures are generally being employed for the control of nitrogen oxides emissions, recent research sponsored by the Air Resources Board indicates that additional emission controls are possible. Such controls will provide for more expeditious attainment of the nitrogen oxides standard. The EPA is therefore requesting the State to submit a control strategy revision and necessary regulatory revisions for nitrogen oxides ambient concentration reductions.

Regarding EPA's review of the sulfur oxides control strategy, we have determined that the local APCDs are employing RACT measures to control sulfur oxides emissions. Because of this determination, and since the sulfur oxides standards are not presently being violated, EPA is not requesting a State



Implementation Plan revision for sulfur oxides emissions control at this time. However, sulfur oxides standards may be violated in the near future, primarily as the result of fuel switching, from natural gas, which contains virtually no sulfur, to fuel oils which contain up to 0.5 percent sulfur by weight. Therefore, the issue of maintaining the sulfur oxides standards is to be dealt with through the AQMP process.

With regard to the particulate control strategy in the AQCR, EPA's review has determined that the local APCDs presently control fugitive dust emissions through the provisions of a nuisance regulation. All but two counties (Santa Barbara and Ventura) in the AQCR have adopted source specific fugitive dust regulations for the control of non-agricultural fugitive dust emissions, which EPA has determined as implementation of RACT measures.

Also, EPA has determined that RACT measures are not being employed to control particulate emissions from coke oven pushing operations. This type of particulate source category occurs in San Bernardino County. EPA is therefore requesting a revision to the State Implementation Plan particulate control strategy and necessary regulatory changes for the control of particulate emissions from coke oven pushing operations.

In addition, EPA is requesting a particulate control strategy SIP revision for the adoption of source specific fugitive dust regulations in Ventura County. The particulate standards are not being violated in Santa Barbara County. Therefore EPA has concluded that such source specific fugitive dust regulations are not needed at this time in that county.

#### DISCUSSION OF FUTURE EPA AQMP ACTIONS

Additional control techniques such as land use and transportation measures may be needed for attainment of the national standards for carbon monoxide, nitrogen oxides, oxidants, sulfur oxides, and particulate matter. The State is preparing and shall submit:

1. Such measures for attainment and maintenance of the standards for carbon monoxide, nitrogen oxides, oxidants, sulfur oxides and particulate matter; and
2. A demonstration that the control strategy will attain the standards for those pollutants.

In the Metropolitan Los Angeles AQMA, a Policy Task Force has been formed which has accepted responsibility for the Southeast Desert AQMA as well. The Policy Task Force has completed its validation phase and has selected the Southern California Association of Governments (SCAG) to develop the work plan. The work plan is currently in preparation and is expected to be submitted for approval by October 1976. This plan is being coordinated with work plan development for the areawide wastewater planning also being conducted by SCAG under an EPA water pollution control planning grant.

Upon EPA approval of the work plan, and final fiscal assessments, it will be possible to estimate the Management Plan completion date, now anticipated to be the summer of 1978. After the Management Plan is completed, a detailed procedure, to be developed under the work plan, will be implemented to secure the adoption of the Management Plan by all participating and affected agencies. It is this locally approved and legally enforceable Environmental Management Plan that would be submitted through the State to EPA as a revision to the State Implementation Plan. While the specific submittal date for the Implementation Plan revision cannot be estimated at this time, a determination will be made in December, 1976, after EPA has approved the AQMP task force work plans, and after some work plan tasks have been completed and progress can be assessed by the Regional Administrator.

#### SIP REVISION REQUEST

Because of these identified inadequacies in regulations dealing with nitrogen oxides and particulate matter controls, the Regional Administrator hereby requests the State to submit revisions as follows:

The State shall prepare and submit by July 1, 1977, State Implementation Plan revisions containing—

- a. All currently achievable emission limitations (i.e. RACT) that are needed to provide for the attainment and maintenance of the national primary standards for nitrogen oxides and particulate matter.

- b. A demonstration of the effect on air quality concentrations of such measures.

The State shall prepare the revisions for nitrogen oxides and particulate matter in accordance with the requirements of 40 CFR Part 51, Subparts A and B. It should be noted that when the AQMPs are submitted as revisions to the State Implementation Plan, they must be prepared in accordance with the requirements of 40 CFR Part 51, Subparts A, B, and D.

Furthermore, the control strategy for carbon monoxide, nitrogen oxides, oxidants, sulfur oxides, and particulate matter, as contained in the State Implementation Plan, no longer reflects current air pollution control programs. For example, the oxidizing catalyst retrofit program is no longer a State program and should not be included in the control strategy. The State is to submit, by July 1, 1977, a completely updated control strategy for the above-listed pollutants. This revised control strategy must reflect current emission controls, and the effect of such controls on future pollutant emissions and air quality. This is not to be interpreted as a call for an SIP AQMP revision, only to update current programs in the existing SIP.

The Governor shall submit, within 60 days, a letter of intent to the Regional Administrator, EPA Region IX, which identifies the various steps (along with target dates for completion) which the State will take to develop the plan revisions in accordance with the require-

ments set forth in this notice. The State must also identify in the letter the agencies that have been given responsibility to prepare the plan revisions. Failure by the State to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revisions will be forthcoming from the State. In this case, EPA will begin to develop for promulgation a Federal plan to attain and maintain national standards.

All of the applicable plan remains in effect until the plan revisions are submitted by the State to EPA and are approved by EPA or until EPA promulgates additional regulations.

A technical report entitled "Environmental Protection Agency Analysis of the Air Pollution Control Strategy for the Metropolitan Los Angeles Intra-state Air Quality Control Region" is available for inspection at 100 California Street, San Francisco, California 94111, the EPA Contact Office, 300 North Los Angeles Street, Los Angeles, California 90012, and the EPA Freedom of Information Center, 401 "M" Street, SW., Washington D.C. 20460.

This notice is not subject to rulemaking procedures. The need for this plan revision is based upon a technical finding of the Regional Administrator which shows that the control strategy for nitrogen oxides and particulate matter in the Metropolitan Los Angeles Intra-state AQCR is substantially inadequate and needs to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State held no hearings on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended, (42 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended, (42 U.S.C. 1857c-5(c)).

Dated: July 2, 1976.

PAUL DE FALCO, Jr.  
Regional Administrator,  
Region IX.

[FR Doc.76-19933 Filed 7-9-76; 8:45 am]

[FRL 579-4; OPP-50204]

#### FMC CORP.

##### Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to FMC Corporation, Middleport, New York, 14105. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL



REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 279-EUP-60) allows the use of 972.8 pounds of the insecticide 3-phenoxybenzyl ( $\pm$ ) cistrans-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate on cotton to evaluate control of various insects. A total of 882 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas. The experimental use permit is effective from June 3, 1976, to June 3, 1977. This permit is being issued with the limitation that all treated cottonseed will be used for seed purposes or will be destroyed.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: June 1, 1976.

JOHN B. RITCH, Jr.,  
Director,  
Registration Division.

[FR Doc.76-19942 Filed 7-9-76; 8:45 am]

[FRL 578-3]

#### HAWAII

#### Approval of State Implementation Plans; Required Revisions

##### INTRODUCTION

In this notice the EPA Regional Administrator for Region IX has noted violations of certain national ambient air quality standards in the Hawaii Air Quality Control Region (AQCR). The standards violated are for particulate matter and sulfur oxides. The Regional Administrator has notified the Governor in a letter dated May 14, 1975, of the need to revise the State Implementation Plan (SIP) to provide for attaining and maintaining the standards for sulfur oxides.

##### BACKGROUND

On May 31, 1972 (37 FR 10861), under Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the Hawaii SIP for attainment of all national standards. However, sulfur dioxide data collected since the approval of that plan indicates a sulfur oxides problem much worse than realized during plan development. In response to the identification of this more serious problem, the State prepared a proposed control strategy to bring the State into compliance with the national standard for sulfur oxides. At the public hearings on the proposed amendments to the SIP, held on September 26, 1975, in Honolulu

and on October 2, 1975, in Kahului, many questions were raised concerning the adequacy of the data base used in developing the control strategy.

As a result of the testimony presented at the public hearings, EPA is funding an ambient sulfur dioxide monitoring program in the State. This date, along with additional studies which have been performed on the technical and economic impacts of sulfur dioxide emissions limitations on steam boilers in the State, should provide all the data necessary to reevaluate the proposed control strategy.

In order to allow time for completion of the ambient data collection and subsequent reevaluation of the proposed control strategy, the Regional Administrator has established February 28, 1978, as the deadline for submitting the revised control strategy. The Governor was notified of this requirement by letter dated March 9, 1976.

In regard to the violations of the national particulate standard in the State, EPA is presently funding a contract to provide a complete particulate emissions inventory for the State, which should provide additional insight into the problem and the basis for deriving a solution. The problem as it now exists is not severe, and appears to be diminishing with time. Ambient particulate data collected over the past few years indicates a trend toward improvement. No action will be taken by EPA in requesting a revision of the control strategy for particulate in Hawaii until the present study is complete and the problem better defined.

##### DISCUSSION OF ACTION

The Regional Administrator of EPA Region IX finds that the control strategy portion of the State submitted implementation plan for sulfur oxides in the Hawaii Air Quality Control Region is inadequate for attaining and maintaining the national standards. He is therefore formally requiring by this notice that the State submit to EPA a revised control strategy for sulfur oxides, developed and submitted in accordance with 40 CFR Part 51, by February 28, 1978. Authority for such action is provided in Sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State held no hearings on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended (42 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended (42 U.S.C. 1857c-5(c)))

Dated: July 2, 1976.

PAUL DEFALCO, Jr.,  
Regional Administrator,  
Region IX.

[FR Doc.76-19935 Filed 7-9-76; 8:45 am]

[FRL 579-3; OPP-50206]

#### MONSANTO CO.

##### Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Monsanto Company, St. Louis, Missouri 63166. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 524-EUP-23) allows the use of 2,865 pounds of the herbicide isopropylamine salt of glyphosate on barley, buckwheat, oats, rice, rye, and sorghum (milo) to evaluate control of annual and perennial grasses and broadleaf weeds. A total of 1,910 acres is involved; the programs is authorized only in the States of Arizona, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, Wisconsin, and Wyoming. The experimental use permit is effective from June 4, 1976, to June 4, 1977. Permanent tolerances for residues of the active ingredient in or on grain crops has been established (40 CFR 180.364).

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: July 1, 1976.

JOHN B. RITCH, Jr.,  
Director,  
Registration Division.

[FR Doc.76-19943 Filed 7-9-76; 8:45 am]

[FRL 579-5; OPP-42014A]

#### MONTANA

##### Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan for its certification programs. Any State certification program under this section shall be maintained



## NOTICES

[FRL 578-6]

## NEVADA

Approval of State Implementation Plan;  
Required Revisions

## INTRODUCTION

In this notice the EPA Regional Administrator for Region IX finds that the national ambient air quality standards for sulfur oxide and particulate matter currently are violated in Nevada Intrastate Air Quality Control Region (AQCR). Even though these standards are violated, the Regional Administrator has determined that no revisions to the State Implementation Plan are required at this time, since the State Implementation Plan contains control measures considered reasonably available control technology. He has formally notified the Governor of this fact in a letter dated June 30, 1976.

## BACKGROUND

On May 31, 1972 (37 FR 10878), under section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved with specific exceptions the control strategy for the attainment and maintenance of the National primary and secondary ambient air quality standards for nitrogen dioxide, sulfur oxides, particulate matter, oxidants and carbon monoxide in the Nevada Intrastate AQCR. The implementation plan was designed to attain these national standards by 1975. Specifically, the Administrator disapproved Nevada's plan for the attainment and maintenance of the secondary standard for sulfur oxide in the Intrastate AQCR.

On July 27, 1972 (37 FR 15086) the Administrator extended for eighteen months the statutory timetable for submittal of the plan for attaining and maintaining the secondary standard for sulfur oxide. This extension permitted the establishment of a monitoring network near the smelter located in McGill, Nevada to collect data on short term ambient levels of sulfur oxides. The data collected provided a basis for determining control requirements.

On June 4, 1974, the Governor of Nevada submitted to the Administrator amendments to the State Implementation Plan (SIP) for control of sulfur oxide emissions. The Administrator acknowledged receipt in the October 22, 1974 FEDERAL REGISTER (39 FR 37506) of the SIP amendments and stated that a preliminary review indicated the amendments could not be approved.

On October 29, 1974, (39 FR 38104) the Administrator proposed regulations to replace the Nevada regulations for the control of sulfur oxide emissions at the McGill smelter. Final regulations were promulgated by EPA on February 6, 1975 (40 FR 5511). The smelter is in violation of these regulations. EPA Region IX is currently taking enforcement action in this matter.

## FINDINGS

The Regional Administrator of Region IX finds that the control strategy portion of the State Implementation

Plan for particulate matter in the Nevada Intrastate contains regulations requiring application of reasonably available control technology (RACT). Therefore, EPA is not requesting the State to revise its implementation plan for particulate.

EPA's review of the ambient air quality data for the Nevada Intrastate indicates that the national sulfur oxide standard is violated in the vicinity of the copper smelter in McGill, Nevada. The Administrator has promulgated regulations for control of sulfur oxide at the smelter. No revision to the implementation plan is requested.

Dated: July 2, 1976.

PAUL DE FALCO, JR.,  
Regional Administrator,  
Region IX.

[FR Doc.76-19938 Filed 7-9-76;8:45 am]

[FRL 578-5]

## NEVADA

Approval of State Implementation Plans;  
Required Revisions

## INTRODUCTION

In this notice the EPA Regional Administrator for Region IX finds that the implementation plan for the Washoe County portion of the Northwest Nevada Air Quality Control Region in the State of Nevada is substantially inadequate for the attainment and maintenance of the primary national ambient air quality standard for carbon monoxide. He is requesting that the State submit a revision to the plan within the next year (7/1/77) to correct certain implementation plan deficiencies. The Regional Administrator has formally notified the Governor of this fact in a letter dated June 30, 1976.

## BACKGROUND

On May 31, 1972, (37 FR 10878) under section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the control strategy for the attainment and maintenance of the national primary and secondary ambient air quality standards for nitrogen dioxide, sulfur oxides, particulate matter, oxidants and carbon monoxide in the Nevada Northwest AQCR. The implementation plan was designed to attain these national standards by 1975.

On March 8, 1973 (38 FR 6279), EPA disapproved the Nevada implementation plan with respect to maintenance of the national standards. Following this action, on September 9, 1975, EPA identified the Reno-Sparks Metropolitan Area as an air quality maintenance area (AQMA)—an area that has the potential for failing to maintain certain national air quality standards during the 1975-1985 time frame (40 FR 41942, published as 40 CFR 52.1483). The designated pollutant for the Reno-Sparks AQMA is particulate matter.

## DISCUSSION OF ACTION

The Regional Administrator of EPA's Region IX finds that the control strategy portion of the implementation plan for carbon monoxide is substantially inadequate.

in accordance with the State Plan approved under this section.

On March 30, 1976, notice was published in the FEDERAL REGISTER (41 FR 13398) of the intent of the Regional Administrator, EPA Region VIII, to approve, on a contingency basis, the Montana Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Montana Plan). Contingency approval was requested by the State of Montana pending promulgation of implementing regulations. Copies of the Montana Plan were made available for public inspection at the Montana Department of Agriculture, Helena, Montana; EPA Region VIII Office, Denver, Colorado; and the Office of Pesticide Programs, EPA, Washington, D.C.

No comments were received concerning the Montana Plan. Therefore, it has been determined that the Montana Plan will satisfy the requirements of section 4(a)(2) of the amended FIFRA and of 40 CFR Part 171, if the regulations described in the Plan, which are necessary for its implementation, are promulgated by the Montana Department of Agriculture. In 41 FR 13398 EPA announced its intent to approve Montana's request to certify those applicators who have already passed written exams, developed for the certification program, with the exception of those certified on the basis of the seed treatment exam or the fungicide exam for seed treatment and ornamental application. The State of Montana has agreed to this exception and will reexamine this group of applicators. Accordingly, the Montana Plan is approved contingent upon promulgation of implementing regulations.

This contingency approval shall expire December 31, 1976, if these terms and conditions are not satisfied by that time. On or before the expiration of the period of contingency approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied, and the approval status of the Montana State Plan as a result thereof.

## EFFECTIVE DATE

Pursuant to section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the contingency approval granted herein to the Montana Plan shall be effective upon signature of this notice. Neither the Montana State Plan itself nor this Agency's contingency approval of the Plan create any direct or immediate obligations on pesticide applicators or other persons in the State of Montana. Delays in starting the work necessary to implement the Plan such as may be occasioned by providing some later effective date for this contingency approval, are inconsistent with the public interest. Accordingly, this contingent approval shall become effective immediately.

Dated: May 19, 1976.

JOHN A. GREEN,  
Regional Administrator,  
EPA Region VIII.

[FR Doc.76-19940 Filed 7-9-76;8:45 am]



quate to attain the national primary ambient air quality standard for carbon monoxide.

The EPA analysis of the Northwest Nevada AQCR air pollution control strategy indicates:

(1) The National primary 8-hour carbon monoxide standard was exceeded in 1975, and violations are projected to continue.

(2) The annual geometric mean particulate standard was violated in 1975. Violations are projected to continue.

EPA's review of the approved SIP indicates that it contains regulations requiring application of reasonably available control technology for particulate matter. Therefore, no SIP revision for particulate is being requested. This determination could, of course, be changed in the near future based on the results of analyses performed by EPA, the local health district in Washoe County, and the State Department of Human Resources.

In the Northwest Nevada AQCR, EPA is encouraging the health district and State with assistance from an EPA-funded contractor to analyze the particulate problem in detail. The study, which is scheduled for completion in October, 1976, will include an ambient air quality data base, an emission inventory, and emissions and air quality projections. If the analysis, formally submitted to EPA, confirms that the particulate standards will not be maintained through 1995, EPA will call for development and implementation of an air quality maintenance plan.

The AQMP, if one is required, must contain enforceable control measures to be implemented to assure attainment and maintenance of air quality standards. The AQMP must demonstrate attainment and maintenance through documentation of projected emission reductions of each adopted control measure. This control strategy analysis must provide such details as current and future emission inventories, air quality data, and population projections.

EPA has expanded the basic charge to the State and Health District through a mutual recognition that maintenance planning is not a meaningful activity until standards are attained; therefore, attainment is a part of the Nevada AQMP process.

Since EPA's designation of metropolitan Reno as an AQMA for particulate, ambient air quality data for the area shows that the carbon monoxide eight-hour standard has been violated. EPA's analysis projects continued violation of this standard. The State Implementation Plan does not contain any carbon monoxide control measures considered by EPA as reasonably available control technology for metropolitan Reno. Therefore, EPA is requesting the State to revise its implementation plan for carbon monoxide. A plan revision containing all achievable emission limitations needed to provide for attainment of the national primary standard for carbon monoxide must be submitted by EPA by July 1, 1977. A demonstration of the

effect on air quality concentrations of such measures must accompany the submittal. If needed for attaining national primary standards, additional control measures such as land use and transportation measures will be submitted by the State to EPA by July 1, 1978.

#### SIP REVISION REQUEST

Because of the identified inadequacies in the Implementation Plan dealing with carbon monoxide violations in Reno, the Regional Administrator requests the State to submit revisions as follows:

1. The State shall prepare and submit by July 1, 1977, a plan revision for metropolitan Reno. The plan revisions shall contain:

a. All achievable emission limitations that are needed to provide for the attainment and maintenance of the national primary standards for carbon monoxide as appropriate, and

b. A demonstration of the effect on air quality concentrations of such measures.

2. If additional control measures such as land use and transportation measures are needed for attainment and maintenance of the national primary standard, the State shall prepare and submit by July 1, 1978:

a. Such measures for the attainment of the primary standard for carbon monoxide, as appropriate, and

b. A demonstration that the control strategy will attain the primary standard.

The State shall prepare the SIP revisions for carbon monoxide in accordance with the requirements of 40 CFR Part 51, Subparts A and B. When the AQMP is submitted as a revision to the State Implementation Plan, it must be prepared in accordance with the requirements of 40 CFR Part 51, Subparts A, B, and D.

The Governor shall submit, within 60 days, a letter of intent to the Regional Administrator, EPA, Region IX, which identifies the various steps (along with target dates for completion) which the State will take to develop the plan revisions in accordance with the requirements set forth in this notice. The State must also identify in the letter the agencies that have been given responsibility to prepare the plan revisions. Failure by the State to submit a letter of intent within the 60 allotted days will be considered by EPA as an indication that no plan revisions will be forthcoming from the State. In this case, EPA will begin to develop for promulgation a Federal plan to attain national air quality standards.

All of the applicable plan remains in effect until the plan revisions are submitted by the State to EPA and are approved by EPA or until EPA promulgates additional regulations.

A technical report entitled "Environmental Protection Agency Analysis of the Air Pollution Control Strategy for the Northwest Nevada Air Quality Control Region," is available for inspection and copying at 100 California Street, San Francisco, California 94111; the EPA Contact Office, 300 North Los Angeles Street, Los Angeles, California 90012;

and the EPA Freedom of Information Center, 401 M Street SW., Washington, D.C. 20460.

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding of the Regional Administrator, which shows that the control strategy for carbon monoxide in the Northwest Nevada AQCR is substantially inadequate. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State held no hearings on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended (42 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended, 42 U.S.C. 1857c-5(c))

Dated: July 2, 1976.

PAUL DE FALCO, JR.,  
Regional Administrator,  
Region IX.

[FR Doc. 76-19937 Filed 7-9-76; 8:45 am]

[FRL 578-4]

#### NEVADA

#### Approval of State Implementation Plans; Required Revisions

##### INTRODUCTION

In this notice the EPA Regional Administrator for Region IX finds that the implementation plan for the Clark County, Nevada portion of the Clark-Mohave Air Quality Control Region (AQCR) is substantially inadequate for the attainment and maintenance of the primary and secondary national ambient air quality standards for carbon monoxide and oxidants. He is requesting that the State submit a revision to the plan within the next year (7/1/77) to correct certain implementation plan deficiencies. The Regional Administrator has formally notified the Governor of this fact in a letter dated June 30, 1976.

##### BACKGROUND

On May 31, 1972 (37 FR 10878), under Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the control strategy for the attainment and maintenance of the national primary and secondary ambient air quality standards for nitrogen dioxide, sulfur oxides, particulate matter, oxidants and carbon monoxide in the Nevada Clark-Mohave AQCR. The implementation plan was designed to attain these national standards by 1975.

On March 8, 1973 (38 FR 6279), EPA disapproved the Nevada implementation plan with respect to maintenance of the national standards. Following this action, on September 9, 1975, EPA identified the Las Vegas Metropolitan Area as an air quality maintenance area (AQMA)—



an area that has the potential for failing to maintain certain national air quality standards during the 1975-1985 time frame (40 FR 41942), published as 40 CFR 52.1483. The designated pollutants for the Las Vegas AQMA include oxidants, carbon monoxide, and particulate matter.

#### DISCUSSION OF ACTION

The Regional Administrator of EPA's Region IX finds that the control strategy portion of the implementation plan for oxidants and carbon monoxide is substantially inadequate to attain the national primary and secondary ambient air quality standards for oxidants and carbon monoxide.

The EPA analysis of the Nevada Clark-Mohave AQCR air pollution control strategy indicates:

(1) The national primary 8-hour carbon monoxide standard was exceeded in 1973 and 1974, and violations are projected to continue.

(2) The national primary 1-hour oxidant standard was exceeded in 1973 and 1974. Violations are projected to continue.

(3) The national primary 24-hour and annual geometric mean particulate standards were violated in 1975. Violations are projected to continue.

In the Clark-Mohave AQCR, EPA is encouraging the local health district and the State to thoroughly re-analyze the AQMA designation to assure the validity of pollutants and boundaries designated. The AQMA analysis, to be completed by the Clark County Health District, will produce an ambient air quality data base, an emission inventory, and air quality and emissions projections. If this analysis, formally submitted to EPA, confirms that the standards will not be maintained within the time period specified, then EPA will call for development and implementation of an air quality maintenance plan (AQMP).

The AQMP, if one is required, must contain enforceable control measures to be implemented to assure attainment and maintenance of air quality standards. The AQMP must demonstrate attainment and maintenance through documentation of projected emission reductions of each adopted control measure. This control strategy analysis must provide such details as current and future emission inventories, air quality data, and population projections.

EPA has expanded the basic charge to the State and Health District through a mutual recognition that maintenance planning is not a meaningful activity until standards are attained; therefore, attainment is a part of the Nevada AQMP process. EPA endorses this expansion because the majority of the air pollution problems in Nevada are significantly affected by mobile sources, and may require long-term land use and transportation controls for both attainment and maintenance of standards.

EPA, in its review of the carbon monoxide and oxidant control strategies for the AQCR, has found that they contain only one measure, inspection-mainten-

ance, which is considered reasonably available control technology. Because the carbon monoxide and oxidant standards are currently violated and because continued violations appear certain, EPA is requesting the State to revise its implementation plan for carbon monoxide and oxidant. A plan revision containing all achievable emission limitations needed to provide for attainment of the national primary standards for carbon monoxide and oxidant must be submitted to EPA by July 1, 1977. A demonstration of the effect on air quality concentrations of such measures must accompany the submittal. If needed for attaining national primary standards, additional control measures such as land use and transportation measures will be submitted by the State to EPA by July 1, 1978. EPA anticipates that land use and transportation measures would be incorporated into the air quality maintenance plan, which EPA expects will be submitted as a SIP revision before July, 1978.

EPA, in its review of the particulate control strategy for the AQCR, has found that the particulate standards are currently violated and continued violations appear certain. Review of the approved SIP, however, indicates that it contains regulations requiring application of reasonably available control technology. Therefore, no SIP revision for particulate is being requested. This determination could, of course, be changed in the near future based on the results of EPA studies. EPA has funded a detailed analysis of the particulate problems in the Las Vegas area. This study is expected to be completed in October, 1976.

#### SIP REVISION REQUEST

Because of the identified inadequacies in regulations dealing with carbon monoxide and oxidant controls, the Regional Administrator hereby requests the State to submit revisions as follows:

1. The State shall prepare and submit by July 1, 1977, a plan revision for the Las Vegas Metropolitan Area. The plan revision shall contain:

a. All achievable emission limitations that are needed to provide for the attainment of national primary standards for carbon monoxide and oxidant, as appropriate, and

b. A demonstration of the effect on air quality concentrations of such measures.

2. If additional control measures such as land use and transportation measures are needed for attainment of the national primary standards, the State shall prepare and submit by July 1, 1978—

a. Such measures for the attainment of the primary standards for carbon monoxide and oxidants as appropriate, and

b. A demonstration that the control strategy will attain the primary standards.

The State shall prepare the SIP revisions for carbon monoxide and oxidant in accordance with the requirements of 40 CFR Part 51, Subparts A and B. When the AQMP is submitted as a revision to the SIP, it must be prepared in accord-

ance with the requirements of 40 CFR Part 51, Subparts A, B, and D.

The Governor shall submit, within 60 days, a letter of intent to the Regional Administrator, EPA, Region IX, which identifies the various steps (along with target dates for completion) which the State will take to develop the plan revisions in accordance with the requirements set forth in this notice. The State must also identify in the letter the agencies that have been given responsibility to prepare the plan revisions. Failure by the State to submit a letter of intent within the 60 allotted days will be considered by EPA as an indication that no plan revisions will be forthcoming from the State. In this case, EPA will begin to develop for promulgation a Federal plan to attain national air quality standards.

All of the applicable plan remains in effect until the plan revisions are submitted by the State to EPA and are approved by EPA or until EPA promulgates additional regulations.

A technical report entitled "Environmental Protection Agency Analysis of the Air Pollution Control Strategy for the Nevada Portion Clark Mohave Air Quality Control Region," is available for inspection and copying at 100 California Street, San Francisco, California 94111; the EPA Contact Office, 300 North Los Angeles Street, Los Angeles, California 90012; and the EPA Freedom of Information Center, 401 M Street, SW., Washington, D.C. 20460.

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding of the Regional Administrator, which shows that the control strategy for carbon monoxide and oxidants in the Nevada portion of the Clark-Mohave AQCR is substantially inadequate. Authority for such action is provided in sections 110(a) (2) (H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA, will provide opportunity for written comments and, if the State held no hearings on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a) (2) (H), Clean Air Act, as amended (42 U.S.C. 1857c-5(a) (2) (H)); sec. 110(c), Clean Air Act, as amended (42 U.S.C. 1857c-5(c))

Dated: July 2, 1976.

PAUL DE FALCO, Jr.,  
Regional Administrator,  
Region IX.

[FR Doc.76-19936 Filed 7-9-76; 8:45 am]

[FRL 578-7]

NEW YORK

Approval of State Implementation Plans;  
Required Revisions

The Regional Administrator of EPA Region II is issuing this notice to inform the State of New York and the public



that portions of the State Implementation Plan are substantially inadequate to provide for the attainment and maintenance of the primary and secondary national ambient air quality standards. Pursuant to the provisions of the Clean Air Act, the Regional Administrator is requiring that the State of New York submit a revision of the plan to correct the identified inadequacies. The Governor has been notified of this matter in a letter dated June 30, 1976.

On May 31, 1972 (37 FR 10380) pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator of EPA approved in its entirety the State's control strategy which provided for attainment and maintenance of the national ambient air quality standards. The Administrator noted in his approval that States were not required to submit transportation control strategies until February 15, 1973. The State of New York's transportation control strategies were approved by the Administrator on June 22, 1973 (38 FR 16567).

On March 8, 1973 (38 FR 6279) the New York State Implementation Plan was partially disapproved because it was determined that it did not contain adequate provisions for the maintenance of national standards. The Administrator, on June 18, 1973 (38 FR 15834) and May 8, 1974 (39 FR 16343), amended 40 CFR 51.12 to require, in part, that State Implementation Plans identify by May 10, 1974 areas which may have the potential for exceeding any national standard within the next 10-year period. By June 18, 1975 the States were required to submit an analysis of the impact on air quality of emissions from projected growth in each potential problem area designated by the Administrator. Where maintenance problems were identified, the States were to submit plans containing control measures to ensure maintenance of national standards during the ensuing 10-year period. These areas were identified by the Administrator on September 9, 1975 (40 FR 41951) and called Air Quality Maintenance Areas (AQMA's).

On June 19, 1975 (40 FR 25814) the Administrator once again amended 40 CFR 51.12 regarding the maintenance of national ambient air quality standards to rescind the June 18, 1975 date for submittal of analyses and maintenance plans, and to indicate that the Administrator would specify individual submission schedules for each identified AQMA. On May 3, 1976 (41 FR 18382) the Administrator established in Subpart D of 40 CFR Part 51 procedures for the analyses and plan revisions required for AQMA's. The regulation authorized the Regional Administrator to require States to follow these procedures to provide for the attainment and maintenance in areas other than the designated AQMA's.

A purpose of this notice is to set forth the schedules which shall be followed regarding the revision of the New York Implementation Plan. This call for revision of the State's Implementation Plan is based on:

(1) Analyses performed pursuant to Volume 1 of the "Guidelines for Air Quality Maintenance Planning and Analysis" entitled, "Designation of Air Quality Maintenance Areas." These analyses identified geographic areas which have the potential of exceeding standards within the next 10-year period.

(2) Air quality data submitted by the State of New York in fulfillment of the requirements contained in 40 CFR 51.7 which show the extent standards are being contravened. These data are on file in the EPA National Aerometric Data Bank and upon written request will be made available for inspection at EPA, Region II, Air Branch, Room 908, 26 Federal Plaza, New York, New York 10007.

(3) An evaluation of the compliance status of air pollution sources with regard to the existing State of New York Implementation Plan requirements.

(4) Conclusions and recommendations contained in technical reports developed by the Regional Office. These reports are available for inspection at EPA, Region II, Air Branch, Room 908, 26 Federal Plaza, New York, New York 10007; and the Public Information Reference Unit, EPA, Waterside Mall, 4th and M Streets, SW., Washington, D.C. 20460. Copies of these technical reports also are available to the New York Department of Environmental Conservation, the State Regional Offices and the appropriate local air pollution control agencies.

Detailed discussions of the bases for required revisions in each affected New York Air Quality Control Region are presented in the following sections. A schedule for appropriate State revision actions appears at the end of this notice.

#### NEW JERSEY—NEW YORK—CONNECTICUT INTERSTATE AQCR (NEW YORK PORTION)

The New York portion of the New Jersey—New York—Connecticut Interstate Air Quality Control Region (AQCR) is comprised of the counties of the Bronx, Kings (Brooklyn), New York (Manhattan), Queens, Richmond (Staten Island), Nassau, Suffolk, Rockland and Westchester. The only AQMA in the Region, the New York portion of the New Jersey—New York AQMA, is geographically coincident with the New York portion of the AQCR for all criteria pollutants.

For the geographic areas within the AQCR and pollutants specified below, the Region II Administrator finds that the approved New York State Implementation Plan is substantially inadequate to provide for attainment and/or maintenance of national ambient air quality standards:

#### I. PARTICULATE MATTER

A. Attainment of the primary standards in the Bronx, Manhattan and the Fresh Kills area of Staten Island.

B. Attainment of the secondary standard in the City of New York (Bronx, Brooklyn, Manhattan, Queens, Staten Island).

C. Maintenance of the primary and secondary standards in the New York portion of the New Jersey—New York AQMA.

#### II. SULFUR OXIDES

A. Attainment of the primary standards in the South Bronx and Upper Manhattan areas of New York City.

B. Maintenance of the primary and secondary standards in the New York portion of the New Jersey—New York AQMA.

#### III. PHOTOCHEMICAL OXIDANTS

A. Attainment of primary and secondary standard in the New York portion of the New Jersey—New York—Connecticut AQCR.

B. Maintenance of the primary and secondary standard in the New York portion of the New Jersey—New York AQMA.

#### IV. CARBON MONOXIDE

A. Maintenance of the primary and secondary standards in the New York portion of the New Jersey—New York AQMA.

#### V. NITROGEN DIOXIDE

A. Maintenance of the primary and secondary standards in the New York portion of the New Jersey—New York AQMA.

The reasons for these findings by the Region II Administrator and suggestions for corrective action are discussed in detail for each pollutant in the following sections of this notice.

#### PARTICULATE MATTER

In the approved New York State Implementation Plan, the latest date by which the primary standards for particulate matter are to be attained in the AQCR is May 31, 1977 (38 FR 16567). No plan was approved for attainment of the secondary standard.

The Regional Administrator finds that the approved plan is substantially inadequate to provide for attainment of the primary and secondary standards based on the conclusions presented in a technical report developed by the Regional Office entitled, "Evaluation of the Control Strategy for Attainment of National Standards for Total Suspended Particulates, New York Portion of the New Jersey—New York—Connecticut Interstate AQCR (043)." The report documents substantial annual primary standard attainment problems requiring plan revision action for the Bronx, Manhattan and Fresh Kills, Staten Island areas of the AQCR. This finding is based, in part, on air quality data from the New York City Department of Air Resources Laboratory, Samuel Gompers High School and Fresh Kills monitoring sites. The 1975 annual geometric mean concentrations of total suspended particulates at these sites were 89, 76 and 82 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), respectively. The report also demonstrates a substantial secondary standard attainment problem requiring plan revision for the entire City of New York. This problem is demonstrated by the existence of



twenty-four monitoring sites in the City which had 1975 annual geometric mean concentrations greater than 60  $\mu\text{g}/\text{m}^3$ .

In an effort to develop additional control strategies for the attainment of primary and secondary standards, the Regional Office has initiated the preparation of a more complete inventory of particulate emissions in the area. In addition, two studies are being conducted for the purpose of determining which sources are contributing to non-attainment of standards. The first study is being performed by the Interstate Sanitation Commission entitled, "Control of Suspended Particulates," EPA Grant No. S802496. The results of this study will become available by September 1976. The second study entitled, "Verification and Update of the Emission Inventory and Projections of the New Jersey-New York Interstate AQMA and Mid-Hudson AQMA," has not yet been started. The results of this study will become available by March 1977.

In order to provide for the attainment of primary standards for particulate matter in the Bronx and Manhattan and secondary standards in the City of New York, the Regional Office believes there is a need for the imposition of particulate matter emission regulations, for residual oil-fired boilers and on-site incinerators in New York City multiple dwelling buildings, which are more enforceable than currently exists in the approved plan. The Regional Office recommends more stringent fugitive dust emission regulations for such sources as the Fresh Kills sanitary landfill. The latter strategy is directed to attainment of the primary standards in Staten Island and to assist in the attainment of the secondary standard in the entire City.

At the present time, the potential for a particulate matter air quality maintenance problem in the New York portion of the New Jersey-New York AQMA is not fully known. In an attempt to resolve this situation, the above mentioned verification study will evaluate the emission inventory for the AQMA and proceed with computer-assisted mathematical modeling for the purpose of obtaining a more precise definition of the projected extent of future problems within the AQMA. When this program is completed, the Regional Office and the State of New York should be able to identify the types of control strategies needed to provide for maintenance of the primary and secondary standards for particulate matter in the New York portion of the New Jersey-New York AQMA.

#### SULFUR OXIDES

In the approved New York State Implementation Plan, the latest date by which the primary standards for sulfur oxides were to be attained in the AQCR is May 31, 1975 (38 FR 16567). The Administrator proposed July 1975 as the date for attainment of the secondary standard since the State did not provide a specific date in the approved plan (39 FR 35687).

The Regional Administrator finds that the plan is substantially inadequate to provide for the attainment of the primary standards in the South Bronx and Upper Manhattan areas of the AQCR. This finding is presented in the conclusions of a technical report developed by the Regional Office entitled, "Evaluation of the Control Strategy for Attainment of National Standards for Sulfur Oxides, New York portion of the New Jersey-New York-Connecticut AQCR (043)." The report summarizes air quality data from the New York City Department of Air Resources Laboratory, City College, and the Bowery Bay monitoring sites for the fiscal year 1975 (July 1974 through June 1975). Annual arithmetic mean concentrations of sulfur dioxide at these sites were 84, 99 and 94  $\mu\text{g}/\text{m}^3$ , respectively. The report indicates that no problem exists for attainment of the secondary standard.

In order to determine the extent of the attainment problem, the Regional Office has initiated the preparation of a more complete inventory of sulfur oxides emissions in the AQCR. Also, the verification study noted in the discussion of particulate matter for this AQCR, will provide a more precise definition of the current problems. The Regional Office recommends a survey of the problem area to determine the type and amount of fuel being consumed in order to identify the use of noncomplying fuel.

An approach identical to that described in the previous section of this notice for particulate matter should be used to evaluate the extent and resolution of the sulfur oxides standards maintenance problem in the New York portion of the New Jersey-New York AQMA.

#### CARBON MONOXIDE

In the approved State Implementation Plan, the latest date by which the primary and secondary standards are to be attained in the AQCR is December 1976 (38 FR 16567).

At the present time no formal determination of the adequacy of the approved plan is being made. The reasons are as follows:

(1) EPA is unable to fully assess the plan's effectiveness, since implementa-

tion of the provisions of the plan generally has been lacking.

(2) During the latter half of 1975, EPA took administrative action seeking enforcement of the approved plan. The outcome of this effort is presently uncertain.

(3) Judicial action is pending in a suit brought by private parties seeking enforcement of the approved plan.

As additional work is done by EPA and the State and as the pending court action is completed, EPA will be in a better position to determine the extent to which the presently approved plan is inadequate. At such time EPA will take appropriate action.

The Regional Administrator does find, however, that the approved plan is substantially inadequate to provide for maintenance of the standards for carbon monoxide in the New York portion of the New Jersey-New York AQMA. This finding is based on an analysis performed pursuant to Volume 1 of the EPA "Guidelines for Air Quality Maintenance Planning and Analysis" entitled, "Designation of Air Quality Maintenance Areas."

In order to determine the extent of the maintenance problem, the State should perform an analysis as illustrated in the EPA Guidelines. When this analysis is completed, the Regional Office and the State of New York should be able to identify the types of control strategies needed to provide for maintenance of the standards for carbon monoxide in the AQCR.

#### PHOTOCHEMICAL OXIDANTS

The Administrator established December 1976 as the date for attainment of the standard for photochemical oxidants in the AQCR since the State did not provide for a specific date in the approved plan (38 FR 16567).

The Region II Administrator finds that the approved plan is substantially inadequate to provide for the attainment of the primary and secondary standard throughout the AQCR. This is based, in part, on air quality data reports submitted by the State which document substantial attainment problems at the following monitoring sites in the AQCR:

#### Photochemical oxidants (ozone), 1975

Municipality	County	Maximum 1-hr average concentration (microgram per cubic meter)	Number of hours standard of 160 $\mu\text{g}/\text{m}^3$ was exceeded
Babylon	Suffolk	467	169
Hempstead	Nassau	376	88
New York City	New York	402	139
Mamaroneck	Westchester	274	47

In order to provide for the attainment of the standard, the Regional Office recommends the adoption of additional stationary source hydrocarbon control measures. The following measures are recommended for consideration:

(1) Vapor controls for the storage and use of organic solvents.

(2) Petroleum refinery, chemical plant and other industry controls.

(3) Vapor controls for gasoline marketing.

In an attempt to assist the State in revising the existing plan, the Regional Office will continue to participate in the Moodus Conference, a cooperative interstate effort designed to develop and implement uniform hydrocarbon controls throughout the Northeast. The Regional Office has also undertaken the develop-



ment of a more complete inventory of hydrocarbon sources in the AQCR and their associated emissions. The results of this inventory will become available by January 1977.

In order to determine the reduction in hydrocarbon emissions required to attain the standard for photochemical oxidants, the Regional Office recommends the continued use of the proportional model presented in Appendix J of 40 CFR Part 51 or an equivalent model calibrated for local atmospheric conditions. It is recognized that the Appendix J model does not account for transport and scavenging. EPA is developing additional guidance on these issues and is investigating the development of models that would account for both transport and scavenging. Until such additional guidance is developed, existing procedures should be used.

The Regional Administrator also finds that the approved plan is inadequate to provide for maintenance of the standard for photochemical oxidants. An approach identical to that described in the previous section of this notice for carbon monoxide should be used to evaluate the extent and resolution of the photochemical oxidants standard problem in the New York portion of the New Jersey-New York AQMA.

#### NITROGEN DIOXIDE

The Region II Administrator finds that the approved plan is inadequate to provide for maintenance of the standards for nitrogen dioxide in the New York portion of the New Jersey-New York AQMA. An approach identical to that described in the previous section of this notice for carbon monoxide should be used to evaluate the extent and resolution of the nitrogen dioxide standards problem in the AQMA.

#### HUDSON VALLEY INTRASTATE AQCR

The Hudson Valley Intrastate AQCR is comprised of the counties of Albany, Columbia, Dutchess, Fulton, Greene, Montgomery, Orange, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, and Ulster. There are two AQMAs in this Region; the Mid-Hudson AQMA designated for particulate matter, and the Capital District AQMA designated for particulate matter and sulfur oxides. The Mid-Hudson AQMA is geographically composed of: Dutchess County, excluding the Towns of Amenia, Clinton, Dover, Milan, Northeast, Pawling, Pine Plains, Stanford, Union Vale and Washington; all of Orange County; all of Putnam County; and Ulster County, excluding the Towns of Denning, Hardenburgh, Olive, Rochester, Shandaken, Wawarsing, and Woodstock. The Capital District AQMA consists of Albany County, excluding the Towns of Berne, Knox, Rensselaerville, and Westerlo; Montgomery County, including only the City of Amsterdam and the Town of Amsterdam; Rensselaer County, excluding the Towns of Berlin, Grafton, Hoosick, Nassau, Petersburg, Pittstown, Stephentown; Saratoga County, including only the City of Mechanicville and the Towns of Clif-

ton Park, Halfmoon and Waterford; and Schenectady County, excluding the Town of Duaneburg.

For the geographic areas within the AQCR and pollutants specified below, the Region II Administrator finds that the approved New York State Implementation Plan is substantially inadequate to provide for attainment and/or maintenance of the national ambient air quality standards:

#### I. PARTICULATE MATTER

A. Attainment of secondary standard in the Counties of Albany, Greene, Orange, and Rensselaer.

B. Maintenance of the primary and secondary standards in the Capital District and the Mid-Hudson AQMAs.

#### II. SULFUR OXIDES

A. Attainment and maintenance of the primary standards in the Town of Newburgh (Orange County) and the Town of Wappinger (Dutchess County).

B. Maintenance of the primary and secondary standards in the Capital District AQMA.

#### III. PHOTOCHEMICAL OXIDANTS

A. Attainment and maintenance of the primary and secondary standard in the AQCR.

The reasons for these findings by the Region II Administrator and suggestions for corrective action are discussed in detail for each pollutant in the sections of this notice immediately following.

#### PARTICULATE MATTER

In the approved State Implementation Plan, the latest date by which the primary and secondary standards for particulate matter were to be attained in the AQCR is May 31, 1975 (38 FR 16567).

The Regional Administrator finds that the approved plan is substantially inadequate to provide for attainment of the secondary standard based on the conclusions presented in a technical report developed by the Regional Office entitled, "Evaluation of the Control Strategy for Attainment of National Standards for Total Suspended Particulates, Hudson Valley AQCR (161)." The report documents substantial secondary standard attainment problems requiring plan revision for the Counties of Orange, Albany, Greene and Rensselaer. This finding is based, in part, on air quality data from the following monitoring sites:

Total suspended particulates, 1975 annual geometric mean (microgram per cubic meter)

County	Municipality	Concentration
Orange	Newburgh	65
	Walkkill	83
Albany	Albany	79
	do	75
	do	66
Greene	Cohoes	63
	Catskill	64
Rensselaer	Hoosick Falls	64

In order to determine the extent of the attainment problem, the Regional Office has initiated the preparation of a more complete inventory for the Capital Dis-

trict AQMA and Mid-Hudson AQMA. The inventory for the Capital District AQMA is being performed by the Capital District Regional Planning Board, the results of this study will become available by August 1976. The inventory for the Mid-Hudson AQMA has not yet been started, efforts are currently under way to select a contractor. The results of this study will become available by March 1977. Data from these studies will be used to perform computer-assisted mathematical modeling for the purpose of obtaining a precise definition of the current problems. The Regional Office also recommends that the State evaluate the impact of fugitive dust emissions on the Catskill monitoring site.

At the present time, the potential for particulate matter air quality maintenance problems in the Capital District AQMA and the Mid-Hudson AQMA are not fully known. The above mentioned emission inventory studies will better define the projected extent of future problems within the AQMAs. When this program is completed, the Regional Office and the State should be able to identify the types of control strategies needed to provide for maintenance of the primary and secondary standards for particulate matter.

#### SULFUR OXIDES

In the approved State Implementation Plan, the latest date by which the primary standards for sulfur oxides were to be attained in the AQCR is May 31, 1975. The Administrator established July 1977 as the date for attainment of the secondary standard since the state did not provide a specific date in the approved plan (38 FR 16567).

The Region II Administrator finds that the approved plan is substantially inadequate to provide for the attainment of the primary standards. This finding is based, in part, on a preliminary analysis presented in two reports prepared for the Central Hudson Gas and Electric Corporation by Environmental Research and Technology, Inc., entitled, "Roseton, New York Air Quality Monitoring Program" and "Complying Fuel Analysis for the Danskammer Point Power Generating Facility to Meet the Annual and Twenty-four Hour National Ambient Air Quality Standards."

The reports document substantial primary standard attainment problems requiring plan revisions within the area affected by the Roseton and Danskammer facilities of the Central Hudson Gas and Electric Corporation. Violations of the twenty-four hour standard are predicted to occur at nine different receptor locations within the Towns of Newburgh and Wappinger. These predictions have been verified by an ambient air quality sampling network established in the vicinity of the power plants. Violation of the twenty-four hour standard was observed at one monitoring site when the facilities were burning 2.0% sulfur fuel oil. The findings of the reports demonstrate that no problem exists for attainment of the secondary standard.

In order to provide for attainment of the primary standards and maintenance



of the primary and secondary standards for sulfur oxides in the AQCR, the Regional Office recommends that Part 225 of Subchapter A, Chapter III, Title 6 of New York's Official Compilation of Codes, Rules and Regulations (NYCRR) entitled, "Fuel Composition and Use," be revised to require the Danskammer facility to use residual fuel oil of 1.0% sulfur, by weight, or coal of 0.55 lbs. sulfur per million Btu.

At the present time, the potential for a sulfur oxides maintenance problem in the Capital District AQMA is not fully known. A program is presently under way to prepare a complete emissions inventory for the AQMA, which will be used to conduct computer-assisted mathematical modeling for the purpose of projecting the extent of future problems.

#### PHOTOCHEMICAL OXIDANTS

In the approved State Implementation Plan, the latest date by which the primary and secondary standard for photochemical oxidants was to be attained in the AQCR is May 31, 1975 (38 FR 16567).

The Regional Administrator finds that the approved plan is substantially inadequate to provide for attainment and maintenance of the primary and secondary standard throughout the AQCR. This is based, in part, on air quality data reports submitted by the State which document substantial attainment problems at the following monitoring sites:

#### Photochemical oxidants (ozone), 1975

Site	Maximum 1-h average concentration (microgram per cubic meter)	Number of hours standard of 160 $\mu\text{g}/\text{m}^3$ was exceeded
Kingston.....	384	129
Rensselaer.....	274	102
Schenectady.....	231	56

In order to provide for the attainment and maintenance of the standard for photochemical oxidants in the AQCR, the Regional Office recommends the adoption of additional hydrocarbon controls consisting of stationary source and transportation control measures. The following measures are recommended for consideration:

#### STATIONARY SOURCE CONTROL MEASURES

1. Vapor Controls for Organic Solvents Storage and Use.
2. Petroleum Refinery, Chemical Plant and Other Industry Controls.
3. Vapor Control for Gasoline Marketing.

#### TRANSPORTATION MEASURES

1. Inspection/Maintenance Program.
2. Transit Improvements.
3. Employer Incentives (e.g., Carpool and Vanpool Programs).
4. Traffic Management/Restrictions.
5. Preferential Bus and Carpool Requirements.
6. Heavy Duty Vehicle Retrofits.
7. Heavy Duty Vehicle Inspection/Maintenance Program.
8. Land Use Measures.

The discussions regarding development of uniform hydrocarbon controls, emis-

sion inventory and modeling which appear in the photochemical oxidant section of the New Jersey-New York-Connecticut AQCR apply in this AQCR as well.

#### CENTRAL NEW YORK INTRASTATE AQCR

The Central New York Intrastate AQCR is comprised of the Counties of Cayuga, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga and Oswego. There are two AQMAs in this Region; the Syracuse AQMA and the Utica-Rome AQMA, both designated for particulate matter. The Syracuse AQMA consists of Onondaga County. The Utica-Rome AQMA consists of the Towns of Frankfurt and Schuyler in Herkimer County; and the Cities of Rome and Utica, and the Towns of Deerfield, Floyd, Kirkland, Lee, Marcy, New Hartford, Paris, Trenton, Westmoreland and Whitestown in Oneida County.

For the geographic areas within the AQCR and pollutants specified below, the Region II Administrator finds that the approved New York State Implementation Plan is substantially inadequate to provide for attainment and/or maintenance of the national ambient air quality standards:

#### I. PARTICULATE MATTER

A. Attainment of the primary standards in the Town of Geddes and the City of Syracuse.

B. Attainment of the secondary standard in the Town of Geddes, City of Syracuse and the Village of East Syracuse.

C. Maintenance of the primary and secondary standards in the Syracuse and Utica-Rome AQMAs.

#### II. PHOTOCHEMICAL OXIDANTS

A. Attainment and maintenance of the primary and secondary standard in the AQCR.

The reasons for these findings by the Region II Administrator and suggestions for corrective action are discussed in detail for each pollutant in the sections of this notice immediately following.

#### PARTICULATE MATTER

In the approved State Implementation Plan, the latest date by which the primary standards for particulate matter were to be attained in the AQCR is May 31, 1975 (38 FR 16567). No plan was approved for attainment of the secondary standard.

The Regional Administrator finds that the approved plan is substantially inadequate to provide for attainment of the primary and secondary standards based on the conclusions presented in a technical report developed by the Regional Office entitled, "Evaluation of the Control Strategy for Attainment of National Standards for Total Suspended Particulates, Central New York AQCR (158)." The report documents substantial primary standard attainment problems requiring plan revisions for the City of Syracuse and the Town of Geddes. This finding is based, in part, on particulate matter concentrations at five monitor-

ing sites in Onondaga County which contravened the annual primary standard of 75  $\mu\text{g}/\text{m}^3$ . The Regional Office believes, however, that the air quality problem in the Town of Geddes is restricted to the vicinity of the Fairgrounds monitoring site.

The report also demonstrates a substantial secondary standard attainment problem. This problem exists for the Village of East Syracuse in addition to the City of Syracuse and the Town of Geddes. The definition of the problem in East Syracuse is based, in part, on air quality data from the East Syracuse monitoring site which had a 1975 annual geometric mean concentration of total suspended particulate of 70  $\mu\text{g}/\text{m}^3$ .

In order to provide for attainment of the primary and secondary standards for particulate matter in the AQCR, the Regional Office recommends the State adopt fugitive dust emission regulations. This should include consideration of requiring the City of Syracuse to street clean all Interstate Highways under New York State Department of Transportation control within the City. The State should also undertake a review of the Fairgrounds monitoring site in Geddes to identify the impacting sources of particulate matter.

At the present time, the potential for particulate matter air quality maintenance problems is not fully known. In an effort to resolve this situation, the Regional Office has initiated the preparation of a more complete inventory of emissions. The inventories for the Syracuse AQMA and the Utica-Rome AQMA are being developed by the Central New York Regional Planning and Development Board, and the Herkimer-Oneida Counties Comprehensive Planning Program, respectively. The results of these studies will be available by November 1976. Computer-assisted mathematical modeling will then be done to project the extent of future problems within the AQMAs.

#### PHOTOCHEMICAL OXIDANTS

In the approved State Implementation Plan, the latest date by which the primary and secondary standard for photochemical oxidants was to be attained in the AQCR is May 31, 1975 (38 FR 16567).

The Regional Administrator finds that the approved plan is substantially inadequate to provide for attainment and maintenance of the primary and secondary standard throughout the AQCR based, in part, on air quality reports submitted by the State. These reports document substantial attainment problems at the following monitoring sites:

#### Photochemical oxidants (ozone), 1975

Site	Maximum 1-hr average concentration (microgram per cubic meter)	Number of hours standard of 160 $\mu\text{g}/\text{m}^3$ was exceeded
Utica.....	237	65
Syracuse.....	223	54
Syracuse downtown.....	281	60



An approach identical to that described for photochemical oxidants in the Hudson Valley AQCR should be used to provide for the attainment and maintenance of the photochemical oxidants standard in this AQCR.

#### NIAGARA FRONTIER INTRASTATE AQCR

The Niagara Frontier Intrastate AQCR is comprised of Erie and Niagara Counties. The only AQMA in the Region is the Niagara Frontier AQMA which is designated for particulate matter and sulfur oxides. The AQMA consists of Erie and Niagara Counties.

For the geographic areas within the AQCR and pollutants specified below, the Region II Administrator finds that the presently approved New York State Implementation Plan is substantially inadequate to provide for attainment and/or maintenance of the national ambient air quality standards:

##### I. PARTICULATE MATTER

A. Attainment of the primary standards in the Town of Tonawanda and the Cities of Lackawanna, Buffalo, and Niagara Falls.

B. Attainment of the secondary standard in the Niagara Frontier AQCR.

C. Maintenance of the primary and secondary standards in the Niagara Frontier AQMA.

##### II. SULFUR OXIDES

A. Maintenance of the primary and secondary standards in the AQMA.

##### III. PHOTOCHEMICAL OXIDANTS

A. Attainment and maintenance of the primary and secondary standards in the AQCR.

The reasons for these findings by the Region II Administrator and suggestions for corrective action are discussed in detail for each pollutant in the sections of this notice immediately following:

##### PARTICULATE MATTER

In the approved State Implementation Plan, the latest date by which the primary standards for particulate matter are to be attained in the AQCR is May 31, 1977 (37 FR 10883). No plan was approved for attainment of the secondary standard.

The Region II Administrator finds that the approved plan is substantially inadequate to provide for attainment of the primary standard based on conclusions presented in a technical report developed by the Regional Office entitled, "Evaluation of the Control Strategy for Attainment of National Ambient Air Quality Standards for Total Suspended Particulates, Niagara Frontier Intrastate AQCR (162)." The report documents substantial primary and secondary standard attainment problems requiring plan revision for the Town of Tonawanda, and the Cities of Lackawanna, Buffalo and Niagara Falls. This finding is based, in part, on air quality data from the following monitoring sites.

Total suspended particulates, 1975 annual geometric mean (microgram per cubic meter)

County	Site	Concentration
Niagara	Niagara Falls	88
	do.	122
	do.	84
Erie	Buffalo	90
	Tonawanda	96
	Lackawanna	100
	do.	142

The report also documents substantial secondary standard attainment problems requiring development of a plan revision for both Erie and Niagara Counties. This finding is based, in part, on 1975 air quality data from sixteen monitoring sites that exceeded the annual geometric mean concentration of 60ug/m<sup>3</sup>.

In order to ascertain the extent of the attainment problem, the Regional Office is in the process of selecting a contractor to prepare a more complete and updated emissions inventory for the AQCR. The complete emissions inventory will be used to perform computer-assisted mathematical modeling to determine the emission reductions needed to attain primary and secondary standards. This program should be completed by July 1977. To determine the potential for particulate matter air quality maintenance problems in the AQCR, the above mentioned emissions inventory will be projected to determine the extent of future problems for the Niagara Frontier AQMA.

##### SULFUR OXIDES

The potential for a sulfur oxides maintenance problem in the Niagara Frontier AQMA will be determined through the preparation of a complete emissions inventory for the area. The results of this work will be available by June 1977. The inventory then will be used to conduct computer-assisted mathematical modeling for the purpose of projecting future problems and identifying solutions.

##### PHOTOCHEMICAL OXIDANTS

In the approved State Implementation Plan, the latest date by which the primary and secondary standard for photochemical oxidants was to be attained in the AQCR is May 31, 1975 (38 FR 16567).

The Regional Administrator finds that the approved plan is substantially inadequate to provide for attainment and maintenance of the primary and secondary standard throughout the AQCR based, in part, on air quality reports submitted by the State. These reports document substantial attainment problems at the following monitoring sites:

##### Photochemical oxidants (ozone), 1975

Site	Maximum 1-hr average concentration (microgram per cubic meter)	Number of hours standard of 100 µg/m <sup>3</sup> was exceeded
Niagara Falls	353	214
Buffalo	325	166

An approach identical to that described for photochemical oxidants in the Hudson Valley AQCR should be used to provide for the attainment and maintenance of the photochemical oxidants standard in this AQCR.

#### SOUTHERN TIER EAST INTRASTATE AQCR

The Southern Tier East Intrastate AQCR consists of the Counties of Broome, Chenango, Delaware, Otsego, Sullivan and Tioga. The only AQMA in the Region is the Binghamton AQMA, designated for particulate matter. The AQMA is comprised of the City of Binghamton, and the Towns of Binghamton, Chenango, Conklin, Dickinson, Fenton, Kirkwood, Maine, Union and Vestal in Broome County; and the Town of Owego in Tioga County.

For the geographic areas within the AQCR and pollutants specified below, the Region II Administrator finds that the approved New York State Implementation Plan is substantially inadequate to provide for the attainment and/or maintenance of the national ambient air quality standards:

##### I. PARTICULATE MATTER

A. Maintenance of primary and secondary standards in the Binghamton AQMA.

##### II. SULFUR OXIDES

A. Attainment and maintenance of the primary and secondary standards in the Village of Bainbridge, Chenango County.

##### III. PHOTOCHEMICAL OXIDANTS

A. Attainment and maintenance of the primary and secondary standard in the AQCR.

The reasons for these findings by the Region II Administrator and suggestions for corrective action are discussed in detail for each pollutant in the sections of this notice immediately following.

##### PARTICULATE MATTER

A program is planned to prepare a complete emissions inventory for the Binghamton AQMA. The results of this effort will be available by July 1977 for future problem assessment and control strategy development work.

##### SULFUR OXIDES

In the approved State Implementation Plan, the latest date by which the primary standards for sulfur oxides were to be attained in the AQCR is May 31, 1975. The Administrator established July 1977 as the date for attainment of the secondary standard since the State did not provide a specific date in the approved plan (38 FR 16567).

The Regional Administrator finds that the approved plan is substantially inadequate to provide for attainment and maintenance of primary and secondary standards in an area within approximately a five-mile radius of the Jennison electric generating facility of the New York State Electric and Gas Corporation. The facility is located in the Village of Bainbridge, Chenango County. This



finding is based on a preliminary EPA report entitled, "Implementation Plan Review for New York as Required by the Energy Supply and Environmental Coordination Act." The report utilizes an uncalibrated mathematical diffusion model which estimates that the Jennison facility causes a maximum ground-level 24-hour average sulfur dioxide concentration of 700  $\mu\text{g}/\text{m}^3$ .

The Regional Office acknowledges that uncertainty exists about the unverified modeling results, however, the magnitude of the projected violation warrants this call for plan revision. It is recommended that the State conduct a field study to verify modeling results. If the predicted violations remain unverified as a result of the study, the Regional Office is prepared to revise its determination. If the predicted violations are verified, it is recommended that 6 NYCRR Part 225 entitled, "Fuel Composition and Use," be revised to require the Jennison facility to use fuel which contains a reduced sulfur content sufficient to provide for the attainment and maintenance of the primary and secondary standards.

#### PHOTOCHEMICAL OXIDANTS

In the approved State Implementation Plan, the latest date by which the primary and secondary standard for photochemical oxidants was to be attained in the AQCR is May 31, 1975 (38 FR 16567).

The Region II Administrator finds that the approved plan is substantially inadequate to provide for attainment and maintenance of the primary and secondary standard throughout the AQCR based, in part, on air quality reports submitted by the State. These reports document substantial attainment problems in the adjacent Southern Tier West and Hudson Valley AQCRs which indicate the existence of a similar problem in the Southern Tier East AQCR. The State agrees with this conclusion.

An approach identical to that described for photochemical oxidants in the Hudson Valley AQCR should be used to provide for the attainment and maintenance of the photochemical oxidants standard in this AQCR.

#### SOUTHERN TIER WEST INTRASTATE AQCR

The Southern Tier West Intrastate AQCR consists of the Counties of Allegany, Cattaraugus, Chautauqua, Chemung, Schuyler, Steuben and Tompkins. There are two AQMAs in this Region, both designated for particulate matter, the Elmira-Corning AQMA and the Jamestown AQMA. The Elmira-Corning AQMA consists of the City of Elmira and the Towns of Ashland, Big Flats, Elmira, Horseheads and Southport in Chemung County; and the City of Corning and the Towns of Corning and Erwin in Steuben County. The Jamestown AQMA consists of the City of Jamestown and the Towns of Busti, Chautauqua, Ellery, Ellicott, Kiantone, North Harmony and Poland in Chautauqua County.

For the geographic areas within the AQCR and pollutants specified below, the Region II Administrator finds that the

approved New York State Implementation Plan is substantially inadequate to provide for attainment and/or maintenance of the national ambient air quality standards:

#### PARTICULATE MATTER

A. Attainment of the secondary standard in the City of Jamestown.

B. Maintenance of the primary and secondary standards in the Elmira-Corning and the Jamestown AQMAs.

#### II. SULFUR OXIDES

A. Attainment and maintenance of the primary and secondary standards in the Town of Corning (Steuben County) and the Town of Lansing (Tompkins County).

#### III. PHOTOCHEMICAL OXIDANTS

A. Attainment and maintenance of the primary and secondary standard in the AQCR.

The reasons for these findings by the Region II Administrator and suggestions for corrective action are discussed in detail for each pollutant in the sections of this notice immediately following.

#### PARTICULATE MATTER

In the approved State Implementation Plan, the latest date by which the primary and secondary standards for particulate matter were to be attained in the AQCR is May 31, 1975.

The Regional Administrator finds that the approved plan is substantially inadequate to provide for attainment of the secondary standard within the City of Jamestown, Chautauqua County. This finding is based on the conclusions presented in a technical report developed by the Regional Office entitled: "Evaluation of the Control Strategy for Attainment of National Standards for Total Suspended Particulates, Southern Tier West Intrastate AQCR (164)." The report documents a substantial secondary standard attainment problem requiring plan revision based, in part, on air quality data from two Jamestown monitoring sites. The 1975 annual geometric mean concentrations of total suspended particulates at these sites were 61 and 67  $\mu\text{g}/\text{m}^3$ , respectively.

The Regional Office has initiated the preparation of a complete inventory of particulate matter emissions in the City of Jamestown which will be available by July 1977. The inventory will be used to conduct computer-assisted mathematical modeling for the purpose of determining more precisely the extent of the attainment problem. The Regional Office and the State should then be able to identify the types of control strategies needed to provide for attainment of the secondary standard in the AQCR.

At the present time, the potential for particulate matter maintenance problems in the Jamestown and the Elmira-Corning AQMAs is not fully known. In an attempt to resolve this situation, a program is planned to prepare complete emissions inventories for the AQMAs. The results of this program will also be available by July 1977. The inventories

will be used to obtain a precise definition of the projected extent of future problems. The Regional Office and the State should then be able to identify the types of control strategies needed to provide for maintenance of the standards for particulate matter in the AQMAs.

#### SULFUR OXIDES

In the approved State Implementation Plan, the latest date by which the primary and secondary standards for sulfur oxides were to be attained in the AQCR is May 31, 1975.

The Regional Administrator finds that the approved plan is substantially inadequate to provide for attainment and maintenance for primary and secondary standards in areas within approximately a five-mile radius of both the Milliken and Hickling electric generating facilities of the New York State Electric and Gas Corporation. The facilities are located in the Town of Lansing, Tompkins County and in the Town of Corning, Steuben County, respectively. This finding is based on a preliminary EPA report entitled, "Implementation Plan Review for New York as Required by the Energy Supply and Environmental Coordination Act." The report utilizes an uncalibrated mathematical diffusion model which estimates that the Milliken and Hickling facilities cause maximum ground-level 24-hour average sulfur dioxide concentrations of 1000 and 2500  $\mu\text{g}/\text{m}^3$ , respectively.

An approach identical to that described for sulfur oxides in the Southern Tier East AQCR should be used to verify and resolve the sulfur oxides attainment and maintenance problems in this AQCR.

#### PHOTOCHEMICAL OXIDANTS

In the approved State Implementation Plan, the latest date by which the primary and secondary standard for photochemical oxidants was to be attained in the AQCR is May 31, 1975 (38 FR 16567).

The Region II Administrator finds that the approved plan is substantially inadequate to provide for attainment and maintenance of the primary and secondary standard throughout the AQCR based, in part, on air quality reports submitted by the State. These reports document a substantial attainment problem at the Elmira monitoring site. The 1975 maximum one-hour average concentration at this site was 282  $\mu\text{g}/\text{m}^3$ , and there were 88 hourly contraventions of the standard.

An approach identical to that described for photochemical oxidants in the Southern Tier East AQCR should be used to provide for the attainment and maintenance of the photochemical oxidants standard in this AQCR.

#### CHAMPLAIN VALLEY INTERSTATE AQCR (NEW YORK PORTION)

The New York portion of the Champlain Valley Interstate AQCR is comprised of the Counties of Clinton, Essex, Franklin, Hamilton, St. Lawrence, Warren and Washington. There are no AQMAs in the New York portion of this Region. The Region II Administrator



finds that the approved New York State Implementation Plan is substantially inadequate to provide for attainment and maintenance of the national ambient air quality standard for photochemical oxidants.

#### PHOTOCHEMICAL OXIDANTS

In the approved State Implementation Plan, the latest date by which the primary and secondary standard for photochemical oxidants was to be attained in the AQCR is May 31, 1975 (38 FR 16567).

The Regional Administrator finds that the approved plan is substantially inadequate to provide for attainment and maintenance of the primary and secondary standard throughout the AQCR based, in part, on air quality reports submitted by the State. These reports document substantial attainment problems at the following monitoring sites:

#### Photochemical oxidants (ozone), 1975

Site	Maximum 1-hr average concentration (microgram per cubic meter)	Number of hours standard of 100 $\mu\text{g}/\text{m}^3$ was exceeded
Glen Falls.....	212	43
Whiteface Mountain.....	200	51

An approach identical to that described for photochemical oxidants in the Southern Tier East AQCR should be used to provide for the attainment and maintenance of the photochemical oxidants standard in this AQCR.

#### GENESEE—FINGER LAKES INTRASTATE AQCR

The Genesee—Finger Lakes Intrastate AQCR is comprised of the Counties of Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming and Yates. The only AQMA in the Region is the Rochester AQMA, designated for particulate matter. The AQMA is comprised of the Towns of Avon, Caledonia, Lima in Livingston County; all of Monroe County; the City of Canandaigua, and the Towns of Canandaigua, East Bloomfield, Farmington, Victor and West Bloomfield in Ontario County; and the Towns of Macedon, Ontario and Walworth in Wayne County. For the geographic areas within the AQCR and pollutants specified below, the Region II Administrator finds that the approved New York State Implementation Plan is substantially inadequate to provide for attainment and/or maintenance of the national ambient air quality standards:

#### I. PARTICULATE MATTER

A. Maintenance of the primary and secondary standards in the Rochester AQMA.

#### II. PHOTOCHEMICAL OXIDANTS

A. Attainment and maintenance of the primary and secondary standard in the AQCR.

The reasons for these findings by the Region II Administrator and suggestions for corrective action are discussed in detail for each pollutant in the sections of this notice immediately following.

#### PARTICULATE MATTER

At the present time, the potential for a particulate matter maintenance problem in the Rochester AQMA is not fully known. In an attempt to resolve this situation, a program is currently under way to prepare a complete emissions inventory for the AQMA. The results of this program will be available by February 1977. The inventory will be used to conduct computer-assisted mathematical modeling for the purpose of determining the projected extent of future problems. The Regional Office and the State should then be able to identify the types of control strategies needed to provide for maintenance of the primary and secondary standards for particulate matter in the AQMA.

#### PHOTOCHEMICAL OXIDANTS

The latest date by which the primary and secondary standard for photochemical oxidants was to be attained in the AQCR was proposed by the Administrator as May 1975 (38 FR 16567).

The Regional Administrator finds that the approved plan is substantially inadequate to provide for attainment and maintenance of the primary and second-

ary standard throughout the AQCR based, in part, on air quality data reports submitted by the State. These reports document substantial attainment problems at the Rochester monitoring site. The 1975 maximum one-hour average concentration at this site was 343  $\mu\text{g}/\text{m}^3$ , and there were 113 hourly contraventions of the standard.

An approach identical to that described for photochemical oxidants in the Hudson Valley AQCR should be used to provide for the attainment and maintenance of the photochemical oxidants standard in this AQCR.

#### REQUIRED STATE ACTIONS

##### ATTAINMENT AND MAINTENANCE

To correct deficiencies in the New York State Implementation Plan relating to the attainment of primary and/or secondary standards, the Regional Administrator is requiring the State to submit plan revisions by July 1, 1977 for the pollutants and geographic areas listed below. Where non-readily available control measures are necessary, such as those employing land use or transportation controls, the plan revisions shall be submitted by July 1, 1978.

AQCR	Pollutant	Standard to be attained	Area
New Jersey-New York-Connecticut (New York portion)	Particulate matter.....	Primary.....	Bronx, Manhattan, Fresh Kills (Staten Island).
		Secondary.....	New York City.
	Sulfur oxides.....	Primary.....	South Bronx, Upper Manhattan.
	Photochemical oxidants.....	Primary/secondary.....	AQCR.
Hudson Valley.....	Particulate matter.....	Secondary.....	County of Albany, Orange, Greene and Rensselaer.
	Sulfur oxides.....	Primary.....	Towns of Newburgh and Wappinger.
	Photochemical oxidants.....	Primary/secondary.....	AQCR.
Central New York.....	Particulate matter.....	Primary.....	City of Syracuse and Town of Geddes.
		Secondary.....	City of Syracuse, Town of Geddes and Village of East Syracuse.
Niagara Frontier.....	Photochemical oxidants.....	Primary/secondary.....	AQCR.
	Particulate matter.....	Primary.....	Town of Tonawanda, Cities of Lackawanna, Buffalo and Niagara Falls.
		Secondary.....	AQCR.
Southern Tier East.....	Photochemical oxidants.....	Primary/secondary.....	AQCR.
	Sulfur oxides.....	do.....	Village of Bainbridge.
	Photochemical oxidants.....	do.....	AQCR.
Southern Tier West.....	Particulate matter.....	Secondary.....	City of Jamestown.
	Sulfur oxides.....	Primary/secondary.....	Town of Corning and Lansing.
	Photochemical oxidants.....	do.....	AQCR.
Champlain Valley.....	do.....	do.....	AQCR.
Genesee-Finger Lakes.....	do.....	do.....	AQCR.

The plan revisions must include a demonstration that the revised control strategy is adequate to attain the primary and/or secondary standards as expeditiously as practicable. They must also contain a demonstration that the revised control strategy is adequate to maintain standards once they are attained. For those pollutants and geographic areas which are included in Air Quality Maintenance Areas, the demonstration of plan adequacy to maintain standards will be provided according to a separate schedule appearing in a following section of this notice.

All plan revisions must meet the requirements of 40 CFR Part 51, Subparts A and B. In addition, the State should meet the requirements of Subpart D, where appropriate.

New and revised transportation strategies should be developed by transportation agencies in coordination with air pollution control agencies through the ongoing 3-C Planning Process, as re-

quired by section 109(j) of Title 23 (The Federal Highway Act). In the September 17, 1975 FEDERAL REGISTER, the U.S. Department of Transportation issued regulations pertaining to the transportation planning process which required Metropolitan Planning Organizations (MPOs), having the primary responsibility for regional long range planning, to prepare short-range (3-5 years) Transportation Improvement Programs (TIPs) and plans for improved Transportation System Management (TSM). These plans must be consistent with air quality attainment goals and with programs to achieve those goals. Therefore, new and revised transportation measures aimed at carbon monoxide and hydrocarbon emissions reduction, which result from this annual urban transportation planning process, must be included in the TIP and TSM plans, as necessary.

Specifically, five criteria must be met to ensure that air quality measures are



implemented as part of the urban transportation planning process:

(1) The MPO must participate in the development or revision of any transportation measures;

(2) All transportation measures (excluding "hardware" source control measures i.e., inspection/maintenance and retrofit) scheduled for implementation in the next 3 to 5 years must be included in the short-range TIP;

(3) All measures involving improved TSM (e.g., high occupancy vehicle priority treatment, parking management, traffic-free zones, congestion and road pricing, bike planning, and improved truck scheduling) should be included in the TSM element of the metropolitan area's transportation plan, regardless of when these measures are scheduled for implementation;

(4) Each transportation measure must appear in the annual element of the TIP for the year in which the transportation measure is scheduled for implementation;

(5) The transportation plan must be consistent with plans to attain the national ambient air quality standards as defined in the joint EPA/FHWA guideline for implementation of section 109(j) of Title 23.

The State shall prepare and submit plan revisions to provide for air quality maintenance in the previously discussed AQMA's for the pollutants identified. In preparing these plans the State shall submit an analysis of the impact on air quality from projected growth. In addition, there shall be a demonstration that the control strategy will maintain the primary and secondary standards for a period of at least ten years after attainment or for ten years after approval of the plan revision for maintenance where attainment plan revisions are not being required. These required plan revisions must be prepared in accordance with the detailed provisions of Subparts A, B and D of 40 CFR 51.

The State shall submit the maintenance analyses and plan revisions by the following dates:

AQCR	AQMA	Pollutant	Maintenance analysis submittal date	Maintenance plan revision submittal date
New Jersey-New York-Connecticut	New Jersey-New York	Particulate matter	July 1, 1977	July 1, 1978
		Sulfur oxides	do	Do.
		Carbon monoxide	do	Do.
		Photochemical oxidants	do	Do.
		Nitrogen dioxide	do	Do.
Hudson Valley	Capital District	Particulate matter	Jan. 2, 1977	Jan. 2, 1978
		Sulfur oxides	do	Do.
Central New York	Mid-Hudson	Particulate matter	June 1, 1977	July 1, 1978
	Syracuse	do	Nov. 1, 1976	Jan. 2, 1978
	Utica-Rome	do	Feb. 1, 1977	Do.
Niagara Frontier	Niagara Frontier	do	Sept. 1, 1977	July 1, 1978
		Sulfur oxides	do	Do.
Southern Tier East	Binghamton	Particulate matter	do	Do.
Southern Tier West	Elmhurst-Corning	do	do	Do.
	Jamestown	do	do	Do.
Champlain Valley	None	None	N/A	N/A
Genesee-Finger Lakes	Rochester	Particulate matter	Sept. 1, 1977	July 1, 1978

#### LETTER OF INTENT

The Governor shall submit, within 60 days of this notice, a letter of intent to the Regional Administrator, EPA Region II which identifies the various action steps (along the target dates for completion) which the State will take to develop the plan revision in accordance with the requirements set forth in this notice. The State must also identify in the letter the agencies that have been given responsibility to prepare the plan revision. Failure by the State to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revision will be forthcoming from the State. In this case, EPA will begin to develop for promulgation a Federal plan to attain and maintain national standards.

All provisions of the presently approved implementation plan remain in effect until the plan revision is submitted by the State to EPA and is approved by EPA or until EPA takes corrective action.

#### LEGAL AUTHORITY AND PUBLIC COMMENT

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon findings of the Regional Administrator that control strategies are substantially inadequate and need to be revised. Authority for such action is provided in section 110(a) (2) (H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearings that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments, and if the State held no hearing on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a) (2) (H), Clean Air Act, as amended, (42 U.S.C. 1857c-5(a) (2) (H); sec. 110(c), Clean Air Act, as amended, (42 U.S.C. 1857c-5(c))

Dated: July 1, 1976.

G. M. HANSLER,  
Regional Administrator,  
Environmental Protection Agency.

[FR Doc.76-19939 Filed 7-9-76; 8:45 am]

[FRL 579-1; OPP-50208]

#### OREGON DEPARTMENT OF FORESTRY Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to the Oregon Department of Forestry, Salem, Oregon 97310. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 39021-EUP-1) allows the use of 159.08 pounds of the insecticide malathion on the ponderosa pine to evaluate control of the pine needle-sheath miner. A total of 200 acres is involved; the program is authorized only in the State of Oregon, specifically, on a ponderosa pine plantation near Kalmath Falls. The experimental use permit is effective from June 4, 1976, to June 4, 1977.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: July 1, 1976.

JOHN B. RITCH, Jr.,  
Director,  
Registration Division.

[FR Doc.76-19944 Filed 7-9-76; 8:45 am]

[FRL 579-2; OPP-50207]

#### U.S. DEPARTMENT OF AGRICULTURE Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to the U.S. Department of Agriculture, Hyattsville, Maryland 20782. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 11312-EUP-18) allows the use of 30 pounds of the insecticide N-(mercaptomethyl) phthalimide S-(0,0-dimethyl phosphorodithioate) on forest land to evaluate control of Gypsy Moth larvae. A total of 24 acres is involved; the program is authorized only in Clinton County, Pennsylvania. The experimental use permit is effective from June 4, 1976, to June 4, 1977.



Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated July 1, 1976.

JOHN B. RITCH, JR.,  
Director,  
Registration Division.

[FR Doc. 76-19941 Filed 7-9-76; 8:45 am]

[FRL 577-2]

## WEST VIRGINIA

### Required Part Revision; Approval of State Implementation Plans

Notice of required revision to part of the State Implementation Plan for the West Virginia portion of the Steubenville-Weirton-Wheeling Interstate and the Kanawha Valley Intrastate Air Quality Control Regions to assure the attainment and maintenance of the NAAQS for particulate matter and photochemical oxidants.

On October 20, 1975 (40 FR 49056) and again, on May 3, 1976 (41 FR 18387), the Administrator notified the public of his intention to review all State Implementation Plans (SIP's) to determine their adequacy to attain and maintain the National Ambient Air Quality Standards (NAAQS) for all areas of the nation whether identified as Air Quality Maintenance Areas (AQMA's) or not. Further, he advised the public of his intention to call for plan revisions whenever he found a plan to be substantially inadequate to attain the national standards. All reviews of existing State plans and calls for needed revision were to be completed by July 1, 1976.

The following notice summarizes the results of the Regional Administrator's review of the existing SIP for the State of West Virginia and his calls for needed revisions to the plan to assure the attainment and maintenance of the NAAQS for total suspended particulate matter (TSP) and photochemical oxidants.

A description of the history of air quality planning to attain and maintain the NAAQS for TSP in the State of West Virginia will first be given. This will be followed by a brief analysis of the general nature of the particulate matter problem in the AQCR's affected that has led to the need for today's action. More detailed descriptions of the air quality situation in the Kanawha Valley Intrastate and the West Virginia portion of the Steubenville-Weirton-Wheeling Interstate AQCR's will then be offered and the actual calls for needed plan revisions made.

After the calls for needed plan revisions to attain and maintain the TSP standards, the Regional Administrator

will offer his suggestions for the types of controls and planning that may be necessary to assure the attainment and maintenance of the NAAQS for photochemical oxidants. Calls for needed revisions to the existing plan for the attainment and maintenance of the photochemical oxidant standard will then be made.

Finally, a summary of State actions that will be required for the development, adoption and submittal of approval plans for the attainment and maintenance of the NAAQS will be specified.

### HISTORY OF AIR QUALITY PLANNING TO ATTAIN AND MAINTAIN THE NAAQS FOR TSP IN THE KANAWHA VALLEY INTRASTATE AND THE WEST VIRGINIA PORTION OF THE STEUBENVILLE-WEIRTON-WHEELING INTERSTATE AQCR'S

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act, and 40 CFR Part 51, Regulations for the Preparation, Adoption, and Submittal of State Implementation Plans, the Administrator approved the control strategies for the attainment and maintenance of the National Primary and Secondary Standards for particulate matter in the Kanawha Valley Intrastate and the West Virginia portions of the Steubenville-Weirton-Wheeling Interstate Air Quality Control Regions (AQCR's). The Plans were designed to attain the National Ambient Air Quality Standards (NAAQS) for Particulate Matter by July 1975 and maintain those standards thereafter.

In the Summer of 1975, the Regional Administrator of Region III undertook a study to review progress toward attaining national standards in all AQCR's in Region III. This study included review of existing air quality data, technical reviews of state monitoring programs to determine if recorded air quality data was valid and representative of local conditions, and review of the status of compliance of major emission sources. Further, the States were requested to make an independent review of the probable attainment situation in their jurisdictions assuming full compliance with existing control strategy requirements. These studies are the basis for the Regional Administrator's decision to call for needed plan revisions to assure the attainment and maintenance of the National Ambient Air Quality Standards. This notice describes the results of these detailed studies, announces the Regional Administrator's decision on the need for plan revisions to assure attainment and maintenance of the NAAQS for Particulate Matter and sets the dates for the submittal of needed plan revisions in the West Virginia portion of the Steubenville-Weirton-Wheeling Interstate and in the Kanawha Valley Intrastate AQCR's.

Before describing the results of the Regional Administrator's analysis of the air quality situation in the two AQCR's, a brief description of the general nature of the air quality problems that have arisen since the approval of the original

State Implementation Plans and that have caused the need for further air quality control measures will be presented.

### GENERAL NATURE OF THE PARTICULATE MATTER PROBLEM IN THE WEST VIRGINIA PORTION OF THE STEUBENVILLE-WEIRTON-WHEELING INTERSTATE AND THE KANAWHA VALLEY INTRASTATE AQCR'S.

At present, the primary indication that the NAAQS for particulate matter will not be met in the two AQCR's is based on the linear proportional rollback technique. This is the same technique upon which approval of the existing SIP's was based, and which originally predicted attainment of the national standards. This technique is described in some detail in the August 14, 1971 Federal Register (36 FR 15490). It assumes that decreases in emissions yields a linearly proportional improvement in regional air quality.

The reason for the apparent discrepancy in the results of the two exercises is that the more recent analysis uses a later base year. The base year emissions used in the more recent analysis reflect a decrease in source emissions as a consequence of compliance with approved SIP requirements. Therefore, less reduction in emissions from these sources can be expected in the future. Since reductions in emissions have not resulted in expected improvement in air quality, any further reduction that can be expected as a consequence of the requirements of the existing SIP will not be sufficient to assure attainment. General growth in the Regions has served to aggravate this problem.

At the heart of the problem is the lack of a fully proportionate improvement in ambient air quality with a given decrease in emissions. Based on certain ongoing studies in major metropolitan areas, it appears that this may be attributable to the fact that "urban background" may be larger than originally presumed and also that "urban background" may not be constant from place to place. It also appears, however, that particulate material originally considered a part of background may be amenable to some degree of control. Examples of these kinds of materials include particulate from traffic on paved roads, dust from storage piles, and dirt from demolition and excavation operations, as well as fugitive emissions from industrial processes and shipping. Please refer to the technical support documents described under the calls for needed SIP revisions for the names and citations of the alluded to studies on the variation of background in urban areas.

### RESULTS OF THE ANALYSIS OF THE AIR QUALITY SITUATION IN THE WEST VIRGINIA PORTION OF THE STEUBENVILLE-WEIRTON-WHEELING INTERSTATE AQCR

A review of recent air quality data submitted by the West Virginia Air Pollution Control Commission indicates that violations of both the annual and short term NAAQS for particulate matter have continued to occur at the majority of monitoring stations in the AQCR, even though a large percentage of the emis-



sions from major point sources in the Region have been controlled as a consequence of the enforcement of applicable West Virginia emission limiting regulations. Of special concern to the Regional Administrator is the unusually high readings recorded in the Follansbee and Weirton areas and the general lack of recorded air quality improvement in the Region as a whole since the approval of the original SIP for the State of West Virginia. The problem appears to be consistent in both the Ohio and West Virginia portions of the AQCR. This conclusion is based on recorded air quality data for the years 1973, 1974 and 1975. Further, the Regional Administrator has completed an updated proportional analysis for the AQCR using 1975 as a base year which indicates that the NAAQS for TSP will not be attained even with full compliance with existing SIP requirements.

Additional analysis is required to determine the exact causes of the violations of the particulate matter standards. This analysis could be expected to include examination of particulate matter samples, inventorying of emissions from non-point sources and more detailed diffusion modelling. This analysis might also include an evaluation of the effect of settling of large particles, re-suspension of particles, generation of secondary particles due to atmospheric chemical reactions involving primary emissions, wind canyon and other micrometeorological effects, and the determination of the contribution of emissions from sources from outside of the West Virginia portion of the Interstate AQCR. The effect of local sources of dust and the sampling characteristics of the reference method should also be considered.

Suspected contributors to non-attainment in the West Virginia portion of the Steubenville-Weirton-Wheeling Interstate AQCR include yet uncontrolled particulate matter advected from outside of the State of West Virginia, particulate from traffic on paved and unpaved roads and parking lots, combustion of coal for space heating, as well as fugitive emissions from demolition, excavation, mining, process sources, and construction activities. Potential control measures for particulate matter which should be considered would therefore include additional control of currently inventoried stationary sources, control of sources not currently inventoried, and oiling or paving of heavily trafficked unpaved roads and parking lots. It is not anticipated that the application of any one of these measures would result in attainment. The State should be prepared to identify precise causes of the non-attainment problem and apply remedies as appropriate. The Regional Administrator feels, however, that strict enforcement of existing regulations, coupled with additional emission controlling regulations, will be required in order to attain and maintain standards.

#### COORDINATION WITH THE STATE OF OHIO

After completion of an analysis of the air quality situation in the Ohio Portion of the Steubenville-Weirton-Wheeling

Interstate AQCR, the Regional Administrator for Region V. will determine the need for a plan revision to assure the attainment and maintenance of the NAAQS for particulate matter in the Ohio portion of the Steubenville-Weirton-Wheeling Interstate AQCR. This analysis is due to be completed in January, 1977. Every attempt should be made to co-ordinate these replanning efforts. The Regional Administrator urges close cooperation between the States of West Virginia and Ohio to assure compatible and equitable levels of control through the Interstate AQCR.

#### RESULTS OF THE ANALYSIS OF THE AIR QUALITY SITUATION IN THE KANAWHA VALLEY INTERSTATE AQCR

A review of recent air quality data submitted by the West Virginia Air Pollution Control Commission indicates that violations of both the annual and short term NAAQS for Particulate Matter have continued to occur at the majority of monitoring stations in the AQCR, even though a large percentage of the emissions from major point sources in the Region have been controlled as a consequence of enforcement of applicable emission limiting regulations. Of special concern to the Regional Administrator is the unusually high readings recorded in the City of Charleston where four separate monitoring stations have recorded violations of the NAAQS for particulate matter of over 90 micrograms per cubic meter as a geometric mean for the year 1975. Further, there does not appear to be any trend toward improvement in air quality since the approval of the original SIP. The Regional Administrator has completed an updated proportional rollback analysis for the West Virginia portion of the Interstate AQCR using 1975 as a base year which also indicates that the NAAQS for particulate matter will not be attained even with full compliance with existing SIP requirements.

Further analysis is required to determine the exact causes of the violations of the particulate matter standards. This analysis could be expected to include examination of particulate matter samples, inventorying of emissions from non-point sources and more detailed diffusion modelling. This analysis might also include an evaluation of the effect of settling of large particles, re-suspension of particles, generation of secondary particles due to atmospheric chemical reactions involving primary emissions and wind canyon and other micrometeorological effects. The effect of local sources of dust and the sampling characteristics of the reference method should also be considered.

Suspected contributors to non-attainment in the AQCR include yet uncontrolled particulate matter from traffic on paved roads and parking lots, combustion of coal for space heating, as well as fugitive emissions from demolition, excavation, industrial process sources and construction activities. Potential control measures for particulate matter which should be considered would, therefore, include additional control of currently inventoried stationary sources, control

of sources not currently inventoried, oiling and paving of heavily trafficked roads and parking lots and covering of open trucks carrying construction dirt. It is not anticipated that the application of any one of these measures would result in attainment. The State should be prepared to identify the precise cause of the non-attainment problem and apply remedies as appropriate. The Regional Administrator feels, however, that strict enforcement of existing regulations, coupled with additional emission controlling regulations, will be required in order to attain and maintain standards.

#### RESULTS OF THE ANALYSIS OF THE AIR QUALITY SITUATION IN THE WEST VIRGINIA PORTION OF THE CUMBERLAND-KEYSER INTERSTATE AQCR

The Regional Administrator has also completed a review of the air quality situation in the West Virginia portion of the Cumberland-Keyser Interstate AQCR. Though no violations of the NAAQS for Particulate Matter were recorded in the West Virginia portion of the Interstate AQCR during 1975, the Regional Administrator is concerned with the air quality situation that exists in the Potomac River Valley Air Basin which includes portions of the States of Maryland and West Virginia. He is, therefore, urging that air quality planning to assure the attainment and maintenance of the NAAQS for TSP be accomplished through cooperation between the States of Maryland and West Virginia. Specifically, he urges that compatible and equitable levels of control needed to attain and maintain the national standards be instituted throughout the Region.

#### CHANCES TO EXISTING EMISSION CONTROLLING REGULATIONS

As mentioned previously, the State should be prepared to identify the causes of all TSP non-attainment problems and apply remedies as appropriate. The Regional Administrator feels, however, that strict enforcement of existing regulations, coupled with certain additional emission controlling regulations, will be required in order to attain and maintain standards. Further, the Regional Administrator does not expect that major changes to existing emission limiting regulations will be required as a consequence of this replanning effort. Therefore, to the extent possible, the Regional Administrator would like the State to look at strategies controlling sources of emissions not already controlled under the applicable plan, rather than revising existing regulations. It is the Regional Administrator's belief that ongoing compliance actions should not be affected by this replanning effort. Sources affected by existing regulations are advised that all existing regulations remain in effect and timely compliance is still required.

#### REGIONAL ADMINISTRATOR'S REVIEW OF EXISTING REGULATIONS

The Regional Administrator has also undertaken a review of the existing State of West Virginia Implementation Plan



Control Strategy for TSP to determine those existing particulate matter emission controlling regulations that are sufficiently restrictive in light of available technology. Attainment and maintenance of the Standards should be achieved through promulgation of additional regulations rather than through revision of those existing regulations which are contained in the approved SIP. Compliance with all existing regulations continues to be mandatory and the good faith efforts of any source to satisfy the requirements contained therein will be recognized.

The determination of the adequacy of existing regulations is based on analyses which are available to public inspection as part of the "Technical Support Document for Needed SIP Revisions to Assure Attainment and Maintenance of the NAAQS for TSP in the State of West Virginia" which is described in more detail below. As a consequence of the Regional Administrator's review, it is his belief that the following particulate matter controlling regulations represent such sufficiently restrictive control considering available technology that they should not be revised at this time.

#### STATE OF WEST VIRGINIA

Regulation:	Description:
Regulation II-----	Control of Particulate Emission from the following combustion sources:
	1. Power plants.
	2. Industrial boilers.
Regulation X,	
Sec. 3.05(d)-----	Sulfur limit in coke oven gas.
Regulation VII-----	Particulate Emissions from certain processes including:
	1. Brass and bronze production

The Regional Administrator would like to make it clear that the above regulations do not necessarily represent reasonably available control technology nor is the listing exhaustive. Further, this notice is not intended to impinge on the State's prerogative to advise any regulation as needed. The Regional Administrator would like to emphasize, however, that it is his belief that the above regulations should only be revised after other strategies have been exhausted.

#### CALLS FOR PLAN REVISIONS TO ASSURE THE ATTAINMENT AND MAINTENANCE OF THE NAAQS FOR PARTICULATE MATTER IN THE WEST VIRGINIA PORTION OF THE STEUBENVILLE-WEIRTON-WHEELING INTERSTATE AND KANAWHA VALLEY INTRASTATE AQCR'S

Therefore, on the basis of recent air quality data submitted by the State of West Virginia in fulfillment of the requirements of Section 51.7 (Reports), and from the evaluation of various compliance actions taken by the State to implement the applicable plans for the Kanawha Valley Intrastate and the West Virginia portions of the Steubenville-Weirton-Wheeling Interstate AQCR's, and the previously described technical analysis, it is the technical judgment of

the Regional Administrator for Region III, that the presently approved control strategy portion of the plan for Particulate Matter (i.e. pursuant to 40 CFR Part 51.13) is substantially inadequate to attain and maintain the national particulate matter standards in the Kanawha Valley Intrastate and the West Virginia portions of the Steubenville-Weirton-Wheeling Interstate AQCR's. Therefore, it is necessary to add control measures to the plans or revise one or more existing regulations for control of particulate matter.

The Regional Administrator's analyses have been summarized in a report entitled "Technical Support Document for Needed SIP Revisions to Assure Attainment and Maintenance of the NAAQS for TSP in the State of West Virginia" and is available for inspection and copying at the offices of the Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106 and the Public Information Reference Unit, Room 2922, (EPA Library), 401 M Street, SW., Washington, D.C. 20460.

#### STATUS OF PHOTOCHEMICAL OXIDANTS IN WEST VIRGINIA AND BASIS OF CALL FOR PLAN REVISIONS

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act, and 40 CFR Part 51, Regulations for the Preparation, Adoption, and Submittal of State Implementation Plans, the Administrator approved the existing control strategies as adequate for the attainment and maintenance of the National Primary and Secondary Standards for photochemical oxidants and carbon monoxide in all AQCR's of West Virginia. At that time, no additional control measures for hydrocarbons or carbon monoxide were required, since the entire state was designated as Priority III for both pollutants, based on the absence of air quality readings in excess of the standards. The plan was designed to assure maintenance of the National Ambient Air Quality Standards for photochemical oxidants and carbon monoxide through 1975.

In the Spring of 1976, the Regional Administrator of Region III undertook a study to review the progress toward attaining national standards for photochemical oxidants in all AQCR's in Region III. Since no air quality data on oxidants was submitted to EPA by the State, the Regional Administrator utilized recent air quality data obtained by the Research Triangle Institute under contract to EPA (Contract No. 68-02-2048). This data showed that violations of the photochemical oxidant standard (0.08 ppm) occurred at the station in Lewisburg, West Virginia in 59 different hours on 11 different days between June 27 and September 30, 1975. A maximum value of 0.113 ppm was recorded.

#### DISCUSSION OF NEED FOR STATEWIDE OXIDANT CONTROLS AND OTHER FACTORS RELATING TO CONTROL OF PHOTOCHEMICAL OXIDANTS

Based on new information on the reactivity of hydrocarbons, the widespread

nature of the photochemical oxidant problem, and the phenomenon of long distance transport of oxidant precursors, it is necessary to reevaluate hydrocarbon control strategies in terms of large interstate regions. Ultimately, the regulations which result from this effort will have to address total hydrocarbon control over perhaps the entire eastern half of the United States.

The Regional Administrator recognizes that there is not yet available an adequate model to quantify the effect of hydrocarbon reduction on photochemical oxidant levels. The EPA has made a substantial effort in this area and will have a photochemical oxidant model available in the near future. This model can be utilized in the development of hydrocarbon control strategies.

Because of the suspected role NO<sub>x</sub> plays in the formation of photochemical oxidants, additional control of NO<sub>x</sub> emissions may be required in order to meet the NAAQS for photochemical oxidants. The determination of whether additional NO<sub>x</sub> controls are needed will be made after the relationship between hydrocarbons and NO<sub>x</sub> in the formation of oxidants is determined.

Planning for hydrocarbon controls should initially emphasize those geographical areas responsible for the major amount of hydrocarbon emissions. The first phase of the plan should provide for control of major point sources statewide and control of other hydrocarbon sources in major metropolitan areas. The plan should be phased so that hydrocarbon controls eventually extend throughout the State.

The Regional Administrator will provide additional technical support information and model regulations. This data will be available in sufficient time to meet planning deadlines.

#### CALLS FOR PLAN REVISIONS TO ASSURE THE ATTAINMENT AND MAINTENANCE OF THE NAAQS FOR PHOTOCHEMICAL OXIDANTS STATEWIDE

On the basis of recent air quality data and other items previously described in this notice, it appears that the West Virginia State Implementation Plan does not have sufficient measures to attain and maintain the national photochemical oxidant standards statewide.

Therefore, it is recommended that measures be added to the plan for control of photochemical oxidants. The Regional Administrator's analyses have been summarized in a technical report entitled "Technical Support Document for West Virginia Set II Pollutants" and is available for inspection and copying at the offices of the Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106 and the Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460.

The Regional Administrator has determined that the monitoring network in West Virginia is inadequate for photochemical oxidants. He therefore requests that the state review the network and



make appropriate revisions. The EPA will provide technical assistance in this effort.

#### PLANNING REQUIREMENTS

Because of these identified deficiencies, the Regional Administrator finds that revisions to parts of the control strategy for particulate matter are needed. He also finds that a control strategy for photochemical oxidants must be developed. This FEDERAL REGISTER notice is intended to officially advise the State of West Virginia of these requirements. Accordingly, the State shall prepare and submit, by July 1, 1977, a plan revision containing adopted emission limiting regulations, as needed, which represent a reasonable degree of control and which may be implemented within a reasonable period of time to provide for the attainment and maintenance of all national particulate matter and photochemical oxidant standards.

The Regional Administrator does not expect that additional emission limiting regulations will be sufficient in all cases to provide for the full attainment and maintenance of the standards. If additional control measures (e.g.: Land use and transportation measures) are needed to provide for attainment and maintenance, beyond those submitted on July 1, 1977, such measures may be submitted no later than July 1, 1978.

The needed plan revision should identify the nature and sources of emissions within the applicable AQCR's and demonstrate how the adopted regulations will provide for the attainment and maintenance of the national standards. The plans should include a demonstration that emission increases that will result from projected growth of population, industrial activity, etc., will not cause the national standards to be violated. Compliance schedules for any source affected by any new or revised regulation must be submitted in accordance with the requirements of 40 CFR 51.15 (Compliance Schedules). The Plan revision should also indicate any additional resources needed to implement the control plan beyond those already provided for in the plan, along with the State's commitment to provide additional manpower and money to implement the control measures. If responsibility for implementing any portion of the plan revisions is delegated to other State and/or local agencies, a description of the specific responsibility of each agency in implementing the plan shall be submitted. The plan revision shall be submitted by the State in accordance with the provisions of § 51.4, Public Hearings, and § 51.5, Submission of Plans, and shall otherwise fulfill the requirements of Part 51.

The existing statutory attainment deadlines for primary standards remain in effect. The State is, therefore, advised that the plan revision must provide for the attainment of primary standards as expeditiously as possible. The State should indicate in its submittal the exact timetable for implementation of control measures that will assure that primary

standards will be attained at the most expeditious date possible.

The State is further advised that additional time can be provided for secondary standards, so long as such standards are attained within a reasonable time. The revised plan shall also indicate the date by which these standards will be attained.

The State shall also indicate the timetable for implementation of control strategies required to maintain national standards. This timetable should be based on the State's analysis of future air quality and expected growth in the Regions affected. The State's analysis of future air quality should utilize growth projections and cover a period of time consistent with other ongoing areawide planning programs, particularly with the Environmental Protection Agency's Areawide Water Quality Management Planning Program. In the Kanawha Valley Intrastate AQCR this would require close coordination with the Boone-Clay-Kanawha-Putnam Regional Inter-governmental Council and an analysis of air quality up to the year 2000. Planning coordination and analysis periods in the West Virginia portion of the Steubenville-Weirton-Wheeling Interstate AQCR should reflect decisions currently being made concerning State Water Quality Management Planning. To assure consistency with other areawide planning programs and to provide for public participation in the air planning process, consideration should be given to an apportionment of the planning effort between the State and the appropriate areawide planning agency.

#### REFERRAL TO SUBPART D OF 40 CFR PART 51

Finally, the State is advised to refer to Subpart D of 40 CFR Part 51, Requirements for the Preparation, Adoption and Submittal of State Implementation Plans, as promulgated on May 3, 1976 (41 FR 18382). Subpart D summarizes all requirements that the State must meet in developing needed attainment and/or maintenance plans.

#### LETTER OF INTENT

The Governor shall submit, within 60 days of the date of this notice, a letter of intent to the Regional Administrator, EPA, Region III which identifies the various action steps (along with target dates for completion) which the State will take to develop the plan revisions in accordance with the requirements set forth in this notice. The State must also identify the agencies that have been given responsibility to prepare the plan revisions. Failure by the State to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revision will be forthcoming from the State. In this case, EPA will begin to develop for promulgation, a federal plan to attain and maintain national standards.

All of the currently applicable plan remains in effect until the plan revision is submitted by the State to EPA and is approved by EPA or until EPA promul-

gates substitute (or additional) regulations.

#### LEGAL AUTHORITY AND PUBLIC COMMENT

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding of the Regional Administrator which clearly shows that the applicable control strategies are inadequate and need to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on all proposed revisions will be provided. If the State develops its own revisions and submits them to EPA, public hearings will be required at the State level and EPA will provide opportunity for written comments prior to taking action on the submission; if EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments, and, if the State has held no hearing on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended, (42 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended, (42 U.S.C. 1857c-5(c)).)

Dated: June 30, 1976.

A. R. MORRIS,  
Acting Regional Administrator,  
Region III, Environmental  
Protection Agency.

[FR Doc.76-19925 Filed 7-9-76; 8:45 am]

[FRL 576-5]

#### DELAWARE

#### Approval of State Implementation Plans; Required Revisions

On October 20, 1975 (40 FR 49056) and again on May 3, 1976 (41 FR 18387), the Administrator notified the public of his intention to review all State Implementation Plans (SIP's) to determine their adequacy to attain and maintain the National Ambient Air Quality Standards (NAAQS) for all areas of the nation whether identified as Air Quality Maintenance Areas (AQMA's) or not. Further, he advised the public of his intention to call for plan revisions whenever he found a plan to be substantially inadequate to attain the national standards. All reviews of existing State plans and calls for needed revisions were to be completed by July 1, 1976.

The following notice summarizes the results of the Regional Administrator's review of the existing SIP for the State of Delaware and his call for needed revisions to the plan to assure the attainment and maintenance of the NAAQS for photochemical oxidants.

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act, and 40 CFR Part 51, Regulations for the Preparation, Adoption, and Submittal of State Implementation Plans, the Administrator approved the control strategies for the attainment and maintenance of the National Primary and Secondary Standards for photochemical oxidants in



the Delaware portion of the Metropolitan Philadelphia Interstate Air Quality Control Region. The Plan was designed to attain the National Ambient Air Quality Standards (NAAQS) of .08 ppm for photochemical oxidants by July 1975, and to maintain those standards thereafter.

In the spring of 1976, the Regional Administrator of Region III undertook a study to review the progress toward attaining national standards for all pollutants in all AQCR's in Region III. These analyses included review of existing air quality data and technical reviews of State Monitoring Programs, to determine if recorded air quality data was valid and representative of local conditions. Results of the Regional Administrator's review of the air quality data for photochemical oxidants reveal that concentrations of oxidants as high as 0.20 ppm occurred on several occasions at both the Claymont and Wilmington sites in 1975.

#### DISCUSSION OF NEED FOR STATEWIDE OXIDANT PLANNING AND OTHER FACTORS RELATING TO CONTROL OF PHOTOCHEMICAL OXIDANTS

Based on new information on the reactivity of hydrocarbons, the widespread nature of the photochemical oxidant problem, and the phenomenon of long distance transport of oxidant precursors, it is necessary to reevaluate hydrocarbon control strategies in terms of large interstate regions. Ultimately, the regulations which result from this effort will have to address total hydrocarbon control over perhaps the entire eastern half of the United States.

The Regional Administrator recognizes that there is not yet available an adequate model to quantify the effect of hydrocarbon reduction on photochemical oxidant levels. The EPA has made a substantial effort in this area and will have a photochemical oxidant model available in the near future. This model can be utilized in the development of hydrocarbon control strategies.

Planning for hydrocarbon controls should initially emphasize those geographical areas responsible for the major amount of hydrocarbon emissions. The initial phase of the plan should provide for control of major point sources statewide. Additionally, in the first phase there should be control of other hydrocarbon sources in the Metropolitan Philadelphia Interstate AQCR. The Plan should be phased so that hydrocarbon controls eventually extend throughout the state.

Because of the suspected role  $\text{NO}_x$  plays in the formation of photochemical oxidants, additional control of  $\text{NO}_x$  emissions may be required to meet the NAAQS for photochemical oxidants. The determination of whether additional  $\text{NO}_x$  controls are needed will be made after the relationship between hydrocarbons and  $\text{NO}_x$  in the formation of oxidants is determined.

The Regional Administrator will provide additional technical support, information, and model regulations in sufficient time to meet planning deadlines.

#### CALL FOR PLAN REVISIONS TO ASSURE THE ATTAINMENT AND MAINTENANCE OF THE NAAQS FOR PHOTOCHEMICAL OXIDANTS FOR THE STATE OF DELAWARE

On the basis of recent air quality data submitted by the State of Delaware in fulfillment of the requirement of § 51.7 (Reports), and from the status of compliance with existing regulations, and other items previously described in this notice, it is the technical judgment of the Regional Administrator for Region III that the presently approved control strategy portion of the Delaware State Implementation Plan for photochemical oxidants is substantially inadequate to attain and maintain the national photochemical oxidant standards statewide.

Therefore, it is necessary to add measures to the plan or revise one or more existing regulations for control of photochemical oxidants. The Regional Administrator's analyses have been summarized in a technical report entitled, "Technical Support Document for Delaware Set II Pollutants," and is available for inspection and copying at the offices of the Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106 and the Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW, Washington, D.C. 20460.

#### PLANNING REQUIREMENTS

Because of these identified deficiencies, the Regional Administrator finds that revisions to the parts of the control strategy for photochemical oxidants in the plan are needed. This FEDERAL REGISTER notice is intended to officially advise the State of Delaware of this requirement. Accordingly the state shall prepare and submit by July 1, 1977, a plan revision containing adopted emission limiting regulations, as needed, which represent a reasonable degree of control and which may be implemented within a reasonable period of time to provide for the attainment and maintenance of the national photochemical oxidant standards.

The Regional Administrator does not expect that additional emission limiting regulations will be sufficient in all cases to provide for the full attainment and maintenance of the national standards for photochemical oxidants. If additional control measures (e.g., land use and transportation measures) are needed to provide for attainment and maintenance, beyond those submitted on July 1, 1977, such measures may be submitted no later than July 1, 1978.

The needed plan revisions should identify the nature and sources of emissions within the applicable AQCR's and demonstrate how the adopted regulations will provide for the attainment and maintenance of the national standards. The plans should include a demonstration that emission increases that will result from projected growth of population, industrial activity, etc., will not cause the national standards to be violated. Compliance schedules for any source affected by any new or revised regulation must be submitted in accordance with the requirements of 40 CFR

51.15 (Compliance Schedules). The Plan revision should also indicate any additional resources needed to implement the control plan beyond those already provided for in the plan, along with the State's commitment to provide additional manpower and money to implement the control measures. If responsibility for implementing any portion of the plan revisions is delegated to other State and/or local agencies, a description of the specific responsibility of each agency in implementing the plan shall be submitted. The plan revision shall be submitted by the State in accordance with the provisions of § 51.4, Public Hearings, and § 51.5, Submission of Plans, and shall otherwise fulfill the requirements of Part 51.

The existing statutory deadlines for primary standards remain in effect. The State is therefore advised that the plan revision must provide for the attainment of primary standards as expeditiously as possible. The State should indicate in its submittal the exact timetable for implementation of control measures that will assure that primary standards will be attained at the most expeditious date possible.

The State shall also indicate the timetable for implementation of control strategies required to maintain national standards. This timetable should be based on the State's analysis of future air quality and expected growth in the Regions affected. The State's analysis of future air quality should utilize growth projections and cover a period of time consistent with other ongoing areawide planning programs, particularly with the Environmental Protection Agency's Areawide Water Quality Management Planning Program. There should be close cooperation with the Wilmington Metropolitan Area Planning Coordinating Council and an analysis of air quality up to the year 1995. To assure consistency with other areawide planning programs and to provide for public participation in the air planning process, consideration should be given to an apportionment of the planning effort between the State and the cognizant areawide planning agency.

#### REFERRAL TO SUBPART D OF 40 CFR PART 51

Finally, the State is advised to refer to Subpart D of 40 CFR Part 51, Requirements for the Preparation, Adoption and Submittal of State Implementation Plans, as promulgated on May 3, 1976 (41 FR 18382). Subpart D summarizes all requirements that the State must meet in developing needed attainment and/or maintenance plans.

#### CALLS FOR REVISIONS TO CFR PART 52

Since the original approval of the Delaware State Implementation Plan, the Administrator, in several separate actions, has disapproved a number of sections of the approved Delaware plan dealing with a variety of subjects. The Regional Administrator feels that this is an appropriate time to list these deficiencies and advise the State that these



should be corrected as expeditiously as possible. Listed below is each deficient Section, a brief description of the nature

of the Section's inadequacy and the Federal Register citation and disapproval date.

Sec.	Description	Date of promulgation	F.R. citation	Comments
52.426	Review of new sources and modifications	Feb. 29, 1974	39 F.R. 7270	Indirect sources
52.431	Maintenance of national standards	Sept. 9, 1975	40 F.R. 41942	
52.432	Significant deterioration of air quality	June 12, 1976	40 F.R. 25004	

A number of these required revisions to Part 52 are relatively minor in nature and are not indicative of deficiencies in the State's overall activities in the various programs.

#### LETTER OF INTENT

The Governor shall submit, within 60 days of the date of this notice, a letter of intent to the Regional Administrator, EPA, Region III which identifies the various action steps (along with target dates for completion) which the State will take to develop the plan revisions in accordance with the requirements set forth in this notice. The State must also identify the agencies that have been given responsibility to prepare the plan revisions. Failure by the State to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revision will be forthcoming from the State. In this case, EPA will begin to develop for promulgation a federal plan to attain and maintain national standards.

All of the currently applicable plan remains in effect until the plan revision is submitted by the State to EPA and is approved by EPA or until EPA promulgates substitute (or additional) regulations.

#### LEGAL AUTHORITY AND PUBLIC COMMENT

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding of the Regional Administrator which clearly shows that the applicable control strategies are inadequate and need to be revised.

Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on all proposed revisions will be provided. If the State develops its own revisions and submits them to EPA, public hearings will be required at the State level and EPA will provide opportunity for written comments prior to taking action on the submission; if EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State has held no hearing on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended, (42 U.S.C. 1857c-5(a)(2)(H)), sec. 110(c), Clean Air Act, as amended, (42 U.S.C. 1857c-5(c))

Dated: June 30, 1976.

A. R. MORRIS,  
Acting Regional Administrator,  
Region III, Environmental  
Protection Agency.

[FR Doc.76-19923 Filed 7-9-76;8:45 am]

[FRL 576-6]

#### DISTRICT OF COLUMBIA

##### Approval of Implementation Plans; Required Revisions

On October 20, 1975 (40 FR 49056) and again on May 3, 1976 (41 FR 18387), the Administrator notified the public of his intention to review all State Implementation Plans (SIP's) to determine their adequacy to attain and maintain the National Ambient Air Quality Standards (NAAQS) for all areas of the nation whether identified as Air Quality Maintenance Areas (AQMA's) or not. Further, he advised the public of his intention to call for plan revisions whenever he found a plan to be substantially inadequate to attain the national standards. All reviews of existing State plans and calls for needed revisions were to be completed by July 1, 1976.

The following notice summarizes the results of the Regional Administrator's review of the existing SIP for the District of Columbia Portion of the National Capital Interstate Air Quality Control Region and calls for needed revisions to the plan to assure the attainment and maintenance of the NAAQS for total suspended particulate matter (TSP), carbon monoxide (CO) and photochemical oxidants.

A description of the history of air quality planning to attain and maintain the NAAQS for TSP in the D.C. portion of the National Capital Interstate AQCR will first be given. This will be followed by a brief analysis of the general nature of the particulate matter problem in the District of Columbia that has led to the need for today's action. More detailed description of the air quality situation in the District will then be offered and the actual calls for needed plan revisions made.

After the calls for needed plan revisions to attain and maintain the TSP standards, a history and analysis of the problems relating to transportation control planning in the District of Columbia will be given. This will be followed by the Regional Administrator's suggestions for the types of controls and planning that may be necessary to assure the attainment and maintenance of the NAAQS for photochemical oxidants and carbon monoxide. Calls for needed revisions to the existing plan for the attainment and maintenance of the oxidant and carbon monoxide standards will then be made.

Finally, a summary of required District actions that will be required for the development, adoption and submittal of approvable plans for the attainment and maintenance of the NAAQS will be specified.

#### HISTORY OF AIR QUALITY PLANNING TO ATTAIN AND MAINTAIN THE NAAQS FOR TSP IN THE DISTRICT OF COLUMBIA PORTION OF THE NATIONAL CAPITAL INTERSTATE AQCR

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act, and 40 CFR Part 51, Regulations for the Preparation, Adoption, and Submittal of State Implementation Plans, the Administrator approved the control strategy for the attainment and maintenance of the National Primary and Secondary Standards for particulate matter in the District of Columbia portion of the National Capital Interstate Air Quality Control Region. The Plan was designed to attain the National Ambient Air Quality Standards (NAAQS) for Particulate Matter by July 1975, and to maintain those standards thereafter.

This plan was disapproved by the Administrator, on March 8, 1973 (38 FR 6279), with respect to the maintenance of standards. This was because the plan had not adequately analyzed the impact of growth on air quality maintenance for any significant period of time into the future. Further, after careful review of the air quality situation and potential growth in the National Capital AQCR, in accordance with the "Guidelines for Designation of Air Quality Maintenance Areas" (OAQPS No. 1.2-016), the Administrator, on September 9, 1975 (40 FR 41950), designated the entire National Capital Interstate AQCR as an Air Quality Maintenance Area (AQMA) for TSP and photochemical oxidants. More detailed study was called for to determine the need for plan revisions to assure maintenance of the NAAQS for particulate matter.

In the summer of 1975, the Regional Administrator of Region III undertook a study to review the progress toward attaining national standards in all AQCR's in Region III. These analyses included review of existing air quality data and technical reviews of State Monitoring Programs, to determine if recorded air quality data was valid and representative of local conditions, and review of the status of compliance of major emission sources. Further, the States were requested by the Regional Administrator to make an independent review of the probable attainment situation in their jurisdictions after full compliance with existing control strategy requirements had been achieved.

On March 22, 1976, the D.C. Department of Environmental Services, in response to the Regional Administrator's request, forwarded copies of several documents reviewing various aspects of the air quality situation in the D.C. portion of the National Capital Interstate Air Quality Control Region to EPA Region III. These included a May 30, 1975 draft report entitled, "1985 Air Quality in the National Capital Region," which represented the results of the first phase of an air quality maintenance plan demonstration project produced by the Metropolitan Council of Governments under contract to the U.S. Environmental Protection Agency, testimony of Councilman



Jerry A. Moore, Chairman of the Committee on Transportation and Environmental Affairs, Council of the District of Columbia, on a proposed Bill on the "Operation of the Incinerator at Solid Waste Reduction Center No. 1" and a copy of a memorandum from Mr. William McKinney, Director of the D.C. Department of Environmental Services, to Councilman Moore, presenting the Department's comments on the proposed Bill.

Careful review of these submittals indicates that, though there is some contradictions between the air quality assessments in the various documents, the general conclusion contained in the reports is that the existing SIP is inadequate to assure that the National Ambient Air Quality Standards for particulate matter will be attained and maintained after full compliance with existing plan requirements. Specifically, the Council of Government's draft report indicates that violations of the National Primary Annual Standard for particulate matter will occur throughout a substantial portion of the District after full compliance with existing regulations has been achieved. Mr. McKinney's memorandum to Councilman Moore indicates that neither the primary nor the secondary NAAQS for particulate matter are being met throughout the District.

The Regional Administrator's independent analysis also indicates that the existing SIP is inadequate to assure that the NAAQS for particulate matter will be attained and maintained thereafter. Before describing the results of the Regional Administrator's analysis of the air quality situation in the D.C. portion of the National Capital Interstate AQCR, a brief description of the general nature of the air quality problems that have arisen since the approval of the original State Implementation Plans that have caused the need for further air quality control measures will be given.

#### GENERAL NATURE OF THE PARTICULATE MATTER PROBLEM IN THE DISTRICT OF COLUMBIA

At present, the primary indication that the NAAQS for Particulate Matter will not be met in the D.C. portion of the National Capital Interstate AQCR is based on the proportional rollback technique. This is the same technique upon which the existing plan is based, and which originally predicted attainment. This technique is described in the August 14, 1971 FEDERAL REGISTER (36 FR 15490). The reason for the apparent discrepancy in the results of the two exercises is that the more recent analysis uses a later base year. Consequently, air pollution sources have been better controlled, so less reduction in emissions is available from these sources in the future. Since past reductions in emissions have not resulted in expected improvement in ambient levels, the remaining emission reductions in the current SIP will not be sufficient to assure attainment. General growth in the District has served to aggravate this problem.

At the heart of the problem is the lack of a one-to-one relationship between re-

duction in particulate matter emissions and consequent improvement in ambient air quality levels. Based on certain ongoing studies in major metropolitan areas, it appears that this may be attributable to the fact that "urban background" may be larger than originally presumed and also that "background" may not be constant from place to place. It also appears, however, that particulate material originally considered a part of background may be amenable to some degree of control. Examples of these kinds of materials include particulate from traffic on paved roads, dust from storage piles, and dirt from demolition and excavation operations, as well as fugitive emissions from industrial process and shipping. Please refer to the technical support document described under the section of this notice entitled, "Calls for Plan Revisions to Assure the Attainment and Maintenance of the NAAQS for Particulate Matter in the District of Columbia," for the names and citations of the alluded-to studies on the variation of background in urban areas.

Further analysis is required to determine the exact cause of the predicted violations of the particulate matter standards. This analysis could be expected to include examination of particulate samples, inventorying of emissions from non-point sources, and more detailed diffusion modeling. This analysis might also include an evaluation of the effect of settling of large particles, resuspension of particles, generation of secondary particles due to atmospheric chemical reactions involving primary emissions, and wind canyon and other micrometeorological effects. The effect of local sources of dust and the sampling characteristics of the reference method should also be considered.

Suspected contributors to non-attainment in the District of Columbia include particulate from traffic on paved roads, dust from storage piles, dirt from demolition and excavation operations, as well as fugitive emissions from industrial processes and shipping. Potential control measures for particulate matter which should be considered would therefore include additional control of currently inventoried stationary sources, control of sources not currently inventoried such as storage and shipping operations, control of demolition and excavation operations, control of demolition and excavation operations, and street cleaning. It is not anticipated that the application of any one of these measures would result in attainment. The District should be prepared to identify the precise causes of the non-attainment problem and apply remedies as appropriate. The Regional Administrator feels, however, that strict enforcement of existing regulations, coupled with additional emission controlling regulations, will be required in order to attain and maintain standards.

#### RESULTS OF THE REGIONAL ADMINISTRATOR'S ANALYSIS OF THE AIR QUALITY SITUATION IN THE D.C. PORTION OF THE NATIONAL CAPITAL AQCR

Review of air quality data submitted by the D.C. Department of Environ-

mental Services indicates that violations of both the primary and secondary particulate matter standards exists at a number of monitoring locations in the D.C. Portion of the National Capital Interstate Air Quality Control Region. Specifically, violations of the national annual particulate matter standards occurred at four monitoring sites in 1974 and violations of the national 24 hour standard occurred at eight monitoring sites in 1974. Review of previously submitted data for 1972 and 1973 indicates that the recorded ambient levels for 1974 do not represent a significant improvement in air quality as compared to the previous years.

Further, the Regional Administrator has completed an updated proportional linear rollback analysis based on recorded 1975 air quality data for TSP which indicates continued violations of the NAAQS for TSP after full compliance with existing SIP requirements has been achieved. Additional work is needed to more precisely define the exact causes of these predicted violations. A number of suggestions for the types of studies needed were summarized earlier in this notice. The results of the proportional rollback study should, therefore, be looked upon as preliminary until such time that it may be confirmed by results from the use of more sophisticated analytical techniques. The Regional Administrator is confident, however, that the results of the preliminary proportional rollback analysis is a clear indication of probable air quality after full compliance with existing emission controlling regulations has been achieved. Needed plan revisions should therefore be called for at this time.

#### CHANGES TO EXISTING EMISSION CONTROLLING REGULATIONS

As mentioned previously, the District should be prepared to identify the causes of all TSP non-attainment problems and apply remedies as appropriate. The Regional Administrator feels, however, that strict enforcement of existing regulations, coupled with certain additional emission controlling regulations, will be required in order to attain and maintain standards. Further, the Regional Administrator does not expect that major changes to existing emission limiting regulations will be required as a consequence of this replanning effort. Therefore, to the extent possible, the Regional Administrator would like to advise the District to look at strategies controlling sources of emissions not already controlled under the applicable plan, rather than revising existing regulations. It is the Regional Administrator's belief that ongoing compliance actions should not be affected by this replanning effort. Sources affected by existing regulations are advised that all existing regulations remain in effect and timely compliance is still required.

#### REGIONAL ADMINISTRATOR'S REVIEW OF EXISTING REGULATIONS

The Regional Administrator has also undertaken a review of the existing District of Columbia Implementation Plan Control Strategy for TSP to determine



those existing particulate matter emission controlling regulations that are sufficiently restrictive in light of available technology. Attainment and maintenance of the Standards should be achieved through promulgation of additional regulations rather than through revision of those existing regulations which are contained in the approved SIP. Compliance with all existing regulations continues to be mandatory and the good faith efforts of any source to satisfy the requirements contained therein will be recognized.

The determination of the adequacy of existing regulations is based on analyses which are available for public inspection as part of the "Technical Support Document for Calls for Needed SIP Revisions to Assure Attainment and Maintenance of the NAAQS for TSP in the District of Columbia" described below. As a consequence of the Regional Administrator's review, it is his belief that the following particulate matter controlling regulations represent such sufficiently restrictive control considering available technology that they should not be revised at this time.

#### D.C. DEPARTMENT OF ENVIRONMENTAL SERVICES REGULATIONS

- 8-2:709 Regulation Controlling Particulate Emissions from Incinerators
- 8-2:710 Regulation Controlling Particulate Emissions from Process Sources
- 8-2:711 Regulation Controlling Particulate Emissions from Open Burning
- 8-2:713 Regulation Controlling Visible Emissions

The Regional Administrator would like to make it clear that the above regulations do not necessarily represent reasonably available control technology nor is the listing exhaustive. In particular, general regulations controlling emissions from a wide variety of processes, by necessity reflect varying degrees of control depending on the specific process source. Further, this notice is not intended to impinge on the District's prerogative to revise any regulation as needed. The Regional Administrator would like to emphasize, however, that it is his belief that the above regulations should only be revised after other strategies have been exhausted.

#### CALLS FOR PLAN REVISIONS TO ASSURE THE ATTAINMENT AND MAINTENANCE OF THE NAAQS FOR PARTICULATE MATTER IN THE DISTRICT OF COLUMBIA

On the basis of recent air quality data submitted by the District of Columbia in fulfillment of the requirement of § 51.7 (Reports), and from the evaluation of various compliance actions taken by the State to implement the applicable plans for the National Capital Interstate AQCR, it is the technical judgment of the Regional Administrator for Region III, that the presently approved control strategy portion of the plan for Particulate Matter (i.e., pursuant to 40 CFR Part 51.13) is substantially inadequate to attain and maintain the national particulate matter standards in the National Capital Interstate Air Quality Control

Region. Therefore, it is necessary to add control measures to the plans and/or revise one or more existing regulations for control of particulate matter. The Regional Administrator's analysis has been summarized in a technical report entitled, "Technical Support Document for Calls for Needed SIP Revisions to Assure Attainment and Maintenance of the NAAQS for TSP in the District of Columbia," and is available for inspection and copying at the offices of the Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106 and the Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW, Washington, D.C. 20460.

#### HISTORY OF TRANSPORTATION CONTROL PLANNING IN THE D.C. PORTION OF THE NATIONAL CAPITAL INTERSTATE AQCR

Transportation Control Plans for the National Capital Interstate AQCR were submitted by the District of Columbia on April 20, 1973; by Maryland on April 16, 1973 and May 5, 1973; and by Virginia on April 11, 1973 and May 30, 1973. On June 22, 1973 (38 FR 16550), the Administrator issued notices containing his evaluation of the plans. Supplementary information was submitted by the District on July 9 and July 16; by Maryland on June 15, June 22, June 28, and July 10; and by Virginia on July 9, 1973.

Final approval/disapproval of the amended plans was published on December 6, 1973 (38 FR 33701), at which time the Administrator promulgated additional measures which were designed to remedy the deficiencies of the plans submitted by the three jurisdictions. Included in the EPA plan was a requirement for a parking management program which had been promulgated by EPA on November 12, 1973 (38 FR 31536), in response to a court order.

Subsequent to the promulgation, numerous measures have been deleted as a result of actions by the Congress, EPA and the courts. Acting in response to the FY 1975 Agriculture-Environmental and Consumer Protection Appropriations Law (PL 93-319), which prohibited the expenditure of funds for the regulation of parking (Section 510), the Administrator suspended indefinitely the management of parking supply regulations contained in the various transportation control plans (40 FR 29743). On October 28, 1975, the U.S. Court of Appeals of the District of Columbia (*District of Columbia et al. v. Train*) ruled that the Administrator is not authorized to require the States to enact statutes and to administer and enforce programs contained in the EPA plan. This ruling thus vacated the EPA regulations which required legislation for and implementation of an inspection program (§ 52.2441), the bicycle lanes and storage facilities program (§ 52.2442), and the various retrofit programs (§§ 52.2444, 52.2445, 52.2446, and 52.2447) to be administered by the States. Moreover, the court ruled that the evidence presented by EPA was insufficient to support EPA's promulgation of bicycle

regulations for the National Capital Region.

#### REVIEW OF AIR QUALITY IN THE NATIONAL CAPITAL INTERSTATE AQCR

The highest 1972 8 hour CO reading was 20 ppm (compared to the national standard of 9 ppm) at the CAMP station in the District of Columbia. Oxidant readings of 0.20 ppm (compared to the national standard of 0.08 ppm) were recorded at the Airmon 5 station in Silver Spring, Maryland, and at the Airmon 4 station in Hyattsville, Maryland. The Metropolitan Washington Council of Governments Air Quality Planning Committee, after a review of air quality data throughout the region, recommended these values be uniformly used as a basis for development of the Region's strategies by the District of Columbia, Maryland and Virginia. Emission reductions of 55.5% for CO and 67% (based on the conversion curve in Appendix J of 36 FR 15502) for hydrocarbons are determined as necessary to meet the National Ambient Air Quality Standards.

Since no valid carbon monoxide data was generated by the District of Columbia during 1975, the EPA Region III Office generated a limited amount of source-oriented CO data at two sites (which meet the OAQPS 1.2-012 guidelines) during February 1976. The site addresses are 2055 L St., N.W. and 1700 14th St., N.W., Washington, D.C., both of which are in the business district where the traffic is heavy to very heavy throughout the working day.

Ten violations of the 8 hour CO standard (9 ppm) occurred during February 1976 at these two stations. The highest 8 hour average, 16.7 ppm, occurred on February 13, at the 14th Street monitor. The second highest 8 hour average, 12.3 ppm, occurred on February 4, and February 27, at the L Street monitor. The highest one hour average, 24 ppm occurred on February 13, at the 14th Street monitor.

Although the 1976 carbon monoxide concentration indicates an improvement over the 1972 level, the 1976 figure is based on limited monitoring. Application of diffusion modeling by the Joint State Study using the emission densities anticipated for 1977, indicates potential maximum 8 hour CO concentrations in excess of 15 ppm at the CAMP station. The 1992 estimates contained in the Consistency Evaluation ("Air Quality Analyses of the Long Range Plan Alternatives for the National Capital Region," Metropolitan Washington Council of Governments, May 29, 1975) indicates a potential 8 hour urban background CO concentration of 9 ppm which, when added to the contribution of individual highways would cause localized "hot spot" violations of the carbon monoxide standard.

Of the eight stations providing continuous monitoring of photochemical oxidants, only those listed in the following table delivered valid data in 1975. Included in the table are the ozone levels detected during the July 29-August



5 episode, which were the highest ever detected in the National Capital Interstate Region.

Site Name	Date	Highest		2d highest	
		Hour	Parts per million	Hour	Parts per million
Suitland, Airman 3	Aug. 1	14	0.26	15	0.23
Cheverly, Airman 4	Aug. 1	15	.21	13	.20
Alexandria	Aug. 1	15	.23	16	.23
NIH Bethesda, Airman 6	Aug. 1	14	.12	15	.12

Analysis of the impact of the Federal Motor Vehicle Control Program in 1977 by the Joint State Study indicates an oxidant concentration of 0.225 ppm with no additional strategies.

The analysis of 1992 hydrocarbon emissions contained in the Consistency Evaluation indicates that projected emissions will be in excess of the allowable emissions (as determined by use of "Appendix J" Curve—36 FR 15502) by 30 percent.

#### DISCUSSION OF NEED FOR STATEWIDE OXIDANT PLANNING AND OTHER FACTORS RELATING TO CONTROL OF PHOTOCHEMICAL OXIDANTS

Based on new information on the reactivity of hydrocarbons, the widespread nature of the photochemical oxidant problem, and the phenomenon of long distance transport of oxidant precursors, it is necessary to reevaluate hydrocarbon control strategies in terms of large interstate regions. Ultimately, the regulations which result from this effort will have to address total hydrocarbon control over perhaps the entire eastern half of the United States.

The Regional Administrator recognizes that there is not yet available an adequate model to quantify the effect of hydrocarbon reduction on photochemical oxidant levels. The EPA has made a substantial effort in this area and will have a photochemical oxidant model available in the near future. This model can be utilized in the development of hydrocarbon control strategies.

Because of the suspected role  $\text{NO}_x$  plays in the formation of photochemical oxidants, additional control of  $\text{NO}_x$  emissions may be required to meet the NAAQS for photochemical oxidants. The determination of whether additional  $\text{NO}_x$  controls are needed will be made after the relationship between hydrocarbons and  $\text{NO}_x$  in the formation of oxidants is determined.

Planning for hydrocarbon controls should initially emphasize those geographical areas responsible for the major amount of hydrocarbon emissions. The Regional Administrator will provide additional technical support information and model regulations in sufficient time to meet planning deadlines.

#### CARBON MONOXIDE PLANNING AND PROPOSED STUDIES

Revisions for attainment and maintenance of the carbon monoxide standard

should reduce certain monoxide concentrations by reducing:

- (1) Overall CO emissions in the AQCR.
- (2) CO Emissions at hotspots.

Overall CO emissions create the urban background. The Federal Motor Vehicle Control Program will account for a large amount of the required reduction. However, this reduction will not be as large as previously expected unless an effective Inspection and Maintenance program is implemented.

CO hotspots result from traffic congestion. The localized CO emissions, combined with background levels can create serious violations of the CO standard. Hotspot locations occur in congested areas throughout the metropolitan region. CO hotspots should be identified and ranked according to severity. Mitigation measures should be developed where possible, beginning with the worst hotspots—those hotspots of greatest area, highest CO levels, and maximum population exposure. Traffic and parking management strategies, coordinated with transit improvements, are the most appropriate control measures for alleviating CO hotspot conditions.

The Regional Administrator recognizes that presently available data on the extent of the CO problem is not sufficient for planning CO strategies. The Regional Administrator therefore is considering a detailed carbon monoxide monitoring program in the downtown Washington, D.C., area to better determine the magnitude and spatial distribution of carbon monoxide levels and to aid in the identification of CO hotspots.

#### RELATIONSHIP BETWEEN TRANSPORTATION PLANNING AND AIR QUALITY PLANNING

The success of control of oxidants and carbon monoxide is highly dependent on control of transportation sources. Transportation sources however, are not expected to bear the entire responsibility for attainment and maintenance of these standards. There is a trade off between how much control should be required for stationary and transportation sources. The trade off should be determined by the amount that each source contributes to the problem, the effectiveness of reasonably or Best Available Control Technology and the cost effectiveness of the measures. Transportation planning must utilize all reasonably available measures to control transportation sources.

New and revised transportation strategies should be developed by transportation agencies in coordination with air pollution control agencies through the normal transportation planning (3-C) process.

In the September 17, 1975, FEDERAL REGISTER, the U.S. Department of Transportation issued regulations on the transportation planning process requiring Metropolitan Planning Organizations (MPO's) to prepare (a) short-range (3-5 years) Transportation Improvement Programs (TIP's) and (b) plans for Improved Transportation System Management (TSM). Therefore, new and revised transportation measures

aimed at CO and HC emission reductions must be included in the TIP and TSM plans that result from the annual urban transportation planning process.

Specifically, five criteria must be met to insure that air quality measures are implemented as part of the urban transportation planning process: (1) The Metropolitan Planning Organization should participate in the development or revision of transportation measures; (2) all transportation measures (excluding source control measures, i.e., I/M and retrofit) scheduled for implementation in the next 3 to 5 years should be included in the short-range TIP; (3) all measures involving improved TSM (e.g., bus priority treatment, parking controls, traffic-free zones) should be included in the TSM element of the metropolitan area's transportation plan, regardless of when these measures are scheduled for implementation; (4) each transportation measure must appear in the annual element of the TIP for the year in which the transportation measure is scheduled for implementation; and (5) the transportation plan should be consistent with the ambient air quality standards, with consistency defined as in the joint EPA-FHWA guidelines for implementing section 109(j) of Title 23.

#### PUBLIC PARTICIPATION IN THE PLANNING PROCESS

In order that reasonable measures may be planned and implemented, it is essential that citizens and special interest groups be involved in the planning process for transportation measures in urban areas. Every attempt should be made to include citizens and special interest groups so that diverse interests are represented. Groups such as automobile clubs, parking lot owners, business associations, neighborhood associations, and developers should be included as well as environmental groups and interested individuals.

A community involvement program should be developed in cooperation with the Metropolitan Planning Organization. This program should supplement citizen participation programs already in existence for the 3-C planning process and should provide for a continuous two-way exchange of information between planners and citizens.

#### CALLS FOR PLAN REVISIONS TO ASSURE THE ATTAINMENT AND MAINTENANCE OF THE NAAQS FOR CARBON MONOXIDE AND PHOTOCHEMICAL OXIDANTS IN THE DISTRICT OF COLUMBIA

On the basis of recent air quality data submitted by the District of Columbia in fulfillment of the requirements of § 51.7 (Reports), and from the status of compliance with existing regulations, and other items previously described in this notice, it is the technical judgment of the Regional Administrator for Region III that the presently approved control strategy portion of the plan for carbon monoxide is substantially inadequate to attain and maintain the national carbon monoxide standards in the National Capital Interstate AQCR. Further, it is the



technical judgment of the Regional Administrator that the presently approved control strategy portion of the plan for photochemical oxidants is substantially inadequate to attain and maintain the national photochemical oxidant standard in the District of Columbia Portion of the National Capital AQCR.

Therefore, it is necessary to add measures to the plans or revise one or more existing regulations for control of carbon monoxide and photochemical oxidants. The Regional Administrator's analyses have been summarized in a technical report entitled, "Technical Support Document for Washington, D.C. Set II Pollutants," and is available for inspection and copying at the offices of the Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106 and the Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW, Washington, D.C. 20460.

#### PLANNING REQUIREMENTS

Because of these identified deficiencies, the Regional Administrator finds that revisions to parts of the control strategy for particulate matter, carbon monoxide and photochemical oxidants in the approved SIP for the District of Columbia are needed. This FEDERAL REGISTER notice is intended to officially advise the District of Columbia of this requirement. Accordingly, the District shall prepare and submit by July 1, 1977, a plan revision containing adopted emission limiting regulations, as needed, which represent a reasonable degree of control and which may be implemented within a reasonable period of time to provide for the attainment and maintenance of all national standards for total suspended particulate matter, carbon monoxide and photochemical oxidants.

The Regional Administrator does not expect that additional emission limiting regulations will be sufficient in all cases to provide for the full attainment and maintenance of the standards. If additional control measures (e.g., land use and transportation measures) are needed to provide for attainment and maintenance, beyond those submitted on July 1, 1977, such measures may be submitted no later than July 1, 1978.

The needed plan revisions should identify the nature and sources of emissions within the District of Columbia and demonstrate how the adopted regulations will provide for the attainment and maintenance of the national standards. The plans should include a demonstration that emission increases that will result from projected growth of population, industrial activity, etc., will not cause the national standards to be violated. Compliance schedules for any source affected by any new or revised regulation must be submitted in accordance with the requirements of 40 CFR 51.15 (Compliance Schedules). The Plan revision should also indicate any additional resources needed to implement the control plan beyond those already provided for in the plan, along

with the District's commitment to provide additional manpower and money to implement the control measures. If responsibility for implementing any portion of the plan revisions is delegated to other District and/or local agencies, a description of the specific responsibility of each agency in implementing the plan shall be submitted. The plan revision shall be submitted by the District in accordance with the provisions of Section 51.4, Public Hearings, and § 51.5, Submission of Plans, and shall otherwise fulfill the requirements of Part 51.

The existing statutory deadlines for primary standards remain in effect. The District is therefore advised that the plan revision must provide for the attainment of primary standards as expeditiously as possible. The State should indicate in its submittal the exact timetable for implementation of control measures that will assure that primary standards will be attained at the most expeditious date possible.

The District is further advised that additional time can be provided for secondary standards, so long as such standards are attained within a reasonable time. The revised plan shall also indicate the date by which these standards will be attained.

The State shall also indicate the timetable for implementation of control strategies required to maintain national standards. This timetable should be based on the District's analysis of future air quality and expected growth in the Region. The District's analysis of future air quality should utilize growth projections and cover a period of time consistent with other ongoing areawide

planning programs, particularly with the Environmental Protection Agency's Areawide Water Quality Management Program. In the National Capital Interstate AQCR this would require close cooperation with the Metropolitan Washington Council of Governments and an analysis of air quality up to the year 2000. To assure consistency with other areawide planning programs and to provide for public participation in the air planning process, consideration should be given to an apportionment of the planning effort between the District and the areawide planning agency.

#### REFERRAL TO SUBPART D OF 40 CFR PART 51

Finally, the District is advised to refer to Subpart D of 40 CFR Part 51, Requirements for the Preparation, Adoption and Submittal of State Implementation Plans, as promulgated on May 3, 1976 (41 FR 18382). Subpart D summarizes all requirements that the District must meet in developing needed attainment and/or maintenance plans.

#### CALLS FOR REVISIONS TO CFR PART 52

Since the original approval of the District of Columbia Implementation Plan, the Administrator has disapproved a section of the approved District of Columbia plan. The Regional Administrator feels that this is an appropriate time to list this deficiency and advise the District that it should be corrected as expeditiously as possible. Listed below is the deficient section, followed by a brief description of the nature of the section's inadequacy and the FEDERAL REGISTER citation and disapproval date.

Sec.	Description	Date of promulgation	F.R. citation	Comments
52.428	Review of new sources and modifications...	Feb. 25, 1974	39 F.R. 7270...	Indirect source review.

#### LETTER OF INTENT

The Mayor shall submit, within 60 days, a letter of intent to the Regional Administrator, EPA, Region III which identifies the various action steps (along with target dates for completion) which the District will take to develop the plan revision in accordance with the requirements set forth in this notice. The District must also identify the agencies that have been given responsibility to prepare the plan revision. Failure by the District to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revision will be forthcoming from the District. In this case, EPA will begin to develop for promulgation, a federal plan to attain and maintain national standards.

All of the applicable plan remains in effect until the plan revision is submitted by the District to EPA and is approved by EPA or until EPA promulgates substitute (or additional) regulations.

#### LEGAL AUTHORITY AND PUBLIC COMMENT

This notice is not subject to rulemaking procedures. The need for a plan revision

is based upon a technical finding of the Regional Administrator which clearly shows that the applicable control strategies are inadequate and need to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on all proposed revisions will be provided. If the State develops its own revisions and submits them to EPA, public hearings will be required at the State level and EPA will provide opportunity for written comments prior to taking action on the submission; if EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State has held no hearing on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended (42 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended (42 U.S.C. 1857c-5(c)).)

Dated: June 30, 1976.

A. R. MORRIS,  
Acting Regional Administrator,  
Region III, Environmental  
Protection Agency.

[FR Doc.76-19920 Filed 7-9-76;8:45 am]



[FRL 576-7]

## MARYLAND

Approval of State Implementation Plans;  
Required Revisions

On October 20, 1975 (40 FR 49056) and again, on May 3, 1976 (41 FR 18387), the Administrator notified the public of his intention to review all State Implementation Plans (SIP's) to determine their adequacy to attain and maintain the National Ambient Air Quality Standards (NAAQS) in all areas of the nation whether identified as Air Quality Maintenance Areas (AQMA's) or not. Further, he advised the public of his intention to call for plan revisions whenever he found a plan to be substantially inadequate to attain the national standards. All reviews of existing State plans and calls for needed revisions were to be completed by July 1, 1976.

The following notice summarizes the results of the Regional Administrator's review of the existing SIP for the State of Maryland and his calls for needed revisions to the plan to assure the attainment and maintenance of the NAAQS for total suspended particulate matter (TSP), carbon monoxide (CO) and photochemical oxidants.

A description of the history of air quality planning to attain and maintain the NAAQS for TSP in the Metropolitan Baltimore Intrastate and the Maryland Portion of the Cumberland-Keiser Interstate AQCR's will first be given. This will be followed by a brief analysis of the general nature of the particulate matter problem in the two regions that have led to the need for today's action. More detailed descriptions of the air quality situation in the two regions will then be offered and the actual calls for needed plan revisions made.

After the calls for needed plan revisions to attain and maintain the TSP standards, a history and analysis of the problems relating to transportation control planning in the State of Maryland will be given. This will be followed by the Regional Administrator's suggestions for the types of controls and planning that may be necessary to assure the attainment and maintenance of the NAAQS for oxidants and carbon monoxide. Calls for needed revisions to the existing plan for the attainment and maintenance of the oxidant and carbon monoxide standards will then be made.

Finally, a summary of State actions that will be required for the development, adoption and submittal of approvable plans for the attainment and maintenance of the NAAQS will be specified.

HISTORY OF AIR QUALITY PLANNING TO  
ATTAIN AND MAINTAIN THE NAAQS FOR  
TSP IN THE METROPOLITAN BALTIMORE  
AND CUMBERLAND-KEYSER AQCR'S

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act, and 40 CFR Part 51, (Regulations for the Preparation, Adoption and Submittal of State Implementation Plans), the Administrator approved control strategies for the attainment and maintenance of

National Primary and Secondary Standards for particulate matter in the Metropolitan Baltimore Intrastate and the Maryland portion of the Cumberland-Keiser Interstate Air Quality Control Regions (AQCR's). The Plans were designed to attain the National Ambient Air Quality Standards (NAAQS) for Particulate Matter by July, 1975 and maintain those standards thereafter.

Both these plans were disapproved by the Administrator, on March 8, 1973 (38 FR 6279), with respect to maintenance of standards. This was because they did not contain an adequate analysis of the impact of growth on air quality for any significant period of time into the future. Further, after careful review of the current air quality situation and potential growth in the Metropolitan Baltimore AQCR and certain parts of the Maryland portion of the Cumberland-Keiser AQCR, in accordance with the "Guidelines for Designation of Air Quality Maintenance Areas" (OAQPS No. 1.2-016), the Administrator, on September 9, 1975 (40 FR 41950), designated the Metropolitan Baltimore AQCR and the area encompassed by Allegany County, Garrett County and Hagerstown City, of the Maryland Portion of the Cumberland-Keiser AQCR, as Air Quality Maintenance Areas (AQMA's) for TSP. More detailed study was called for to determine the need for plan revisions to assure maintenance of the NAAQS for particulate matter.

In the Summer of 1975, the Regional Administrator of Region III undertook a study to review progress toward attaining natural standards in all AQCR's in Region III. This study included review of existing air quality data, technical reviews of state monitoring programs to determine if recorded air quality data was valid and representative of local conditions, and review of the status of compliance of major emission sources. Further, the States were requested to make independent assessments of the probable attainment situations in their jurisdictions assuming full compliance with existing control strategy requirements. These studies, in conjunction with the detailed maintenance studies mentioned previously, are the basis for the Regional Administrator's decision to call for needed plan revisions to assure the attainment and maintenance of the National Ambient Air Quality Standards. This notice describes the results of these detailed studies, announces the Regional Administrator's decision and sets dates for the submittal of needed plan revisions to assure the attainment and maintenance of the NAAQS for Particulate Matter in the Metropolitan Baltimore and the Maryland Portion of the Cumberland-Keiser AQCR's.

Before describing the results of the Regional Administrator's analyses of the air quality situation in the two AQCR's, a brief description of the general nature of the air quality problems that have arisen since the approval of the original State Implementation Plans and have

caused the need for further air quality control measures will be presented.

GENERAL NATURE OF THE PARTICULATE  
MATTER PROBLEMS IN MARYLAND

At present, the primary indication that the NAAQS for particulate matter will not be met in the Cumberland-Keiser AQCR is based on the proportional rollback technique. This is the same technique upon which approval of the existing SIP's was based, and which originally predicted attainment of the national standards. This technique is described in some detail in the August 14, 1971 FEDERAL REGISTER, (36 FR 15490). It assumes that decreases in emissions yields a linearly proportional improvement in regional air quality.

The reason for the apparent discrepancy in the results of the two exercises is that the more recent analysis uses a later base year. The base year emissions used in the more recent analysis reflects a decrease in source emissions as a consequence of compliance with approved SIP requirements. Therefore, less reduction in emissions from these sources can be expected in the future. Since reductions in emissions have not resulted in expected improvement in air quality, any further reduction that can be expected as a consequence of the requirements of the existing SIP will not be sufficient to assure attainment. General growth in the Region has served to aggravate this problem.

In the Baltimore AQCR, the determination of the need for plan revisions is based on diffusion modeling. As in the Cumberland-Keiser AQCR, a later base year is used, and, in addition, the modeling technique is presumed to be more accurate than the original proportional rollback technique. Again, reductions obtained in particulate emissions have not resulted in expected improvement in ambient air quality, so future reductions mandated in the current SIP are not judged to be sufficient for attainment.

At the heart of this problem is the lack of a fully proportionate improvement in ambient air quality with a given decrease in emissions. Based on certain ongoing studies in major metropolitan areas, it appears that this may be attributable to the fact that "urban background" may be larger than originally presumed and also that "urban background" may not be constant from place to place. It also appears, however, that particulate material originally considered a part of background may be amenable to some degree of control. Examples of these kinds of materials include particulate from traffic on paved roads, dust from storage piles, and dirt from demolition and excavation operations, as well as fugitive emissions from industrial processes and shipping. Please refer to the Technical Support Documents described under the Calls for Needed SIP Revisions for the names and citations of the alluded to studies on the variation of background concentration in urban areas.



# RESULTS OF THE ANALYSIS OF THE AIR QUALITY SITUATION IN THE METROPOLITAN BALTIMORE AQCR

On May 5, 1976, the Maryland Bureau of Air Quality and Noise Control submitted to the Regional Administrator an analysis of the probable air quality situation in the Metropolitan Baltimore Intra-state AQCR for the years 1980 and 1985 assuming full compliance with existing control strategy requirements. This report, entitled "Air Quality Maintenance Analysis for the Baltimore, Maryland Intra-state Air Quality Control Region for Total Suspended Particulate Matter and Sulfur Dioxide", is available for inspection and copying at the offices of the EPA, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106 and the Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460.

This analysis indicates that violations of both the annual and short term particulate matter standards will continue to occur at a number of locations throughout the Region even after full compliance with existing emission limiting regulations has been achieved. Specifically, the analysis indicates that violations of the national annual primary standard will continue to occur through 1985 at a number of monitoring sites in the City of Baltimore. Violations of the national primary twenty-four hour standard are predicted to be confined to one location in the Fairfield Section of Baltimore City. Violations of the secondary twenty-four hour standard are expected to occur at various locations throughout Baltimore City and the nearby suburbs of Essex, Sollers Point, Landsdowne and Glen Burnie. This conclusion is based on ambient air quality data for the years 1973, 1974 and 1975 and diffusion modeling analyses performed for the years 1973, 1980 and 1985.

Further analysis is required to determine the exact causes of the predicted violations of the particulate matter standards. This analysis could be expected to include examination of particulate samples, compiling inventories of emissions from non-point sources, and more detailed diffusion modeling. This analysis might also include an evaluation of the effect of settling of large particles, resuspension of particles, generation of secondary particles due to atmospheric chemical reactions involving primary emissions, and wind canyon and other micrometeorological effects. The effect of local sources of dust and the sampling characteristics of the reference method should also be considered.

Suspected contributors to non-attainment in the Baltimore AQCR include particulate from traffic on paved roads, dust from storage piles, dirt from demolition and excavation operations, as well as fugitive emissions from industrial processes and shipping. Potential control measures for particulate matter which should be considered would therefore include additional control of currently inventoried stationary sources, control of sources not currently inventoried such as

storage and shipping operations, control of demolition and excavation operations, and street cleaning. It is not anticipated that the application of any one of these measures would result in attainment. The State should be prepared to identify the precise causes of the non-attainment problem and apply remedies as appropriate. The Regional Administrator feels, however, that strict enforcement of existing regulations, coupled with additional emission controlling regulations, will be required in order to attain and maintain standards.

# RESULTS OF THE ANALYSIS OF THE AIR QUALITY SITUATION IN THE MARYLAND PORTION OF THE CUMBERLAND-KEYSER AQCR

On April 7, 1976, the Maryland Bureau of Air Quality and Noise Control submitted to the Regional Administrator an analysis of the probable air quality situation in the Maryland Portion of the Cumberland-Keyser AQCR after the achievement of full compliance with existing control strategy requirements and for 10 years thereafter. This report, entitled "Air Quality Attainment/Maintenance Analysis of Western Maryland," is available for public inspection and copying at the offices of the EPA, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, and the Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460.

This analysis indicates that the existing State Implementation Plan, as it pertains to Hagerstown City, does not need to be amended, but, instead, that enforcement activities and air quality surveillance should be continued and the impact of new sources carefully analyzed. This conclusion was reached after using a proportional rollback model which assumes that improvement in air quality is directly proportional to decreases in emissions. Using this model, projections of the annual geometric mean, using 1973 as a base year, were made for 1977 and 1985. These projections indicate that air quality will continue to stay at levels equivalent to the secondary annual guideline of 60 micrograms per cubic meter throughout that time span. Calculations using Larsen's statistical techniques were also made to predict short term violations. No such violations were predicted.

A proportional rollback technique was also used to analyze the air quality situation in the Potomac River Valley portion of the Cumberland-Keyser AQCR. Based on air quality data and the compliance status of existing emission sources for 1973, it was predicted that violations of the primary air quality standard of 75 micrograms per cubic meter would continue to occur through 1985, although a new 600 foot stack at the Westvaco Paper Mill in Luke, Maryland, is expected to help minimize local violations of the national short term standards at the Luke Garage Monitoring Station, the station reporting the worst air quality in the region for the

years 1973-1975. Further, additional work is underway by the Maryland Bureau of Air Quality and Noise Control to adapt the EPA terrain model to the Potomac River Valley in order to more accurately predict air quality in the Region. Results of that study should more clearly define the extent to which additional emission controls are needed in the region and of what those controls might consist. The results of the proportional rollback study should, therefore, be looked upon as preliminary until such time that they are confirmed by results from the use and the more sophisticated terrain model. This modeling exercise is also expected to be complemented by analyses of particulate samples and inventories of non-point sources in the Region.

Suspected contributors to non-attainment in the Cumberland-Keyser AQCR include particulate from traffic on unpaved roads and parking lots, combustion of coal for space heating dirt, from construction and demolition operations, and fugitive emissions from industrial processes. Potential control measures for particulate matter which should be considered would therefore include additional control of currently inventoried stationary sources, control of sources not currently inventoried, control of construction and demolition operations and oiling or paving of heavily-trafficked roads and parking lots. It is not anticipated that the application of any one of these measures would result in attainment. The State should be prepared to identify the causes of the non-attainment problem and supply remedies as appropriate. It is the Regional Administrator's belief, however, that the preliminary rollback analysis is sufficient to confirm continued non-attainment in the region, and that the more sophisticated analytical techniques will only help to clarify the exact causes for predicted violations.

The Regional Administrator has also completed studies in the West Virginia Portion of the Cumberland-Keyser Interstate AQCR. Though no violations of the National Ambient Air Quality Standards for Particulate Matter were recorded in the West Virginia portion of the Interstate AQCR during 1975, the Regional Administrator is concerned with the air quality situation that exists in the Potomac River Valley air basin which includes portions of the States of Maryland and West Virginia. He is, therefore, urging that air quality planning to assure for the attainment and maintenance of the NAAQS for TSP be accomplished through cooperation between the States of Maryland and West Virginia. Specifically, he urges that compatible and equitable levels of control needed to attain and maintain the national standards be instituted throughout the region.

# CHANGES TO EXISTING EMISSIONS CONTROLLING REGULATIONS

As mentioned previously, the State should be prepared to identify the causes of all TSP non-attainment problems and apply remedies as appropriate. The Regional Administrator feels, however,



that strict enforcement of existing regulations, coupled with certain additional emission controlling regulations, will be required in order to attain and maintain standards. Further, the Regional Administrator does not expect that major changes to existing emission limiting regulations will be required as a consequence of this replanning effort. Therefore, to the extent possible, the Regional Administrator would like to instruct the State to look at strategies controlling sources of emissions not already controlled under the applicable plan, rather than revising existing regulations. It is the Regional Administrator's belief that ongoing compliance actions should not be affected by this replanning effort. Sources affected by existing regulations are advised that all existing regulations remain in effect and timely compliance is still required.

#### REGIONAL ADMINISTRATOR'S REVIEW OF EXISTING REGULATIONS

The Regional Administrator has also undertaken a review of the existing State of Maryland Implementation Plan Control Strategy for TSP to determine those existing particulate matter emission con-

trolling regulations that are sufficiently restrictive in light of available technology. Attainment and maintenance of the Standards should be achieved through promulgation of additional regulations rather than through revision of those existing regulations which are contained in the approved SIP. Compliance with all existing regulations continues to be mandatory and the good faith efforts of any source to satisfy the requirements contained therein will be recognized.

The determination of the adequacy of existing regulations is based on analyses which are available for public inspection as part of the "Technical Support Document for the Metropolitan Baltimore AQCR" and the "Technical Support Document for the Maryland Portion of the Cumberland-Keiser AQCR" described below. As a consequence of the Regional Administrator's review, it is his belief that the following particulate matter controlling regulations represent such sufficiently restrictive control, considering available technology, that they should not be revised at this time. Each regulation is listed by the geographic area to which it applies.

Regulation	Geographic area of applicability
Maryland Department of Health and Mental Hygiene Regulations: 10.03.36.02, 10.03.37.02, 10.03.38.02, 10.03.39.02, 10.03.40.02, 10.03.41.02; Regulations controlling Visible Emissions.	Statewide.
10.03.38.03B and 10.03.39.03C: Regulations controlling particulate emissions from combustion sources.	Metropolitan Baltimore Intrastate AQCR and the Maryland Portion of the National Capital Interstate AQCR.
10.03.36.03C, 10.03.37.03C, 10.03.38.03C, 10.03.39.03C, 10.03.40.03C, 10.03.41.03C: Regulations controlling particulate emissions from incinerators.	Statewide.
10.03.36.03E, 10.03.37.03E, 10.03.38.03E, 10.03.39.03E, 10.03.40.03E, 10.03.41.03E: Regulations controlling particulate emissions from process sources.	Statewide.

The Regional Administrator would like to make it clear that the above regulations do not necessarily represent reasonably available control technology nor is the listing exhaustive. In particular, general regulations controlling emissions from a wide variety of processes, by necessity, reflect varying degrees of control depending on the specific process source. Further, this notice is not intended to impinge on the State's prerogative to revise any regulation as needed. The Regional Administrator would like to emphasize, however, that it is his belief that the above regulations should only be revised after other strategies have been exhausted.

#### MISCELLANEOUS PROPOSED REVISIONS TO THE CONTROL STRATEGY FOR THE ATTAINMENT OF THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER IN THE STATE OF MARYLAND

A number of minor changes to portions of the approved control strategy for the attainment of the NAAQS for Particulate Matter have been submitted by the State

of Maryland and proposed by the Administrator. (See January 30, 1975, 40 FR 4447; March 27, 1975, 40 FR 13521; October 6, 1975, 40 FR 46117; November 19, 1975, 40 FR 53595) These proposals deal with a variety of changes to the applicable particulate matter regulations and include proposed revisions to the visible emissions regulations, changes in the dust collecting requirements for certain small boilers, changes to the emissions limitations for pathological incinerators, revisions to regulations dealing with rotary cup burners and a number of other minor changes to the approved TSP controlling regulations. The Regional Administrator will continue to review these proposals during the attainment planning process. The Regional Administrator's review will be consistent with the intent of the attainment and maintenance planning effort. Final action on these proposals will take place as soon as possible and will not wait for submittal by the State of needed changes to the applicable control strategies.

#### CALLS FOR PLAN REVISIONS TO ASSURE THE ATTAINMENT AND MAINTENANCE OF THE NAAQS FOR PARTICULATE MATTER IN THE METROPOLITAN BALTIMORE INTRASTATE AND THE MARYLAND PORTION OF THE CUMBERLAND-KEYSER INTERSTATE AQCR'S

On the basis of recent air quality data submitted by the State of Maryland in fulfillment of the requirements of § 51.7 (Reports), and from the evaluation of various compliance actions taken by the State to implement the applicable plans for the Metropolitan Baltimore Intrastate and the Maryland Portion of the Cumberland-Keiser Interstate AQCR's and other items covered in the previously described technical analyses submitted by the Maryland Bureau of Air Quality and Noise Control, it is the technical judgement of the Regional Administrator for Region III, that the presently approved control strategy portion of the plan for Particulate Matter (i.e., pursuant to 40 CFR Part 51.13) is substantially inadequate to attain and maintain the national particulate matter standards in the Metropolitan Baltimore and the Maryland Portion of the Cumberland-Keiser AQCR's. Therefore, it is necessary to add control measure to the plans or revise one or more existing regulations for control of particulate matter. The Regional Administrator's analyses have been summarized in two technical reports entitled "Technical Support Document for the Metropolitan Baltimore AQCR" and "Technical Support Document for the Maryland Portion of the Cumberland-Keiser AQCR" and are available for inspection and copying at the offices of the Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106 and the Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

#### HISTORY OF TRANSPORTATION CONTROL PLANNING IN THE MARYLAND PORTION OF THE NATIONAL CAPITAL INTERSTATE AQCR

Transportation Control Plans for the National Capital Interstate AQCR were submitted by the District of Columbia on April 20, 1973; by Maryland on April 16, 1973 and May 5, 1973; and by Virginia on April 11, 1973 and May 30, 1973. On June 22, 1973 (38 F.R. 16550) the Administrator issued notices containing his evaluation of the plans. Supplementary information was submitted by the District on July 9 and July 16; by Maryland on June 15, June 22, June 28 and July 10; and by Virginia on July 9, 1973.

Final approval/disapproval of the amended plans was published on December 6, 1973 (38 F.R. 33701), at which time the Administrator promulgated additional measures which were designed to remedy the deficiencies of the plans submitted by the three jurisdictions. Included in the EPA plan was a require-



ment for a parking management program which had been promulgated by EPA on November 12, 1973 (38 FR 31536), in response to a court order.

Subsequent to the promulgation, numerous measures have been deleted as a result of actions by the Congress, EPA, and the courts. Acting in response to the FY 1975 Agriculture-Environmental and Consumer Protection Appropriations Law (PL 93-319), which prohibited the expenditure of funds for the regulation of parking (Section 510), the Administrator suspended indefinitely the management of parking supply regulations contained in the various transportation control plans (40 FR 29743). On October 28, 1975, the U.S. Court of Appeals of the District of Columbia (District of Columbia et al v. Train) ruled that the Administrator is not authorized to require the states to enact statutes and to administer and enforce programs contained in the EPA plan. This ruling thus vacated the EPA regulations which required legislation for and implementation of an inspection program (§ 52.2441), the bicycle lanes and storage facilities program (§ 52.2442), and the various retrofit programs (§§ 52.2444, 52.2445, § 52.2446, and 52.2447) to be administered by the states. Moreover, the court ruled that the evidence presented by EPA was insufficient to support EPA's promulgation of bicycle regulations for the National Capital Region.

#### REVIEW OF AIR QUALITY IN NATIONAL CAPITAL INTERSTATE AQCR

The highest 1972 eight hour CO reading was 22 ppm (compared to the national standard of 9 ppm) at the CAMP station in the District of Columbia. Oxidant readings of 0.20 ppm (compared to the national standard of 0.08 ppm) were recorded at the Airmon 5 station in Silver Spring, Maryland, and at the Airmon 4 Station in Hyattsville, Maryland. The Metropolitan Washington Council of Governments Air Quality Planning Committee, after a review of air quality data throughout the region, recommended these values be uniformly used as a basis for development of the Region's strategies by the District of Columbia, Maryland and Virginia. Emission reductions of 55.5 percent for CO and 67 percent (based on the conversion curve in Appendix J of 36 FR 15502) for hydrocarbons were determined as necessary to meet the national ambient air quality standards.

Since no valid carbon monoxide data was generated by the District of Columbia during 1975, the EPA Region III office generated a limited amount of source-oriented CO data at two sites (which meet the OAQPS 1.2-012 guidelines) during February 1976. The site addresses are 2055 L St. NW. and 1700 14th St. NW., Washington, D.C., both of which are in the business district where traffic is heavy to very heavy throughout the working day.

Ten violations of the 8 hour standard (9 ppm) occurred during February 1976 at these two stations. The highest 8 hour

average 16.7 ppm, occurred on February 13, at the 14th Street monitor. The second highest 8 hour average 12.3 ppm, occurred on February 4, and February 27, at the L Street monitor. The highest one hour average, 24 ppm, occurred on February 13, at the 14th Street monitor.

Although the 1976 carbon monoxide concentration indicates an improvement over the 1972 level, the 1976 figure is based on limited monitoring. Application of diffusion modeling by the Joint State Study to the emission densities, anticipated for 1977, indicates potential maximum 8 hour CO concentrations in excess of 15 ppm at the CAMP station. The 1992 estimates contained in the consistency evaluation ("Air Quality Analyses of the Long Range Plan Alternatives for the National Capital Region," Metropolitan Washington Council of Governments, May 29, 1975) indicates a potential 8 hour urban background CO concentration of 9 ppm which when added to the contribution of individual highways, would cause localized "hot spot" violations of the carbon monoxide standard.

Of the 8 stations providing continuous monitoring of photochemical oxidants, only those listed in the following table delivered valid data in 1975. Included in the table are the ozone levels detected during the July 29-August 5 episode, which were the highest ever detected in the National Capital Interstate Region.

Site name	Date	Highest		2d highest	
		Hour	Parts per million	Hour	Parts per million
Suitland, Airmon 3	Aug. 1	14	0.26	15	0.23
Cheverly, Airmon 4	Do. 1	15	.21	13	.20
Alexandria, Do. 1	15	.23	16	.23	
NIH Bethesda, Airmon 6	Do. 1	14	.12	15	.12

Analysis of the impact of the Federal Motor Vehicle Control Program in 1977 (by the Joint State Study) indicates an oxidant concentration of 0.225 ppm with no additional strategies.

The analysis of 1992 hydrocarbon emissions contained in the consistency evaluation indicates that projected emissions will be in excess of the allowable emissions (as determined by use of "Appendix J" Curve—36 FR 15502) by about 30 percent.

#### HISTORY OF TRANSPORTATION CONTROL PLANNING IN THE METROPOLITAN BALTIMORE INTRASTATE AQCR

The State of Maryland submitted on April 16, 1973, a transportation control plan for attainment of primary national ambient air quality standards for carbon monoxide (CO), hydrocarbons (HC), and photochemical oxidants (Ox) in the Metropolitan Baltimore Intrastate AQCR (38 FR 16550). Subsequent amendments to the plan were submitted to the Environmental Protection Agency (EPA) on June 15, 1973, June 28, 1973 and July 9, 1973. On June 22, 1973 (38 FR 16550), the Administrator disapproved, in part, the plan and its amendments due to lack

of legal and technical assurances that the anticipated emission reductions could be realized and air quality standards be attained.

On August 2, 1973 (38 FR 20769) the Administrator proposed regulations to supplement the strategies contained in the Maryland Plan. The State of Maryland plan contained five basic strategies and one episode strategy:

- (1) Federal Motor Vehicle Control Program (FMVCP).
- (2) Additional Stationary Source Controls
- (3) Periodic Motor Vehicle Inspection Program.
- (4) Catalytic Retrofit of Heavy Duty Vehicles.
- (5) Improved Public Transportation.
- (6) Vehicle use restrictions during predicted stagnations in summer months.

The EPA proposal modified these and supplemented them by specific regulations to achieve the emission reductions required.

A public hearing on the EPA plan was held in Baltimore, Maryland on September 5, 1973. Comments received in letters and at the public hearing were reflected in the final EPA promulgation which was published on December 12, 1973 (38 FR 34240).

Since the final promulgations, various regulations in the plan have either been deleted by the Administrator, remanded to EPA for clarification or ruled "contrary to law" and set aside, prohibiting enforcement. This is due to actions on the part of the Congress of the United States, and decisions handed down by the United States Court of Appeals for the Fourth Circuit. Congress in its appropriations bill for FY 76 (Pub. L. 94-116, Department of Housing and Urban Development—other Independent Agencies Appropriations Act 1976—passed on October 17, 1975) included section 407 which prohibited the use of any funds appropriated to administer any program to tax, limit or otherwise regulate parking or the review of indirect sources. This affected two regulations in the plan "Regulation for the Limitation of Public Parking" and "Management of Parking Supply." Furthermore, on July 15, 1975, the Administrator of the Environmental Protection Agency (EPA) indefinitely suspended the "Management of Parking Supply" regulation (40 FR 29713). Another regulation, 40 CFR 52.1112, "Control and Prohibition of Sources of Photochemically Reactive Organic Materials," was revoked by the Administrator on February 6, 1975 (40 FR 5523). On September 19, 1975 the United States Court of Appeals for the Fourth Circuit ruled on specific regulations in the Maryland TCP. The following is a listing of the regulations and court actions:

- (1) 40 CFR 52.1105 "Employer Provisions for Mass Transit Priority Incentives"—remanded to the EPA for action not inconsistent with court opinion.
- (2) 20 CFR 52.1111 "Management of Parking Supply"—having been suspended by the Administrator, dismissed from active docket.
- (3) 40 CFR 52.1112 "Control and Prohibition of Photochemically Reactive



Organic Materials"—regulation having been rescinded, the petitions were dismissed as moot.

(4) 40 CFR 52.1102—"Control of Evaporation Losses from Vehicular Tanks"—remanded to the Administrator for action not inconsistent with court opinion.

(5) 40 CFR 52.1097—"Oxidant Catalyst Retrofit Program for Light and Medium Duty Vehicles"—since EPA had advised that regulation was being rescinded the petition was dismissed as moot.

(6) 40 CFR 52.1095, Inspection and Maintenance Program, 52.1096, Vacuum Spark Advance Disconnect Retrofit Program, 52.1098, Light-Duty Air/Fuel Control Retrofit Program, 52.1100, Heavy-Duty Air/Fuel Control Retrofit Program, and 52.1106, Study and Establishment of Bikeways Program—all set aside as contrary to law.

The State of Maryland in its transportation control plan submission of June 15, 1973 included a maximum validated 8 hour average carbon monoxide reading of 21 ppm. Verification with the Maryland Bureau of Air Quality Control showed this had occurred on two separate occasions (August 5 and 6, 1971). This air quality level was used as the basis for the carbon monoxide control strategy. Similarly, a maximum validated 1 hour average photochemical oxidant reading of 0.21 ppm was verified to have occurred several times and was, therefore, the air quality level upon which the control strategies for photochemical oxidants were based. The Plan promulgated by the EPA on December 12, 1973 required reductions in emissions of 57% for carbon monoxide and 70% for hydrocarbons from the 1972 (Base Year) emissions in order to reach the NAAQS.

#### REVIEW OF AIR QUALITY SITUATION IN THE METROPOLITAN BALTIMORE INTRASTATE AQCR

Review of 1975 carbon monoxide data for the Baltimore area shows marginal violations of the 8 hour CO standard. However, a review of the locations of these monitors shows that the data represents urban background levels not hot-spot levels. Higher CO levels therefore most likely exist in the Baltimore area. In addition, application of a proportional rollback model shows that CO standards will not be attained until 1985.

The second highest photochemical oxidant reading in the Baltimore area in 1975 was 0.23 ppm (compared to the standard of 0.08 ppm). Oxidant levels of this magnitude have occurred throughout the Eastern United States.

#### DISCUSSION OF NEED FOR STATEWIDE OXIDANT PLANNING AND OTHER FACTORS RELATIVE TO CONTROL OF PHOTOCHEMICAL OXIDANTS

Based on new information on the reactivity of hydrocarbons, the widespread nature of the photochemical oxidant problem, and the phenomenon of long distance transport of oxidant precursors, it is necessary to reevaluate hydrocarbon control strategies in terms of large inter-

state regions. Ultimately the regulations which result from this effort will have to address total hydrocarbon control over perhaps the entire eastern half of the United States.

The Regional Administrator recognizes that there is not yet available an adequate model to quantify the effect of hydrocarbon reduction on photochemical oxidant levels. The EPA has made a substantial effort in this area and will have a photochemical oxidant model available in the near future. This model can be utilized in the development of hydrocarbon control strategies.

Because of the suspected role NO<sub>x</sub> plays in the formation of photochemical oxidants, additional control of NO<sub>x</sub> emissions may be required in order to meet the NAAQS for photochemical oxidants. The determination of whether additional NO<sub>x</sub> controls are needed will be made after evaluation of the effect of hydrocarbon controls utilizing the forthcoming EPA model.

Planning for hydrocarbon controls should initially emphasize those geographical areas responsible for the major amount of hydrocarbon emissions. In Maryland, these areas would be the Metropolitan Baltimore Intrastate and the Maryland portion of the National Capital Interstate AQCRs. The initial phase of the plan should provide for control of major point sources statewide. Additionally, in the first phase, there should be control of other hydrocarbon sources in the above mentioned AQCRs. The plan should be phased so that hydrocarbon controls eventually extend throughout the State.

The Regional Administrator will provide additional technical support information and model regulations in sufficient time to meet planning deadlines.

#### CARBON MONOXIDE PLANNING AND PROPOSED STUDIES

Revisions for attainment and maintenance of the carbon monoxide standard should reduce carbon monoxide concentrations by reducing:

- (1) Overall CO emissions in the AQCR.
- (2) CO emissions at hotspots.

Overall CO emissions create the urban background. The Federal Motor Vehicle Control Program will account for a large amount of the required reduction. However, this reduction will not be as large as previously expected unless an effective Inspection and Maintenance program is implemented.

CO hotspots result from traffic congestion. The localized CO emissions, combined with background levels can create serious violations of the CO standard. Hotspot locations occur in congested areas throughout the metropolitan region. CO hotspots should be identified and ranked according to severity. Mitigation measures should be developed where possible, beginning with the worst hotspots—those hotspots of greatest area, highest CO levels, and maximum population exposure. Traffic and parking management strategies, coordinated with transit improvements, are the most

appropriate control measures for alleviating CO hotspot conditions.

The Regional Administrator recognizes that presently available data on the extent of the CO problem is not sufficient for planning CO strategies. He therefore is considering a detailed carbon monoxide monitoring program in the downtown area of Baltimore and Washington, DC to better determine the magnitude and spatial distribution of carbon monoxide levels and to aid in the identification of CO hotspots.

#### RELATIONSHIP BETWEEN TRANSPORTATION PLANNING AND AIR QUALITY PLANNING

The success of control of oxidants and carbon monoxide is highly dependent on control of transportation sources. Transportation sources, however, are not expected to bear the entire responsibility for attainment and maintenance of these standards. There is a trade off between how much control should be required for stationary and transportation sources. The trade off should be determined by the amount that each source contributes to the problem, the effectiveness of Reasonably or Best Available Control Technology and the cost effectiveness of the measures. Transportation planning must utilize all reasonably available measures to control transportation sources. New and revised transportation strategies should be developed by transportation agencies in coordination with air pollution control agencies through the normal transportation planning (3-C) process.

In the September 17, 1975 FEDERAL REGISTER the U.S. Department of Transportation issued regulations on the transportation planning process requiring Metropolitan Planning Organizations (MPO's) to prepare (a) short-range (3-5 years) Transportation Improvement Programs (TIP's) and (b) plans for improved Transportation System Management (TSM). Therefore, new and revised transportation measures aimed at CO and HC emission reductions must be included in the TIP and TSM plans that result from the annual urban transportation planning process. Specifically, five criteria must be met to insure that air quality measures are implemented as part of the urban transportation planning process: (1) The Metropolitan Planning Organization should participate in the development or revision of transportation measures; (2) all transportation measures (excluding source control measures, i.e., I/M and retrofit) scheduled for implementation in the next 3 to 5 years should be included in the short-range TIP; (3) all measures involving improved TSM (e.g., bus priority treatment, parking controls, traffic-free zones) should be included in the TSM element of the metropolitan area's transportation plan, regardless of when these measures are scheduled for implementation; (4) each transportation measure must appear in the annual element of the TIP for the year in which the transportation measure is scheduled for implementation; and (5) the transportation plan should be consistent with



the requirements of the SIP, with consistency defined as in the joint EPA-FHWA guidelines for implementing section 109(j) of Title 23.

#### PUBLIC PARTICIPATION IN THE PLANNING PROCESS

In order that reasonable measures may be planned and implemented, it is essential that citizens and special interest groups be involved in the planning process for transportation measures in urban areas. Every attempt should be made to include citizens and special interest groups so that diverse interests are represented. Groups such as automobile clubs, parking lot owners, business associations, neighborhood associations and developers should be included as well as environmental groups and interested individuals.

A community involvement program should be developed in cooperation with the Metropolitan Planning Organizations. This program should supplement citizen participation programs already in existence for the 3-C planning process and should provide for a continuous two-way exchange of information between citizens and planners.

#### CALLS FOR PLAN REVISIONS TO ASSURE THE ATTAINMENT AND MAINTENANCE OF THE NAAQS FOR CARBON MONOXIDE IN THE METROPOLITAN BALTIMORE INTRASTATE AND NATIONAL CAPITOL INTERSTATE AQCR'S AND FOR PHOTO-CHEMICAL OXIDANTS STATEWIDE

On the basis of recent air quality data submitted by the State of Maryland in fulfillment of the requirements of § 51.7 (Reports), and from the status of compliance with existing regulations, and other items previously described in this notice, it is the technical judgment of the Regional Administrator for Region III that the presently approved control strategy portion of the Maryland State Implementation Plan is substantially inadequate to attain and maintain the national carbon monoxide standards in the Metropolitan Baltimore Intrastate and National Capital Interstate AQCR's. Further, it is the technical judgment of the Regional Administrator that the presently approved control strategy portion of the Maryland State Implementation Plan is substantially inadequate to attain and maintain the national photochemical oxidant standards Statewide.

Therefore, it is necessary to add measures to the plans or revise one or more existing regulations for control of carbon monoxide and photochemical oxidants. The Regional Administrator's analyses have been summarized in a report entitled "Technical Support Document for Maryland Set II Pollutants" and is available for inspection and copying at the offices of the Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106 and the Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, DC 20460.

The plan should provide for a phased approach such that hydrocarbon controls

are first applied to transportation and point sources in major metropolitan areas (Metropolitan Washington Interstate and Metropolitan Baltimore Intrastate) and to major point sources elsewhere in the state. The second phase should provide for control of other sources throughout the State.

#### COOPERATION WITH MARYLAND BUREAU OF AIR QUALITY AND NOISE CONTROL

The Regional Administrator's calls for plan revisions are based on technical analyses made in cooperation with the Maryland Bureau of Air Quality and Noise Control. The determinations announced today were made only after a number of consultations between the two agencies.

The Regional Administrator, however, would also like to make it clear that today's action is based on EPA's technical determination of the probable air quality situation in the AQCRs, and does not necessarily represent the policy or wishes of the Maryland Bureau of Air Quality and Noise Control.

#### PLANNING REQUIREMENTS

Because of these identified deficiencies, the Regional Administrator finds that revisions to parts of the control strategies for particulate matter, carbon monoxide and photochemical oxidants in the Maryland SIP are needed. This FEDERAL REGISTER notice is intended to officially advise the State of Maryland of this requirement. Accordingly, the state shall prepare and submit, by July 1, 1977, a plan revision containing adopted emission limiting regulations, as needed, which represent a reasonable degree of control and which may be implemented within a reasonable period of time to provide for the attainment and maintenance of all national particulate matter, carbon monoxide and oxidant standards.

The Regional Administrator does not expect that additional emission limiting regulations will be sufficient in all cases to provide for the full attainment and maintenance of the standards. If additional control measures (e.g., land use and transportation measures) are needed to provide for attainment and maintenance, beyond those submitted on July 1, 1977, such measures may be submitted no later than July 1, 1978.

The needed plan revisions should identify the nature and sources of emissions within the applicable AQCRs and demonstrate how the adopted regulations will provide for the attainment and maintenance of the national standards. The plans should include a demonstration that emission increases that will result from projected growth of population, industrial activity, etc., will not cause the national standards to be violated. Compliance schedules for any source affected by any new or revised regulation must be submitted in accordance with the requirements of 40 CFR 51.15 (Compliance Schedules). The Plan revision should also indicate any additional resources needed to implement the control plan beyond those already provided for in the

plan, along with the State's commitment to provide additional manpower any money to implement the control measures. If responsibility for implementing any portion of the plan revisions is delegated to other State and/or local agencies, a description of the specific responsibility of each agency in implementing the plan shall be submitted. The plan revision shall be submitted by the State in accordance with the provisions of § 51.4, Public Hearings, and § 51.5, Submission of Plans, and shall otherwise fulfill the requirements of Part 51.

The existing statutory attainment deadlines for primary standards remain in effect. The State is, therefore, advised that the plan revision must provide for the attainment of primary standards as expeditiously as possible. The State should indicate in its submittal the exact timetable for implementation of control measures that will assure that primary standards will be attained at the most expeditious date possible.

The State is further advised that additional time can be provided for secondary standards, so long as such standards are attained within a reasonable time. The revised plan shall also indicate the date by which these standards will be attained.

The State shall also indicate the timetable for implementation of control strategies required to maintain national standards. This timetable should be based on the State's analysis of future air quality and expected growth in the Regions affected. The State's analysis of future air quality should utilize growth projections and cover a period of time consistent with other ongoing areawide planning programs, particularly with the Environmental Protection Agency's Areawide Water Quality Management Planning Program. In the Metropolitan Baltimore Intrastate AQCR this would require close coordination with the Regional Planning Council and an analysis of air quality up to the year 1995. In the Metropolitan Washington, D.C. area coordination with the Council of Governments and analysis through the year 2000 would be required. Planning coordination and the analysis period in the Maryland Portion of the Cumberland-Keiser AQCR should reflect decisions currently being made concerning State Water Quality Management Planning in that area. To assure consistency with other areawide planning programs and to provide for public participation in the air planning process, consideration should be given to an apportionment of the planning effort between the State and the cognizant areawide planning agency.

A number of these required revisions to Part 52 are relatively minor in nature and are not indicative of deficiencies in the State's overall activities in the various programs.

#### LETTER OF INTENT

The Governor shall submit, within 60 days of the date of this notice, a letter of intent to the Regional Administrator, EPA, Region III, which identifies the various action steps (along with target dates for completion) which the State



will take to develop the plan revisions in accordance with the requirements set forth in this notice. The State must also identify the agencies that have been given responsibility to prepare the plan revision. Failure by the State to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revision will be forthcoming from the State. In this case, EPA will begin to develop for promulgation a Federal plan to attain and maintain national standards.

All of the currently applicable plan remains in effect until the plan revision is submitted by the State to EPA and is approved by EPA or until EPA promulgates substitute (or additional) regulations.

#### LEGAL AUTHORITY AND PUBLIC COMMENT

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding of the Regional Administrator which clearly shows that the applicable control strategies are inadequate and need to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970.

Section	Description	Citation	Date
§2.1074 Legal authority	Confidentiality of emissions data	39 F.R. 34533	Sept. 26, 1974
§2.1076 Review of new sources and modifications	Indirect sources review	39 F.R. 7270	Feb. 26, 1974
§2.113 General requirements	Confidentiality of emissions data	40 F.R. 55326	Nov. 28, 1975
§2.1117 Control strategy: sulfur oxides	Sulfur-in-fuel limitations	41 F.R. 8769	Mar. 1, 1976

Ample opportunity for public comment on all proposed revisions will be provided. If the State develops its own revisions and submits them to EPA, public hearings will be required at the State level and EPA will provide opportunity for written comments prior to taking action on the submission; if EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State has held no hearing on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended, (42 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended, (42 U.S.C. 1857c-5(c)).)

Dated: June 30, 1976.

A. R. MORRIS,  
Acting Regional Administrator,  
Region III, Environmental  
Protection Agency.

[FR Doc. 76-19921 Filed 7-9-76; 8:45 am]

[FRL 577-1]

#### VIRGINIA

##### Approval of State Implementation Plans; Required Revisions

On October 20, 1975 (40 FR 49056) and again on May 3, 1976 (41 FR 18387), the Administrator notified the public of his intention to review all State Implementation Plans (SIP's) to determine their adequacy to attain and maintain the Na-

#### REFERRAL TO SUBPART D OF 40 CFR PART 51

Finally, the State is advised to refer to Subpart D of 40 CFR Part 51, Requirements for the Preparation, Adoption and Submittal of State Implementation Plans, as promulgated on May 3, 1976 (41 FR 18382). Subpart D summarizes all requirements that the State must meet in developing needed attainment and/or maintenance plans.

#### CALLS FOR REVISIONS TO CFR PART 52

Since the original approval of the Maryland State Implementation Plan, the Administrator, in several separate actions, has disapproved a number of sections of the approved Maryland plan dealing with a variety of subjects. The Regional Administrator feels that this is an appropriate time to list these deficiencies and advise the State that these should be corrected as expeditiously as possible. Listed below is each deficient Section, a brief description of the nature of the Section's inadequacy and the FEDERAL REGISTER citation and disapproval date.

tional Ambient Air Quality Standards (NAAQS) for all areas of the nation whether identified as Air Quality Maintenance Areas (AQMA's) or not. Further, he advised the public of his intention to call for plan revisions whenever he found a plan to be substantially inadequate to attain the national standards. All reviews of existing State plans and calls for needed revisions were to be completed by July 1, 1976.

The following notice summarizes the results of the Regional Administrator's review of the existing SIP for the Commonwealth of Virginia and his calls for needed revisions to the plan to assure the attainment and maintenance of the NAAQS for carbon monoxide (CO) and photochemical oxidants.

#### HISTORY OF TRANSPORTATION CONTROL PLANNING IN THE VIRGINIA PORTION OF THE NATIONAL CAPITAL INTERSTATE AQCR

Transportation Control Plans for the National Capital Interstate AQCR were submitted by the District of Columbia on April 20, 1973; by Maryland on April 16, 1973 and May 5, 1973; and by Virginia on April 11, 1973 and May 30, 1973. On June 22, 1973 (38 FR 16550), the Administrator issued notices containing his evaluation of the plans. Supplementary information was submitted by the District on July 9 and July 16; by Maryland on June 15, June 22, June 28, and July 10; and by Virginia on July 9, 1973.

Final approval/disapproval of the amended plans was published on Decem-

ber 6, 1973 (38 FR 33701), at which time the Administrator promulgated additional measures which were designed to remedy the deficiencies of the plans submitted by the three jurisdictions. Included in the EPA plan was a requirement for a parking management program which had been promulgated by EPA on November 12, 1973 (38 FR 31536), in response to a court order.

Subsequent to the promulgation, numerous measures have been deleted as a result of actions by the Congress, EPA and the courts. Acting in response to the FY 1975 Agriculture-Environmental and Consumer Protection Appropriations Law (Pub. L. 93-319), which prohibited the expenditure of funds for the regulation of parking (section 510), the Administrator suspended indefinitely the management of parking supply regulations contained in the various transportation control plans (40 FR 29743). On October 28, 1975, the U.S. Court of Appeals of the District of Columbia (District of Columbia et al v. Train) ruled that the Administrator is not authorized to require the states to enact statutes and to administer and enforce programs contained in the EPA plan. This ruling thus vacated the EPA regulations which required legislation for and implementation of an inspection program (§52.2441), the bicycle lanes and storage facilities program (§52.2442), and the various retrofit programs (§52.2444, 52.2445, 52.2446, and 52.2447) to be administered by the states. Moreover, the court ruled that the evidence presented by EPA was insufficient to support EPA's promulgation of bicycle regulations for the National Capital Region.

#### REVIEW OF AIR QUALITY IN THE NATIONAL CAPITAL INTERSTATE AQCR

The highest 1972 8 hour CO reading was 20 ppm (compared to the national standard of 9 ppm) at the CAMP station in the District of Columbia. Oxidant readings of 0.20 ppm (compared to the national standard of 0.08 ppm) was recorded at Airmon 5 station in Silver Spring, Maryland, and at the Airmon 4 station in Hyattsville, Maryland. The Metropolitan Washington Council of Government Air Quality Planning Committee, after a review of air quality data throughout the region, recommended these values be uniformly used as a basis for development of the Region's strategies by the District of Columbia, Maryland and Virginia. Emission reductions of 55.5% for CO and 67% (based on the conversion curve in Appendix J of 36 FR 15502) for hydrocarbons were determined as necessary to meet the National Ambient Air Quality Standards.

Since no valid carbon monoxide data was generated by the District of Columbia during 1975, the EPA Region III Office generated a limited amount of source-oriented CO data at two sites (which meet the OAQPS 1.2-012 guidelines) during February 1976. The site addresses are 2055 L St., NW. and 1700 14th St., NW., Washington, D.C., both of which are in the business district where



the traffic is heavy to very heavy throughout the working day.

Ten violations of the 8 hour CO standard (9 ppm) occurred during February 1976 at these two stations. The highest 8 hour average, 16.7 ppm, occurred on February 13, at the 14th Street monitor. The second highest 8 hour average, 12.3 ppm, occurred on February 4, and February 27, at the L Street monitor. The highest one hour average, 24 ppm, occurred on February 13, at the 14th Street monitor.

Although the 1976 carbon monoxide concentration indicates an improvement over the 1972 level, the 1976 figure is based on limited monitoring. Application of diffusion modeling by the Joint State Study using the emission densities anticipated for 1977, indicates potential maximum 8 hour CO concentrations in excess of 15 ppm at the CAMP station. The 1992 estimates contained in the Consistency Evaluation ("Air Quality Analyses of the Long Range Plan Alternatives for the National Capital Region," Metropolitan Washington Council of Governments, May 29, 1975) indicates a potential 8 hour urban background CO concentration of 9 ppm which, when added to the contribution of individual highways would cause localized "hot spot" violations of the carbon monoxide standard.

Of the eight stations providing continuous monitoring of photochemical oxidants, only those listed in the following table delivered valid data in 1975. Included in the table are the ozone levels detected during the July 29-August 5 episode, which were the highest ever detected in the National Capital Interstate Region.

Site name	Date	Highest		2d highest	
		Hour	Parts per million	Hour	Parts per million
Sullyland, Almon 3.	Aug. 1	14	0.26	15	0.23
Cheverly, Almon.	Aug. 1	45	.21	13	.20
Alexandria	Aug. 1	16	.23	16	.23
NH Bethesda, Almon 6.	Aug. 1	14	.12	15	.12

Analysis of the impact of the Federal Motor Vehicle Control Program in 1977 (by the Joint States Study) indicates an oxidant concentration of 0.225 ppm with no additional strategies.

The analysis of 1992 hydrocarbon emissions contained in the Consistency Evaluation indicates that projected emissions will be in excess of the allowable emissions (as determined by use of "Appendix J" Curve—36 FR 15502) by 30 percent.

#### REVIEW OF PHOTOCHEMICAL OXIDANT DATA STATEWIDE

In the spring of 1976, the Regional Administrator undertook a review of progress toward attaining national standards for photochemical oxidants and carbon monoxide in all AQCR's in Region III. These analyses included review of existing air quality data and technical reviews of State monitoring

programs, to determine if recorded air quality data was valid and representative of local conditions.

Results of the Regional Administrator's review of the air quality data for photochemical oxidants are presented in the following table which lists the maximum concentrations of ozone for the year 1975, and illustrates the widespread nature of the problem.

AQCR	Region	Ozone, Parts per million
017	7—National Capital Interstate	0.205
207	1—Eastern Tennessee-Southwestern Virginia Intrastate	.120
222	3—Central Virginia Intrastate	.145
223	6—Hampton Roads Intrastate	.080
224	4—Northeastern Virginia Intrastate	.235
225	5—State Capital Intrastate	.120
226	2—Valley of Virginia Intrastate	

On the basis of this review, the Regional Administrator has determined that there are violations of the NAAQS for photochemical oxidants throughout the Commonwealth of Virginia, except for the Central Virginia Intrastate and the Northeastern Virginia Intrastate AQCR's.

#### DISCUSSION OF NEED FOR STATEWIDE OXIDANT PLANNING AND OTHER FACTORS RELATING TO CONTROL OF PHOTOCHEMICAL OXIDANTS

Based on new information on the reactivity of hydrocarbons, the widespread nature of the photochemical oxidant problem, and the phenomenon of long distance transport of oxidant precursors, it is necessary to reevaluate hydrocarbon control strategies in terms of large interstate regions. Ultimately, the regulations which result from this effort will have to address total hydrocarbon control over perhaps the entire eastern half of the United States.

The Regional Administrator recognizes that there is not yet available an adequate model to quantify the effect of hydrocarbon reduction on photochemical oxidant levels. The EPA has made a substantial effort in this area and will have a photochemical oxidant model available in the near future. This model can be utilized in the development of hydrocarbon control strategies.

Because of the suspected role NO<sub>x</sub> plays in the formation of photochemical oxidants, additional control of NO<sub>x</sub> emissions may be required to meet the NAAQS for photochemical oxidants. The determination of whether additional NO<sub>x</sub> controls are needed will be made after the relationship between hydrocarbons and NO<sub>x</sub> in the formation of oxidants is determined.

Planning for hydrocarbon controls should initially emphasize those geographical areas responsible for the major amount of hydrocarbon emissions. The initial phase of the plan should provide for control of major point sources statewide. Additionally, in the first phase there should be control of other hydrocarbon sources in the National Capital AQCR. The Plan should be phased so that hydrocarbon controls eventually extend throughout the state.

The Regional Administrator will provide additional technical support information and model regulations in sufficient time to meet planning deadlines.

#### CARBON MONOXIDE PLANNING AND PROPOSED STUDIES

Revisions for attainment and maintenance of the carbon monoxide standard should reduce carbon monoxide concentrations by reducing:

- (1) Overall CO emissions in the AQCR.
- (2) CO emissions at hotspots.

Overall CO emissions create the urban background. The Federal Motor Vehicle Control Program will account for a large amount of the required reduction. However, this reduction will not be as large as previously expected unless an effective Inspection and Maintenance program is implemented.

CO hotspots result from traffic congestion. The localized CO emissions, combined with background levels can create serious violations of the CO standard. Hotspot locations occur in congested areas throughout the metropolitan region. CO hotspots should be identified and ranked according to severity. Mitigation measures should be developed where possible, beginning with the worst hotspots—these hotspots of greatest area, highest CO levels, and maximum population exposure. Traffic and parking management strategies, coordinated with transit improvements, are the most appropriate control measures for alleviating CO hotspot conditions.

The Regional Administrator recognizes that presently available data on the extent of the CO problem is not sufficient for planning CO strategies. He therefore is considering a detailed carbon monoxide monitoring program in the downtown area of Washington, D.C. to better determine the magnitude and spatial distribution of carbon monoxide levels and to aid in the identification of CO hotspots.

#### RELATIONSHIP BETWEEN TRANSPORTATION PLANNING AND AIR QUALITY PLANNING

The success of control of oxidants and carbon monoxide is highly dependent on control of transportation sources. Transportation sources however, are not expected to bear the entire responsibility for attainment and maintenance of these standards. There is a trade off between how much control should be required for stationary and transportation sources. The trade off should be determined by the amount that each source contributes to the problem, the effectiveness of Reasonably or Best Available Control Technology and the cost effectiveness of the measures. Transportation planning must utilize all reasonably available measures to control transportation sources.

New and revised transportation strategies should be developed by transportation agencies in coordination with air pollution control agencies through the normal transportation planning (3-C) process.

In the September 17, 1975, FEDERAL REGISTER, the U.S. Department of Transportation issued regulations on the trans-



portation planning process requiring Metropolitan Planning Organizations (MPO's) to prepare (a) short-range (3-5 years) Transportation Improvement Programs (TIP's) and (b) plans for improved Transportation System Management (TSM). Therefore, new and revised transportation measures aimed at CO and HC emission reductions must be included in the TIP and TSM plans that result from the annual urban transportation planning process.

Specifically, five criteria must be met to insure that air quality measures are implemented as part of the urban transportation planning process: (1) The Metropolitan Planning Organization should participate in the development or revision of transportation measures; (2) all transportation measures (excluding source control measures, i.e., I/M and retrofit) scheduled for implementation in the next 3 to 5 years should be included in the short-range TIP; (3) all measures involving improved TSM (e.g., bus priority treatment, parking controls, traffic-free zones) should be included in the TSM element of the metropolitan area's transportation plan, regardless of when these measures are scheduled for implementation; (4) each transportation measure must appear in the annual element of the TIP for the year in which the transportation measure is scheduled for implementation; and (5) the transportation plan should be consistent with the requirements of the SIP, with consistency defined as in the joint EPA-FHWA guidelines for implementing section 109(j) of Title 23.

In order that reasonable measures may be planned and implemented, it is essential that citizens and special interest groups be involved in the planning process for transportation measures in urban areas. Every attempt should be made to include citizens and special interest groups so that diverse interests are represented. Groups such as automobile clubs, parking lot owners, business associations, neighborhood associations, and developers should be included as well as environmental groups and interested individuals.

A community involvement program should be developed in cooperation with the Metropolitan Planning Organization. This program should supplement citizen participation programs already in existence for the 3-C planning process and should provide for a continuous two-way exchange of information between planners and the public.

#### **CALLS FOR PLAN REVISIONS TO ASSURE THE ATTAINMENT AND MAINTENANCE OF THE NAAQS FOR CARBON MONOXIDE IN THE NATIONAL CAPITAL INTERSTATE AQCR AND FOR PHOTOCHEMICAL OXIDANTS STATEWIDE**

On the basis of recent air quality data submitted by the Commonwealth of Virginia in fulfillment of the requirements of Section 51.7 (Reports), and from the status of compliance with existing regulations, and other items previously described in this notice, it is the technical judgment of the Regional Administrator

for Region III that the presently approved control strategy portion of the Virginia State Implementation Plan for carbon monoxide is substantially inadequate to attain and maintain the national carbon monoxide standards in the National Capital Interstate AQCR. Further, it is the technical judgment of the Regional Administrator that the presently approved control strategy portion of the Virginia State Implementation Plan for photochemical oxidants is substantially inadequate to attain and maintain the national photochemical oxidant standards statewide.

Therefore, it is necessary to add measures to the plans or revise one or more existing regulations for control of carbon monoxide and photochemical oxidants. The Regional Administrator's analyses have been summarized in a technical report entitled, "Technical Support Document for Virginia Set II Pollutants," and is available for inspection and copying at the offices of the Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106 and the Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460.

#### **PLANNING REQUIREMENTS**

Because of these identified deficiencies, the Regional Administrator finds that revisions to the parts of the control strategy for carbon monoxide and photochemical oxidants in the Virginia SIP are needed. This FEDERAL REGISTER notice is intended to officially advise the Commonwealth of Virginia of this requirement. Accordingly, the State shall prepare and submit by July 1, 1977, a plan revision containing adopted emission limiting regulations, as needed, which represent a reasonable degree of control and which may be implemented within a reasonable period of time to provide for attainment and maintenance of carbon monoxide and photochemical oxidant standards.

The Regional Administrator does not expect that the emission limiting regulations will be sufficient in all cases to provide for full attainment and maintenance of the standards. If additional control measures (e.g., land use and transportation measures) are needed to provide for attainment and maintenance, beyond those submitted on July 1, 1977, such measures may be submitted no later than July 1, 1978.

The needed plan revisions should identify the nature and sources of emissions within the applicable AQCR's and demonstrate how the adopted regulations will provide for the attainment and maintenance of the national standards. The plans should include a demonstration that emission increases that will result from projected growth of population, industrial activity, etc., will not cause the national standards to be violated. Compliance schedules for any source affected by any new or revised regulation must be submitted in accordance with the requirements of 40 CFR 51.15 (Compliance Schedules). The Plan revision should also indicate any additional resources

needed to implement the control plan beyond those already provided for in the plan, along with the State's commitment to provide additional manpower and money to implement the control measures. If responsibility for implementing any portion of the plan revisions is delegated to other State and/or local agencies, a description of the specific responsibility of each agency in implementing the plan shall be submitted. The plan revision shall be submitted by the State in accordance with the provisions of Section 51.4, Public Hearings, and § 51.5, Submission of Plans, and shall otherwise fulfill the requirements of Part 51.

The existing statutory deadlines for primary standards remain in effect. The State is therefore advised that the plan revision must provide for the attainment of primary standards as expeditiously as possible. The State should indicate in its submittal the exact timetable for implementation of control measures that will assure that primary standards will be attained at the most expeditious date possible.

The State shall also indicate the timetable for implementation of control strategies required to maintain national standards. This timetable should be based on the State's analysis of future air quality and expected growth in the Region. The State's analysis of future air quality should utilize growth projections and cover a period of time consistent with other ongoing areawide planning programs, particularly with the Environmental Protection Agency's Areawide Water Quality Planning Program. In the National Capital Interstate AQCR this would require close coordination with the Metropolitan Washington Council of Governments and an analysis of air quality up to the year 2000. To assure consistency with other areawide planning programs and to provide for public participation in the air planning process, consideration should be given to an apportionment of the planning effort between the State and the cognate areawide planning agency.

#### **REFERRAL TO SUBPART D OF 40 CFR PART 51**

Finally, the State is advised to refer to Subpart D of 40 CFR Part 51, Requirements for the Preparation, Adoption and Submittal of State Implementation Plans, as promulgated on May 3, 1976 (41 FR 18382). Subpart D summarizes all requirements that the State must meet in developing needed attainment and/or maintenance plans.

#### **CALLS FOR REVISIONS TO CFR PART 52**

Since the original approval of the Virginia State Implementation Plan, the Administrator, in several separate actions, has disapproved a number of sections of the approved Virginia plan dealing with a variety of subjects. The Regional Administrator feels that this is an appropriate time to list these deficiencies and advise the State that these should be corrected as expeditiously as possible. Listed below is each deficient Section, a brief description of the nature of the Section's inadequacy and the FEDERAL REGISTER citation and disapproval date.



Sec.	Description	Date of promulgation	F.R. citation
52.2424	General requirements	Sept. 26, 1974	39 F.R. 34533
52.2430	Legal authority	do	39 F.R. 34533
52.2445	Review of new sources and modifications (indirect sources)	Feb. 25, 1974	39 F.R. 34533
52.2451	Significant deterioration of air quality	June 12, 1975	40 F.R. 25004

A number of these required revisions to Part 52 are relatively minor in nature and are not indicative of deficiencies in the State's overall activities in the various programs.

#### LETTER OF INTENT

The Governor shall submit, within 60 days of the date of this notice, a letter of intent to the Regional Administrator, EPA, Region II which identifies the various action steps (along with target dates for completion) which the State will take to develop the plan revisions in accordance with the requirements set forth in this notice. The State must also identify the agencies that have been given responsibility to prepare the plan revisions. Failure by the State to submit a letter of intent within the allotted 60 days will be considered by EPA as an indication that no plan revision will be forthcoming from the State. In this case, EPA will begin to develop for promulgation a federal plan to attain and maintain national standards.

All of the currently applicable plan remains in effect until the plan revision is submitted by the State to EPA and is approved by EPA or until EPA promulgates substitute (or additional) regulations.

#### LEGAL AUTHORITY AND PUBLIC COMMENT

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding of the Regional Administrator which clearly shows that the applicable control strategies are inadequate and need to be revised.

Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on all proposed revisions will be provided. If the State develops its own revisions and submits them to EPA, public hearings will be required at the State level and EPA will provide opportunity for written comments prior to taking action on the submission; if EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State has held no hearing on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended, (42 U.S.C. 1857c-5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended (42 U.S.C. 1857c-5(c))

Dated: June 30, 1976.

A. R. MORRIS,  
Acting Regional Administrator,  
Region III, Environmental  
Protection Agency.

[FR Doc.76-19924 Filed 7-4-76;8:45 am]

[FRL 579-7; OPP-30111]

#### HENKEL CHEMICAL CORP.

#### Receipt of Application To Register a Pesticide Product Containing a New Active Ingredient

Henkel Chemical Corp., 10 East 53rd St., New York, N.Y. 10022, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product ODIK (EPA File Symbol 39043-R), containing 0.4% of the active ingredient Glyoxal which has not been included in any previously registered pesticide products. The application received from Henkel Chemical Corp., proposes that the product be classified for general use as a disinfectant for airplane toilet seats.

Application was made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 7 U.S.C. 136 et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of this application is made in accordance with the provisions of Section 3(c)(4) of FIFRA [40 CFR 162.2(b)(6)] and does not indicate a decision by the Agency on the application.

Any Federal agency or other interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW, Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before August 11, 1976 and should bear a notation indicating the EPA File Symbol "39043-R". Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application.

Specific questions concerning this application should be addressed to Product Manager 33, Registration Division (WH-567), Office of Pesticide Programs, at the above address or telephone (202) 755-9041.

Notice of approval or denial of this application to register ODIK will be announced in the FEDERAL REGISTER. The label furnished by Henkel Chemical Corp., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section

from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: July 6, 1976.

JOHN B. RITCH, JR.,  
Director Registration Division.

[FR Doc.76-20065 Filed 7-9-76;8:45 am]

[FRL 580-1; OPP-33000/429]

#### RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

#### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington, D.C. 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after



January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c) (1) (D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed on or before September 10, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before August 11, 1976.

Dated: July 6, 1976.

JOHN B. RITCH, Jr.,  
Director, Registration Division.

#### APPLICATIONS RECEIVED (OPP-33000/429)

EPA File Symbol 852-RR. Abbott Chemical Corp., Chemical Specialties for Industry, 701 E. Saratoga, Ferndale MI 48220. HOSPIQUAT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetra-sodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 802-202. The Chas. H. Lilly Co., 7737 NE Killingsworth, Portland OR 97218. MILLER'S 2,4-D BUTYL ESTER 6E WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic acid, Butyl Ester 78.33%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 802-182. The Chas. H. Lilly Co., LV 2,4-D ESTER 4 LB. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Isooctyl Ester 68.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1990-102. Farmland Industries, Inc., PO Box 7305, Kansas City MO 64116. CO-OP WEED-OUT 2,4-D AMINE 4-POUND. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 49.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 279-1257. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. THIODAN 4 DUST INSECTICIDE. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,3-benzodioxathiepin oxide) 4.00%. Method

of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

EPA Reg. No. 279-1344. FMC Corp. THIODAN 3 DUST INSECTICIDE. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,3-benzodioxathiepin oxide) 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

EPA Reg. No. 279-1380. FMC Corp. THIODAN 50 WETTABLE POWDER INSECTICIDE. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,3-benzodioxathiepin oxide) 50.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

EPA Reg. No. 279-1405. FMC Corp. THIODAN 3 DUST INSECTICIDE. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,3-benzodioxathiepin oxide) 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

EPA Reg. No. 279-1618. FMC Corp. SULFUR 50 THIODAN 3 DUST FUNGICIDE-INSECTICIDE. Active Ingredients: Sulfur 50.0%; Endosulfan (Hexachlorohexahydromethano-2,4,3-benzodioxathiepin oxide) 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

EPA Reg. No. 279-2318. FMC Corp. KELTHANE 4 THIODAN 4 DUST INSECTICIDE. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,3-benzodioxathiepin oxide) 4.00%; 1,1-Bis(p-chlorophenyl)-2,2,2-trichloroethanol 4.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

EPA Reg. No. 279-2522. FMC Corp. SULPHUR 50 THIODAN 5 DUST FUNGICIDE-INSECTICIDE. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,3-benzodioxathiepin oxide) 5.00%; Sulphur 50.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

EPA Reg. No. 279-2885. FMC Corp. SULFUR 25 KELTHANE 4 THIODAN DUST FUNGICIDE-INSECTICIDE. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,3-benzodioxathiepin oxide) 4.00%; 1,1-Bis(p-chlorophenyl)-2,2,2-trichloroethanol 4.00%; Sulphur 25.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

EPA Reg. No. 8378-4. Knox Fertilizer & Chemical Co., Inc., PO Box 116, Knox IN 46534. SHAW'S WEED & FEED 10-6-4. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 8378-2. Knox Fertilizer & Chemical Co., Inc. WEED & FEED FORMULATED WITH VERMICULITE 10-6-4. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 0.94%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 38053-G. Leo Ind., Inc., 1750 W. 75th Pl., Chicago IL 60620. LEO QUAT 450 NP DISINFECTANT CLEANER LEMON. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 38053-U. Leo Ind., Inc. LEO QUAT DISINFECTANT PINE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 38053-I. Leo Ind., Inc. LEO QUAT DISINFECTANT LEMON. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 38053-E. Leo Ind., Inc. LEO QUAT 450 NP DISINFECTANT CLEANER, MINT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 2169-206. Patterson Chemical Co., Div., Curry Cartwright, Inc., 1400 Union Ave., Kansas City MO 64101. PATTERSON'S GREEN-UP DANDELION KILLER. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 22.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 228-147. Riverdale Chemical Co., 220 E. 17th St., Chicago Heights IL 60411. RIVERDALE WEEDESTROY 40 BUTYL ESTER. Active Ingredients: Butyl Ester of 2,4-Dichlorophenoxyacetic Acid 40%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 228-140. Riverdale Chemical Co. RIVERDALE WEEDESTROY 44 BUTYL ESTER A SELECTIVE WEED KILLER. Active Ingredients: Butyl ester of 2,4-Dichlorophenoxyacetic Acid 49.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 223-145. Riverdale Chemical Co. RIVERDALE WEEDESTROY AM-40 AMINE SALT. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 49.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 359-380. Rhodia, Inc., Agricultural Div., PO Box 125, Monmouth Junction NJ 08852. 2,4-D GRAN 20. Active Ingredients: Isooctyl ester of 2,4-dichlorophenoxyacetic acid 30.15%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM12

EPA File Symbol 11715-LU. Speer Products, Inc., PO Box 9383, Memphis TN 38109. SPEER FIREANT & GARDEN INSECT SPRAY. Active Ingredients: (5-Benzyl-3-Furyl) Methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.350%; Related compounds 0.048%; Aromatic petroleum hydrocarbons 0.464%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 11687-19. Transvaal, Inc., Suite 2414, 5100 Poplar Ave., Memphis TN 38137. TRANSVAAL WEED-REAP A-6D HERBICIDE, 2,4-D AMINE. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 69.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23



EPA File Symbol 11687-11, Transvaal, Inc. TRANSVAAL D-AMINE 6 HERBICIDE 2, 4-D AMINE. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 69.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 11687-6, Transvaal, Inc. TRANSVAAL WEED-RHAP A-4D HERBICIDE. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 49.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 11687-11, Transvaal, Inc. TRANSVAAL D-AMINE 4 HERBICIDE. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 49.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 148-1158, Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City KS 66106. DIURON FLOWABLE. Active Ingredients: Diuron [3-(3,4-dichlorophenyl)-1,1-dimethylurea] 28.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 226-214, Tobacco States Chemical Co., PO Box 479, Lexington KY 40501. TOBACCO STATES BRAND BUDWORM DUST. Active Ingredients: Endosulfan (Hexachlorocycloheximide) 2,4,3-benzodioxathiepin oxide 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

[FR Doc. 76-20067 Filed 7-9-76; 8:45 am]

[FRL 580-2; OPP-33000/430]

# RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

## Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c) (1) (D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing section 3(c) (1) (D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [P.L. 94-140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington, D.C. 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c) (1) (D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed on or before September 10, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before August 11, 1976.

Dated: June 30, 1976.

JOHN B. RITCH, JR.,  
Director,  
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/430)

EPA Reg. No. 2749-186, Aceto Chemical Co., Inc., Agricultural Chemicals Div., 126-02 Northern Blvd., Flushing NY 11368. DCNA 75W FUNGICIDE. Active Ingredients: 2, 6-Dichloro-4-nitroaniline 75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 241-166, American Cyanamid Co., PO Box 400, Agricultural Div., Princeton NJ 08540. THIMET SOIL AND SYSTEMIC INSECTICIDE + 5-10-15 FER-

TILIZER. Active Ingredients: Phorate (0,0-diethyl S-[(ethylthio)methyl] phosphorodithioate) 00.50%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 241-167, American Cyanamid Co. THIMET SOIL AND SYSTEMIC INSECTICIDE + 5-10-10 FERTILIZER. Active Ingredients: Phorate (0,0-diethyl S-[(ethylthio)methyl] phosphorodithioate) 00.15%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 241-198, American Cyanamid Co. THIMET SOIL AND SYSTEMIC INSECTICIDE + 5-20-20 FERTILIZER. Active Ingredients: Phorate (0,0-diethyl S-[(ethylthio)methyl] phosphorodithioate) 00.20%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 241-226, American Cyanamid Co. THIMET SOIL AND SYSTEMIC INSECTICIDE + 18-46-0 FERTILIZER. Active Ingredients: Phorate (0,0-diethyl S-[(ethylthio)methyl] phosphorodithioate) 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA Reg. No. 241-227, American Cyanamid Co. THIMET SOIL AND SYSTEMIC INSECTICIDE + 0-46-0 FERTILIZER. Active Ingredients: Phorate (0,0-diethyl S-[(ethylthio)methyl] phosphorodithioate) 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA File Symbol 6125-EO, Bixon Chemical Co., 50-19 97th Pl., Corona NY 11368. QUAT NO. 6. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium Chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 10471-L, C & B Chemical Co., 72 Heights Blvd., Houston TX 77007. PINE ODOR DISINFECTANT, COEF. 13. Active Ingredients: Isopropanol 9.50%; Pine oil 7.90%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 3.95%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 1416-14, Churchill Chemical Co., A Div. of the Dexter Corp., PO Box 312, Galesburg IL 61401. 2,4-D WEED KILLER. Active Ingredients: Alkanolamine Salts (of the ethanol and isopropanol series of 2,4-Dichlorophenoxyacetic acid) 10%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 352-247, E. I. Du Pont de Nemours & Co., Inc., Biochemicals Dept., 7056 Dupont Bldg., Wilmington DE 19898. DUPONT KARMEX DIURON WEED KILLER. Active Ingredients: Diuron [3-(3,4-dichlorophenyl)-1,1-dimethylurea] 80%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 279-2299, FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. THIODAN 5 DUST INSECTICIDE. Active Ingredients: Endosulfan (Hexachlorocycloheximide) 2,4,3-benzodioxathiepin oxide 5.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

EPA File Symbol 37265-G, General Chemical, Inc., 3500 W. Carriage Dr., Santa Ana CA 92704. PINE ODOR NO. 10 CLEANER HOSPITAL STRENGTH DISINFECTANT SANITIZER DEODORANT. Active Ingre-



dients: Isopropanol 4.75%; Pine oil 3.95%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 1.97%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 37265-U. General Chemical, Inc. PINE ODOR NO. 70 CLEANER HOSPITAL STRENGTH DISINFECTANT-SANITIZER-DEODORANT. Active Ingredients: Isopropanol 9.50%; Pine oil 7.90%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 3.95%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 961-214. Lebanon Chemical Corp., PO Box 180, Lebanon PA 17042. LEBANON UNIFORM 10-6-4 WITH 2,4-D WEED AND FEED. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 10471-L. C & B Chemical Co., 72 Heights Blvd., Houston TX 77007. PINE ODOR DISINFECTANT, COEF. 13. Active Ingredients: Isopropanol 9.50%; Pine oil 7.90%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 3.95%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 1416-14. Churchill Chemical Co., A Div. of the Dexter Corp., PO Box 312, Galesburg IL 61401. 2,4-D WEED KILLER. Active Ingredients: Alkanolamine Salts (of the ethanol and isopropanol series of 2,4-Dichlorophenoxyacetic acid 10%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 352-247. E. I. Du Pont de Nemours & Co., Inc., Blochemicals Dept., 7056 Dupont Bldg., Wilmington DE 19898. DUPONT KARMEX DIURON WEED KILLER. Active Ingredients: Diuron [3-(3,4-dichlorophenyl)-1,1-dimethylurea] 80%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 279-2299. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. THIODAN 5 DUST INSECTICIDE. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,3-benzodioxathiepin oxide) 5.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

EPA File Symbol 37265-G. General Chemical Inc., 3500 W. Carriage Dr., Santa Ana CA 92704. PINE ODOR NO. 10 CLEANER HOSPITAL STRENGTH DISINFECTANT-SANITIZER-DEODORANT. Active Ingredients: Isopropanol 4.75%; Pine oil 3.95%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 1.97%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 37265-U. General Chemical Inc. PINE ODOR NO. 70 CLEANER HOSPITAL STRENGTH DISINFECTANT-SANITIZER-DEODORANT. Active Ingredients: Isopropanol 9.50%; Pine oil 7.90%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 3.95%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 961-214. Lebanon Chemical Corp., PO Box 180, Lebanon PA 17042. LEBANON UNIFORM 10-6-4 WITH 2,4-D WEED AND FEED. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 961-242. Lebanon Chemical Corp. LEBANON DANDELION KILLER. Active Ingredients: Dimethylamine 2,4-dichlorophenoxyacetate 2.08%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 961-263. Lebanon Chemical Corp. LEBANON WEED AND FEED 10-6-4 WITH 2,4-D AND MCPP. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 0.868%; Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy)propionic acid 0.868%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 961-318. Lebanon Chemical Corp. HOMESTEAD WEED AND FEED FERTILIZER 12-10-10. Active Ingredients: Dimethylamine Salt of 2,4-dichlorophenoxyacetic acid 1.50%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1266-79. Malter International Corp., International Headquarters, PO Box 6099, New Orleans LA 70174. BROAD-CIDE. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 4.94%; Potassium Salt of 2-(2-Methyl-4-Chlorophenoxy)-Propionic Acid (M.C.P.P.) 12.95%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 538-64. O. M. Scott & Sons, Marysville OH 43040. SCOTTS PROTUF BRAND BROAD SPECTRUM WEEDICIDE II. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 2.78%; 2-(2-Methyl-4-chlorophenoxy) propionic acid 2.78%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 538-65. O. M. Scott & Sons. SCOTTS PROTUF BRAND 30-5-3 FERTILIZER PLUS DICOT WEED CONTROL II. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 1.15%; 2-(2-Methyl-4-chlorophenoxy) propionic acid 1.15%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 538-71. O. M. Scott & Sons. SCOTTS TURF BUILDER PLUS 2 BRAND FOR GRASS. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 0.60%; 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.60%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 538-72. O. M. Scott & Sons. SCOTTS PLUS 2 BRAND FOR GRASS. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 0.55%; 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.55%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 538-120. O. M. SCOTT & SONS. SCOTTS HIGH NUTRIENT WEED CONTROL PLUS LAWN FERTILIZER. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 1.10%; 2-(2-Methyl-4-chlorophenoxy) propionic acid 1.10%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 34704-6. Platte Chemical Co., PO Box 667, Greeley CO 80631. CLEAN CROP LV 6 ESTER WEED KILLER. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic acid 94.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 34704-7. Platte Chemical Co. CLEAN CROP BUTYL 6 ESTER WEED KILLER. Active Ingredients: Isobutyl ester

of 2,4-Dichlorophenoxyacetic acid 77.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 34704-5. Platte Chemical Co. CLEAN CROP AMINE 2,4-D WEED KILLER. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 49.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 34704-UG. Platte Chemical Co. CLEAN CROP AMINE 4-R 2,4-D WEED KILLER. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 49.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 34704-4. Platte Chemical Co. CLEAN CROP LV 4 ESTER WEED KILLER. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic acid 69.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 359-647. Rhodia Inc., Agricultural Div., PO Box 125, Monmouth Junction NJ 08852. VISKO-RHAP LOW VOLATILE ESTER 2D GROUND APPLICATION. Active Ingredients: 2-ethylhexyl ester of 2,4-dichlorophenoxyacetic acid 37.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM 23

EPA Reg. No. 359-648. Rhodia Inc. VISKO-RHAP LOW VOLATILE ESTER 2D AIR APPLICATION. Active Ingredients: 2-ethylhexyl ester of 2,4-dichlorophenoxyacetic acid 36.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 5741-RA. Spartan Chemical Co., Inc., 110 N. Westwood Ave., Toledo OH 43607. PSQ DISINFECTANT CLEANER. Active Ingredients: Sodium carbonate 3.0%; Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chloride 1.3%; Pine oil 1.0%; Octyl Decyl Dimethyl ammonium chloride 0.9%; Dioctyl Dimethyl ammonium chloride 0.45%; Didecyl Dimethyl ammonium chloride 0.45%; Isopropyl alcohol 0.72%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA Reg. No. 10755-1. Super Green Co., 717 Elk St., Buffalo NY 14210. SUPER GREEN LIQUID WEED KILLER AN AMINE SALT FORMULATION. Active Ingredients: Alkanolamine Salts of 2,4-Dichlorophenoxyacetic acid 59.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1386-559. Universal Cooperatives, Inc., 111 Glamorgan St., Alliance OH 44601. UNICO BAN AMINE WEED KILLER. Active Ingredients: Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid) 15.3%; Dimethylamine salt of related acids 2.4%; Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 30.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

[FR Doc. 76-20068 Filed 7-9-76; 8:45 am]

[FRL 580-3; OPP-33000/431]

# RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR



31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effected by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94-140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington DC 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Every

such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed on or before September 10, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before August 11, 1976.

Dated: July 6, 1976.

JOHN B. RITCH, Jr.,  
Director, Registration Division.

#### APPLICATIONS RECEIVED (OPP-33000/431)

EPA File Symbol 10088-AE. Athes Laboratories, Inc., 4180 N. First St., Milwaukee WI 53212. COCKROACH KILLER. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related Compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 99.375%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 5667-RNE. Barrett Chemical Co., Inc., H & Luzerne Sts., Philadelphia PA 19124. BARRETT'S DISINFECTANT CLEANER #20. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 4.50%; Diethyl Dimethyl Ammonium Chloride 2.25%; Didecyl Dimethyl Ammonium Chloride 2.25%; Tetrasodium Ethylenediamine Tetraacetate 2.40%; Isopropyl Alcohol 3.60%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 5667-RNG. Barrett Chemical Co., Inc. BARRETT'S DISINFECTANT CLEANER #22. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 0.950%; Diethyl Dimethyl Ammonium Chloride 0.475%; Didecyl Dimethyl Ammonium Chloride 0.475%; Tetrasodium Ethylenediamine Tetraacetate 1.000%; Trisodium Phosphate 2.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 904-EUA. B. G. Pratt Division, Gabriel Chemicals, Ltd., 204 21st Ave., Paterson NJ 07509. PRATT WASH & YELLOW JACKET SPRAY. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related Compounds 0.034%; Aromatic Petroleum Hydrocarbons 0.331%; Petroleum Distillate 53.375%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 30948-ER. Biochemical Chemicals and Services, PO Box 4292, Chattanooga TN 37405. SENTINEL 500 ODORLESS DISINFECTANT SANITIZER. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chloride 10.00%; Ethanol 2.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 38901-R. Biomac, 15630 S.W. Pacific Highway, Tegal OR 97223. BIOMAC 750. Active Ingredients: n-alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium Chloride 0.13%. Method of

Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 36999-EN. B & M International, Inc., PO Box 1116, Thibodaux LA 70301. SPOT KILL. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.027%; d-trans Allethrin (allyl homolog of Cinerin I) 0.125%; Related compounds 0.011%; Aromatic petroleum hydrocarbons 0.275%; Petroleum distillate 17.354%; Essential Oils 2.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 1660-TL. Chemical Specialties Co., Inc., 51-55 Nassau Ave., Brooklyn NY 11222. DRO GENERAL PURPOSE AQUEOUS INSECTICIDE. Active Ingredients: Pyrethrins 0.1%; Piperonyl Butoxide, technical 1.0%; Petroleum Distillate 0.4%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA Reg. No. 239-2186. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO PARAQUAT CL. Active Ingredients: Paraquat dichloride (1,1'-dimethyl-4,4'-bipyridinium dichloride) 29.1%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted and added use. PM25

EPA Reg. No. 239-2186. Chevron Chemical Co. ORTHO PARAQUAT CL. Active Ingredients: Paraquat dichloride (1,1'-dimethyl-4,4'-bipyridinium dichloride) 29.1%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted and added use. PM25

EPA Reg. No. 239-2186. Chevron Chemical Co. ORTHO PARAQUAT CL. Active Ingredients: Paraquat dichloride (1,1'-dimethyl-4,4'-bipyridinium dichloride) 29.1%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted and added use directions. PM25

EPA Reg. No. 6725-6. Commercial Cleanser Co., 3920 Wesley Terr., Schiller Park IL 60176. SANI-GUARD. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 464-393. The Dow Chemical Co., Midland MI 48640. PLICTRAN 50W MITICIDE. Active Ingredients: Cyhexatin (tricyclohexylhydroxystannane) 50.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM13

EPA Reg. No. 1677-57. Economics Laboratory, Inc., Klenzade Div., Osborn Bldg., St. Paul MN 55102. UDDER-WASH KDS-33. Active Ingredients: n-Alkyl (50% C12, 30% C14, 17% C16, 3% C18) Dimethyl-3,4-dichlorobenzyl Ammonium Chloride 5.0%; Glycolic Acid 18.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA File Symbol 6175-RA. Hart Delta, 5055 Choctaw Dr., Baton Rouge LA 70805. VETERINARY HOSPITAL AND KENNEL SPRAY. Active Ingredients: (5-Benzyl-3-furyl) Methyl 2,2-dimethyl-3-(2-Methylpropenyl) Cyclopropane carboxylate 0.250%; Related Compounds 0.034%. Method of Support: Application proceeds under 2(b) of interim policy. PM17



EPA File Symbol 1182-EG. Hubman Chemicals, 1123 W. Goodale Blvd., Columbus OH 43212. BIO-MAX. Active Ingredients: Diethyl dimethyl ammonium chloride 10%; Isopropyl alcohol 4%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 8203-23. ICI United States Inc., Regulatory Law Dept., PO Box 751, Wilmington DE 19899. CHIPMAN 2,4-D AMINE LIQUID WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-D Dichlorophenoxyacetic Acid 51.84%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 10182-RG. ICI United States Inc. GRANULAR P.D.I.C. Active Ingredients: Potassium dichloro-s-triazine-trione 100%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA Reg. No. 2693-87. International Paint Co., Inc., Morris & Elmwood Aves., Union NJ 07083. INTERLUX. Active Ingredients: Tributyltin Fluoride 5.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 2693-79. International Paint Co., Inc. TRI-LUX VINYL-BASE PAINT. Active Ingredients: Tributyltin Fluoride 13.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA File Symbol 13019-RR. Lawn-Dry Supply Co., PO Box #128, El Paso TX 79941. HI-MINT ODOR DISINFECTANT CLEANER DEODORANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.00%; Isopropanol 4.00%; Methyl Salicylate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 13019-0. Lawn-Dry Supply Co. LEMON ODOR DISINFECTANT, CLEANER DEODORANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.00%; Essential oils 0.25%. Method of Support: Application proceed under 2(b) of interim policy. PM31

EPA File Symbol 13186-A. Maintenance Research Laboratories, 11940 Grand River, Detroit MI 48204. VIKING BIO SAN. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 4.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chloride 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 9591-GL. Nationwide Chemical Product, PO Box 3027, Hamilton OH 45013. PRO-KILL. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 99.375%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 7001-184. Occidental Chemical Co., PO Box 198, Lathrop CA 95330. DIURON 80 WP. Active Ingredients: Diuron 3-(3,4-Dichlorophenyl)-1,1-dimethylurea 80%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA File Symbol 3635-ERU. Oxford Chemicals, PO Box 80202, Atlanta GA 30005. OXFORD 1206. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.350%; Related compounds 0.048%; Aromatic petroleum hydrocarbons 0.464%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.350%; Related compounds 0.048%; Aromatic petroleum hydrocarbons 0.464%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 9683-E. Pascal P. Paddock, Inc., 4201 N. Meridian, Oklahoma City OK 73112. KLEAR-POOL NF CONCENTRATE. Active Ingredients: Poly[oxyethylene(dimethylimino) ethylene (dimethylimino) ethylene dichloride] 60%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA Reg. No. 541-31. Puritan Chemical Co., PO Box 93247, Martech Station, Atlanta GA 30318. CURTAINS. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 7.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 32465-R. Smith Distributing Co., Bellflower CA 90706. SDC WATER CONDITIONER FORMULATED FOR WATERBEDS. Active Ingredients: Alkyl (hexadecyl 10%, octadecyl 10%, octadecenyl 35%, octadecadienyl 45%) Trimethyl Ammonium chloride 10%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 38110-R. Southeastern Minerals, Inc., PO Box 506, Bainbridge GA 31717. MAX-MIN FLY CONTROL MINERAL WITH RABON-RABON ORAL LARVICIDE. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 1.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 11715-LG. Speer Products, Inc., PO Box 9383, Memphis TN 38109. SPEER DOUBLE ACTION INSECT KILLER. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.350%; Related compounds 0.048%; Aromatic petroleum hydrocarbons 0.464%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 476-ERTN. Stauffer Chemical Co., Industrial Chemical Div., Westport CT 06880. CHLORINATED TRISODIUM PHOSPHATE (PINK). Active Ingredients: Sodium hypochlorite 3.25%; Trisodium phosphate 91.75%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 10444-L. Super Mol Div., Huco, Inc., Route 3, Box 498, Tampa FL 33619. SUPER MOL FLY CONTROL MINERAL MIX. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 93%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 10444-U. Super-Mol Div., Huco, Inc. SUPER MOL 7.76 FLY CONTROL PREMIX. Active Ingredients: 2-Chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 7.76%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 3696-TT. Texize Chemicals Co., Div. of Morton-Norwich Products, Inc., PO Box 368, Greenville SC 29602. TEXIZE 8255 A BATHROOM CLEANER. Active Ingredients: Isopropyl alcohol 7.0%; Tetrasodium ethylenediamine tetraacetate 0.9%; Sodium 2-chloro-4-phenylphenate 0.3%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA File Symbol 34910-R. Ulrich Chemical, Inc., 398 Division St., Indianapolis IN

46221. BLEACH CLEANER-DEODORIZER. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 10428-E. Wesmar Co., 3257 17th Ave., W., Seattle WA 98119. SANITE-5X. Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 5.0%; Tetrasodium salt of ethylene diamine tetraacetic acid 2.3%; Sodium carbonate 2.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 1270-ENR. Zep Manufacturing Co., PO Box 2015, Atlanta GA 30301. ZEP SENTRY INSECTICIDE AEROSOL HIGH POTENCY INSECT KILLER FOR FAST KNOCKDOWN OF HARD-TO-KILL INSECTS. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.350%; Related Compounds 0.048%; d-Trans Allethrin (Allyl Homolog of Chlormethrin I) 0.150%; Aromatic Petroleum Hydrocarbons 0.464%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

[FR Doc.76-20083; Filed 7-9-76; 8:45 am]

[FRL 579-B; FAP6H5123/PW7]

#### ZOECON CORP.

#### Food Additive Petition; Withdrawal

On April 15, 1976, the Environmental Protection Agency (EPA) gave notice (41 FR 15908) that Zoecon Corp., 975 California Ave., Palo Alto CA 94304, had filed a petition (FAP 6H5123). This petition proposed the establishment of tolerances for residues of the insecticide hexadecyl cyclopropanecarboxylate in dried apple pomace at 6 parts per million (ppm) and in dried citrus pulp at 10 ppm, resulting from application of the pesticide to growing apples and citrus in a proposed experimental program.

Zoecon Corp. has withdrawn this petition without prejudice pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348).

Dated: July 6, 1976.

JOHN B. RITCH, JR.,  
Director,  
Registration Division.

[FR Doc.76-20066 Filed 7-9-76; 8:45 a.m.]

#### INTERSTATE COMMERCE COMMISSION

[Notice 89]

#### ASSIGNMENT OF HEARINGS

JULY 7, 1976.

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 postpone-



ments of hearings in which they are interested.

No. MC 116763 Sub 330, Carl Subler Trucking, Inc., now assigned October 18, 1976, at Chicago, Ill., is cancelled and transferred to modified procedure.

Section 5a Application No. 58 (Amendment No. 1), now assigned July 28, 1976, at Washington, D.C., is postponed to August 24, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.ington, D.C.

No. 36340, The Salt River Project Agricultural Improvement & Power District V. The Atchison, Topeka & Santa Fe Railway Company and No. 36340 (Sub-No. 1), The Salt River Project Agricultural Improvement & Power District V. Southern Pacific Transportation Company now assigned September 14, 1976, at Phoenix, Arizona, is cancelled and transferred to modified procedure.

ROBERT L. OSWALD,  
Secretary.

[FR Doc.76-20073 Filed 7-9-76;8:45 am]

#### FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 7, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before July 27, 1976.

FSA No. 43188—*Joint Rail-Water Container Rates—Lykes Bros. Steamship Co., Inc.* Filed by Lykes Bros. Steamship Co., Inc., (No. 4), for itself and interested rail carriers. Rates on general commodities, from ports in South and East Africa, to San Francisco, California.

Grounds for relief—Water competition. Tariffs—Lykes Bros. Steamship Co., Inc., Eastbound tariff No. 7, I.C.C. No. 7, F.M.C. No. 96, and Westbound tariff No. 8, I.C.C. No. 8, F.M.C. No. 97. Rates are published to become effective on August 2, 1976.

FSA No. 43189—*Blood Meal Between Points in Southwestern, IRC, and WTL Territories.* Filed by Southwestern Freight Bureau, Agent, (No. B-610), for interested rail carriers. Rates on blood meal, in bulk or in bags or in boxes, in carloads, as described in the application, between points in southwestern territory, on the one hand, and points in IRC and western trunk-line territories, on the other.

Grounds for relief—Rate relationship, short-line distance formula and grouping.

Tariff—Supplement 143 to Southwestern Freight Bureau, Agent, tariff SW/W-2006-J, I.C.C. No. 5056. Rates are pub-

lished to become effective on August 10, 1976.

By the Commission.

ROBERT L. OSWALD,  
Secretary.

[FR Doc.76-20076 Filed 7-9-76;8:45 am]

#### [Section 5a application No. 115] MIDWEST OILFIELD HAULERS Agreement

JUNE 30, 1976.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of Section 5a of the Interstate Commerce Act.

Filed May 4, 1976 by: Howard L. Johnson, Attorney-in-Fact, Midwest Oilfield Haulers Freight Traffic Association, 106 Bixler Building, 2400 Northwest 23rd Street, Oklahoma City, OK 73107.

Rufus H. Lawson, (Attorney for Applicants), 106 Bixler Building, 2400 Northwest 23rd Street, Oklahoma City, OK 73107.

Agreement involves: Organization, practices, and procedures between and among motor common carrier members of Midwest Oilfield Haulers Freight Traffic Association for the joint consideration, initiation or establishment of rates, rules, regulations, or practices governing the transportation, in interstate or foreign commerce, of (A) machinery, equipment, materials, and supplies used in, or in connection with the (1) discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; (2) construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking-up of pipe used for the transmission of water, sewerage, and sulphur and its products; and (3) transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery, and other specified services; (B) Earth drilling machinery and equipment; and (C) Heavy and cumbersome articles which require special equipment; between all points in the United States, except Hawaii.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before August 11, 1976. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the

matters involved in such application, without further or formal hearing.

ROBERT L. OSWALD,  
Secretary.

[FR Doc.76-20078 Filed 7-9-76;8:45 am]

[Notice 290]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JULY 12, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before August 2, 1976. Pursuant to section 17 (8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76324. By order entered July 1, 1976 the Motor Carrier Board approved the transfer to Italian Courier of America, Inc., Denver, Colo., of the operating rights set forth in Certificate No. MC 138706 (Sub-No. 1), issued by the Commission November 15, 1974, to Anthony Mulé and Joseph Palazzolo, doing business as Italian Couriers of America, Ridgewood, N.Y., authorizing the transportation of printed securities quotation reports and bond-offering reports, from a described area in New York, to specified points in Pennsylvania and New Jersey. Charles J. Kimball, Capitol Life Center, Suite 350, Denver, Colo. 80203, attorney for applicants.

ROBERT L. OSWALD,  
Secretary.

[FR Doc.76-20074 Filed 7-9-76;8:45 am]

[Notice 291]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement



by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicant's representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76578, filed May 11, 1976. Transferee: FREDONIA TRUCK LINE, INC., A Corporation, Highway 96 and Jackson Street, Fredonia, Kans. 66736. Transferor: Gene McGinnis, Doing business as Fredonia Truck Line, Highway 96 and Jackson Street, Fredonia, Kans. 66736. Applicants' representative: Laurel D. McClellan, Attorney at Law, 430 North 7th, P.O. Box 478, Fredonia, Kans. 66736. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC 37523 and MC 37523 (Sub-No. 3), issued May 21, 1963, and April 27, 1966, respectively, and the Permits in Nos. MC 123056 and MC 123056 (Sub-No. 1), issued May 21, 1963, and February 7, 1975, respectively, as follows: the former livestock, over regular routes, from Fredonia, Kans., to Kansas City, Mo., serving intermediate and off-route points within 15 miles of Fredonia, and between Urbana, Kans., and points within 15 miles thereof, and Kansas City, Kans., and Kansas City, Mo.; general commodities, with exceptions, over regular routes, from Kansas City, Mo., to Fredonia, Kans., serving intermediate and off-route points within 15 miles of Fredonia; oil in containers, building and fencing materials, paint, feed, agricultural implements, hardware, fertilizer, twine, coal, grain, seeds, salt, and tires, between Kansas City, Mo., and Erie, Kans., serving the off-route points of Thayer and Galesburg, Kans.; hardware, agricultural machinery, hay, and feed, between Kansas City, Mo., and Chanute, Kans., serving no intermediate points; and vermiculite and vermiculite prod-

ucts, peridotite and quartzite, from and to, and between the facility of Micro-Lite Corporation near Buffalo, Kans., and Chanute, Kans., and points in Nebraska, Oklahoma, Arkansas, Louisiana, North Dakota, South Dakota, Minnesota, Wisconsin, Colorado, Michigan, Ohio, Indiana, specified portion of Texas, Illinois, Iowa, and Missouri; and the latter soybean flour, and soybean grits, (except in bulk, in tank vehicles), from Fredonia, Kans., to points in Arizona, Arkansas, California, Colorado, Idaho, Louisiana, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; and dehydrated alfalfa meal and pellets, alfalfa hay pellets, alfalfa feed pellets and alfalfa hay, from specified points in Kansas, to points in Arkansas, Colorado, Missouri, Nebraska, Oklahoma, and Texas. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76592, filed May 18, 1976. Transferee: Elks and Robertson Truck Line, Inc., P.O. Box 98, Chocowinity, N.C. 27817. Transferor: C. C. Elks, Doing business as C. D. Elks Truck Line, P.O. Box 98, Chocowinity, N.C. 27817. Applicants' representative: Raymond A. Robertson, Vice President and Treasurer, 100 Carolina Avenue, Williamston, N.C. 27892. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC 32083 and MC 32083 (Sub-No. 2), issued January 24, 1973, and June 26, 1975, respectively, as follows: Containers for farm products, agricultural commodities, groceries and feed, and fertilizer materials, from and to points in North Carolina within 50 miles of, and including Murfreesboro, N.C., and Franklin, Suffolk, Portsmouth, Norfolk, Petersburg, Courtland, Lynchburg, Roanoke, Fredericksburg, Richmond, and Tappahannock, Va., and points in Virginia within 10 miles of each; household goods between Murfreesboro, N.C., and points within 50 miles thereof, on the one hand, and, on the other, points in North Carolina and Virginia; finished lumber, plywood, and veneer, from Whiteville and Hallsboro, N.C., to points in New York, New Jersey, Pennsylvania, and Maryland; lumber, from Whiteville and Hallsboro, N.C., to points in West Virginia; and lumber (except plywood and veneer), from Whiteville, Hallsboro, and Grifton, N.C., to points in Tennessee, Kentucky, Ohio, Indiana, Connecticut, and Illinois; and from Whiteville, N.C., to points in Florida. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76602, filed May 24, 1976. Transferee: P. F. McDade & Son, Inc., 5000 Summerdale Ave., Philadelphia, Pa. 19124. Transferor: Stephen W. Palka, 3619 Crown Ave., Philadelphia, Pa. 19114. Applicant's representative: Francis Joseph McDade, President of Transferee,

485 Wigard Ave., Philadelphia, Pa. 19128. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 127600, issued May 29, 1975, as follows: Household appliances, from Philadelphia, Pa., to Wilmington, Del., and points in that part of New Jersey on and south of a line beginning at Trenton and extending along unnumbered highway to Whitehouse, thence along New Jersey Highway 524 to junction New Jersey Highway 539 to Allentown, thence southeasterly along New Jersey Highway 539 to Tuckerton, and thence along unnumbered highway to the Atlantic Ocean. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76611, filed June 1, 1976. Transferee: Carmichael Cartage Company, A Delaware Corporation, 2320 S. Blue Island Avenue, Chicago, Ill. 60608. Transferor: Michael N. Bechina, Doing business as Carmichael Cartage Company, 2320 S. Blue Island Avenue, Chicago, Ill. 60608. Applicant's representative: Lewis R. Baron, Esq., 150 N. Wacker Drive, Suite 2800, Chicago, Ill. 60606. Authority sought for purchase by transferee of Certificate of Registration No. MC 99761 (Sub-No. 1), issued May 18, 1964, to transferor evidencing a right to engage in transportation in interstate commerce as described in certificate No. 8846 MC dated July 20, 1955, issued by the Illinois Commerce Commission. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76625, filed June 16, 1976. Transferee: Edward A. Kerwin, Milyko Drive, Washington Crossing, Pa. 18977. Transferor: Earl L. Bozarth, 1611 Fairview Street, Delran, N.J. 08075. Applicant's representative: Derek Reid, Attorney at Law, Eastburn & Gray, 60 North Main St., Doylestown, Pa. 18901. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-123218, issued October 3, 1961, as follows: oil and grease, between Philadelphia, Pa., on the one hand, and, on the other, Palmyra, N.J., and points in New Jersey within 20 miles of Palmyra. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,  
Secretary.

[FR Doc. 76-20075 Filed 7-9-76; 8:45 am]

[Notice 84]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 7, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the



provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 42165 (Sub-No. 14TA), filed June 29, 1976. Applicant: LOUDOUN TRANSFER, INC., P.O. Box 703, Leesburg, Va. 22075. Applicant's representative: Thomas G. Jewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed stone*, from Millville, W. Va., to Herndon, Va., for 180 days. Applicant intends to tack its existing authority with MC 43165, for 180 days. Supporting shipper: Cherrydale Cement Block Co., Inc., 220 Spring St., Herndon, Va. 22070. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, Room 1413, 12th & Constitution Ave. NW., Washington, D.C. 20423.

No. MC 47142 (Sub-No. 112TA), filed June 29, 1976. Applicant: G. I. WHITTEN TRANSFER COMPANY, P.O. Box 1833, 4417 Earl Court, Huntington, W. Va. 25719. Applicant's representative: J. G. Dail, Jr., 1111 E St. NW., Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Weapons, ammunition, and drugs* which are designated sensitive by the United States Government, between points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dellon E. Coker, Department of Defense, Regulatory Law Office, Office of The Judge Advocate General, Department of the Army, Washington,

D.C. 20310. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 107403 (Sub-No. 977TA), filed June 30, 1976. Applicant: MATLACK, INC., 10 West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Activated carbon*, in hopper trailers for bottom unloading by gravity, from Catlettsburg, Ky., to Granger, Wyo., and Cedar Rapids, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Calgon Corporation, P.O. Box 1346, Pittsburgh, Pa. 15230. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238 Philadelphia, Pa. 19106.

No. MC 111729 (Sub. No. 666TA), filed June 28, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, audit and accounting media of all kinds*; (a) between Hobbs, N. Mex., and Roswell Industrial Air Center, Roswell, N. Mex.; and (b) between Dallas-Fort Worth Airport, Dallas, Tex., and Athens, Tex., restricted to the transportation of traffic having an immediately prior or subsequent movement by air, for 180 days. Supporting shipper: Ted True of New Mexico, Inc., Lovington Highway, Hobbs, N. Mex. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112750 (Sub-No. 328TA), filed June 28, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except currency and negotiable securities), between Hagerstown, Md., and Pittsburgh, Pa., under a continuing contract with Hagerstown Trust Company, for 180 days. Supporting shipper: Hagerstown Trust Company, 83 West Washington St., Hagerstown, Md. 21740. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 114211 (Sub-No. 273TA), filed June 29, 1975. Applicant: WARREN TRANSPORT, INC., 324 Manhard St., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, Ill. 60604. Authority sought to operate as a *com-*

*mon carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Ola, Ark., to points in Iowa and Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Deltic Farm and Timber Company, Inc., Ola, Ark. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 114457 (Sub-No. 264TA), filed June 28, 1976. Applicant: DART TRANSPORT CO., 2102 University Ave., St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mattresses*, from Rock Island, Ill., to Fargo, Grand Forks, Minot, and Bismarck, N. Dak.; Aberdeen and Sioux Falls, S. Dak.; and Sioux City, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Rock Island Bedding Company, 2350 Fifth St., Rock Island, Ill. 61201. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 414, Federal Bldg. & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 115654 (Sub-No. 52TA), filed June 24, 1976. Applicant: TENNESSEE CARTAGE COMPANY, INC., Candy Lane, P.O. Box 1193, Nashville, Tenn. 37202. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Smoke and cooked meat products* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plant-site and warehouse facilities of Blue Grass Provisions, at or near Crescent Springs, Ky., to points in Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Missouri, restricted to traffic originating at the plant-site and warehouse facilities of Blue Grass Provisions. Applicant intends to interline at any point in destination territory for movement to States beyond States sought to be served direct by applicant, for 180 days. Supporting shipper: Blue Grass Provisions, 2645 Commerce Drive, Crescent Springs, Ky. 41011. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 116459 (Sub-No. 59TA), filed June 24, 1976. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, Tenn. 37405. Applicant's representative: Sam Speer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry terephthalic acid*, in bulk, from the plant-site of E. I. du Pont de Nemours & Company's Cape Fear Plant, near Phoenix, N.C., to



the plantsite of E. I. du Pont de Nemours & Company, Inc., at Old Hickory, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. I. du Pont de Nemours & Company, 10th and Market Streets, Wilmington, Del. 19898. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 117589 (Sub-No. 36TA), filed June 29, 1976. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 Seventh Ave. South, P.O. Box 24507, Seattle, Wash. 98108. Applicant's representative: James T. Johnson, 1610 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, from Ellensburg and Seattle, Wash., to Boston, Somerville, and N. Billerica, Mass.; Andover, Bayonne, Camden, and Paramus, N.J.; Philadelphia, Pa.; Landover, Md., and to points in New York, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Superior Packing Co., Box 277, Ellensburg, Wash. 98926. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 558 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 117815 (Sub-No. 249TA), filed June 29, 1976. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th St., Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products and food ingredients* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities owned and operated by Archer Daniels Midland Company, in Decatur, Ill., to points in Nebraska, Kansas, Wisconsin, Minnesota, Iowa, Missouri, Michigan, Ohio, Indiana, Kentucky, and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Archer Daniels Midland Company, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 118263 (Sub-No. 60TA), filed June 28, 1976. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, Ind. 47130. Applicant's representative: William P. Whitney, Jr., 703-706 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in

tank vehicles), from the facilities of Kraft Foods, Division of Kraftco Corporation, at Champaign, Ill., to Bluefield, North Tazewell, and Richlands, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraft Foods, Division of Kraftco Corporation, 447 East Grand Ave., Chicago, Ill. 61111. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg., and U.S. Courthouse, 46 East Ohio St., Room 249, Indianapolis, Ind. 46204.

No. MC 118831 (Sub-No. 131TA), filed June 24, 1976. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 2608, High Point, N.C. 27263. Applicant's representative: Richard E. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules and pellets*, in bulk, in tank vehicles, from Greenville, S.C., to Bristol, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, Minn. 55101. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 118831 (Sub-No. 132TA), filed June 24, 1976. Applicant's representative: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 2608, High Point, N.C. 27263. Applicant's representative: Richard E. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Terephthalic acid*, dry, in bulk, in tank vehicles, from the E. I. Dupont de Nemours & Company Cape Fear Plant, Near Phoenix, N.C., to the E. I. Dupont de Nemours & Company, at Old Hickory, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. I. Dupont de Nemours & Co., 1007 Market St., Wilmington, Del. 19898. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 119726 (Sub-No. 75TA), filed June 22, 1976. Applicant: N.A.B. TRUCKING CO., INC., 3220 Bluff Road, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 East Washington St., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, closures, and corrugated cartons*, from the plantsite of Owens-Illinois, located at Alton, Ill., and its warehouses, located within 40 miles of Alton, Ill., and points in Missouri and Illinois, to Memphis, Tenn., and Ft. Smith, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Owens-

Illinois, Inc., Madison Ave., and St. Clair St., Toledo, Ohio 43666. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg., and U.S. Courthouse, 46 East Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 119789 (Sub-No. 292TA), filed June 28, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, 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), from Ellensburg and Seattle, Wash., to points in Massachusetts, New York, Pennsylvania, the District of Columbia, and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Superior Packing Co., Inc., P.O. Box 277, Ellensburg, Wash. 98926. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 119864 (Sub-No. 66TA), filed June 29, 1976. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perrysburg, Ohio 43551. Applicant's representative: Dale K. Craig (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from the plant and warehouse facilities of Owens-Illinois, in Lucas and Wood Counties, Ohio, to Belleville and Centerville, Ill., and Frankenth, Mich., for 180 days. Supporting shipper: Owens-Illinois, Inc., P.O. Box 1035, Toledo, Ohio 43666. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43611.

No. MC 119908 (Sub-No. 34TA), filed June 28, 1976. Applicant: WESTERN LINES, INC., Box 1145, 3523 North McCarty, Houston, Tex. 77029. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from the plantsite and warehouse facilities of Vanply, Inc., at or near Many, La., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vanply, Inc., Box 8280, Charlotte, N.C. 28208. Send protests to: John F. Mensing, Dis-



trict Supervisor, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 119974 (Sub-No. 57TA), filed June 28, 1976. Applicant: L.C.L. TRANSPORT COMPANY, P.O. Box 949, Green Bay, Wis. 54305. Applicant's representative: L. F. Abel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products and food ingredients*, in mechanically refrigerated equipment (except in bulk), from the plant and warehouse facilities owned and operated by Archer Daniels Midland Company, located in Decatur, Ill.; also, shipping products for Wilsey Foods, Inc., and others, to points in Wisconsin, Iowa, Missouri, Michigan, Ohio, Kentucky, and Minnesota, for 180 days. Supporting shipper: Archer Daniels Midland Company, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 123407 (Sub-No. 312TA), filed June 28, 1976. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay pipe, pipe fittings, pipe joints, and accessories and materials and supplies* used in the installation thereof, from the plantsite and warehouse facilities of Clow Corporation, at or near Carol Stream, Ill., to points in Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clow Corporation, 1211 West 22nd St., Oak Brook, Ill. 60521. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 123420 (Sub-No. 4TA), filed June 29, 1976. Applicant: ALBERT L. DERBY, P.O. Box 56, Whitewood, S. Dak. 57793. Applicant's representative: Keith R. Smit, P.O. Box 29, Sturgis, S. Dak. 57785. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pressured treated wood products*, from the plantsite of St. Regis Paper Company, near Whitewood, S. Dak., to points in Kansas and Wisconsin, under a continuing contract with St. Regis Paper Company, Wheeler Division, for 180 days. Supporting shipper: St. Regis Paper Company, Wheeler Division, East Highway 14, Whitewood, S. Dak. 57793. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 124328 (Sub-No. 103TA), filed June 29, 1976. Applicant: BRINK'S IN-

CORPORATED, One Crossroads of Commerce Corner, Suite 710, Rolling Meadows, Ill. 60008. Applicant's representative: Richard H. Streeter, 704 Southern Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precious metals*, between Chicago, Ill., Port of Catoosa, Okla.; Mooringsport, La.; and South Plainfield, N.J.; on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract with Automotive Products Division of UOP Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Automotive Products Division of UOP Inc., John Witt, Mfrs., Mgr., 2454 Dempster St., Des Plaines, Ill. 60016. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 125433 (Sub-No. 77TA), filed June 28, 1976. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Kenneth W. Barber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-finished vinyl and covered paneling, particleboard, hardboard or composition board, fiberboard, gypsumboard and molding*, from the plantsite of Sioux Veneer Panel Co., located at or near Boise, Idaho, to points in Colorado, Nebraska, Kansas, Oklahoma, Louisiana, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sioux Veneer Panel Co., P.O. Box 7572, Boise, Idaho 83707. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.

No. MC 129600 (Sub-No. 25TA), filed June 29, 1976. Applicant: POLAR TRANSPORT, INC., 176 King St., P.O. Box 44, Hanover, Mass. 02339. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Yogurt*, from Agawam and Boston, Mass.; and Suffield and South Windsor, Conn.; to Dunedin, Miami, and Tampa, Fla.; Denver, Colo.; Los Angeles and San Francisco, Calif.; Chicago, Ill.; Philadelphia and Pittsburgh, Pa.; Detroit, Mich.; Akron, Cleveland, Youngstown and Cincinnati, Ohio; Dallas, Fort Worth and Houston, Tex.; St. Louis, St. Ann and Kansas City, Mo.; Minneapolis and St. Paul, Minn.; Atlanta, Ga.; Seattle, Wash.; Indianapolis, Ind.; Baltimore, Md.; Portland, Ore.; Milwaukee, Wis.; and the District of Columbia. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing con-

tract or contracts with H. P. Hood, Inc., of Charlestown, Mass., for 180 days. Supporting shipper: H. P. Hood, Inc., 500 Rutherford Ave., Boston, Mass. 02129. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway St., Boston, Mass. 02114.

No. MC 133816 (Sub-No. 8TA), filed June 28, 1976. Applicant: K & K WHOLESALE CO., P.O. Box 222, Lowell, Ore. 97452. Applicant's representative: Howard E. Speer, 835 East Park St., Eugene, Ore. 97401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, lumber mill products, hardboard and particleboard*, from points within Lewis County, Wash., to points within Clark County, Nev., for 180 days. Supporting shippers: Van's Builders Supply, Inc., 1422 Western St., Las Vegas, Nev. 89102. Nevada Forest Products, Corp., 5455 Cameron St., Las Vegas, Nev. 89118. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, Ore. 97204.

No. MC 134484 (Sub-No. 8TA) filed June 23, 1976. Applicant: EDWARDS BROS. INC., P.O. Box 1684, Idaho Falls, Idaho 83401. Applicant's representative: Morgan G. Edwards (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, from points in Flathead County, Mont., to points in Washington, Oregon, California, Utah, Arizona, Nevada, Colorado, and Idaho, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Montana Beef Packers, 2095 Airport Road, Kallispel, Mont. Send protests to: Barney L. Hardin, District Supervisor, 550 W. Fort St., Box 07, Boise, Idaho 83724.

No. MC 134890 (Sub-No. 7 TA), filed June 25, 1976. Applicant: MARION'S TRANSFER, INC., 5424 South 13th St., Milwaukee, Wis. 53221. Applicant's representative: Carlo Benvenuto (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Spices, materials and supplies* used in the manufacturing of seasonings, between the plantsite of Foran Spice Company, Oak Creek, Wis., on the one hand, and, on the other, points in New York, Pennsylvania, Maryland, Delaware, New Jersey, Massachusetts, Ohio, Iowa, Illinois, and Michigan, under a continuing contract with Foran Spice Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Foran Spice Company, 7616 South 6th St., Oak Creek, Wis. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.



No. MC 135962 (Sub-No. 1TA), filed June 25, 1976. Applicant: MAR-KAY CARTAGE, INC., 24232 Miles Road, Bedford Heights, Ohio 44128. Applicant's representative: Earl N. Merwin, 85 East Gay St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by retail department stores, between Cleveland, Ohio, commercial zone and Pittsburgh, Pa., under a continuing contract with Joseph Horne Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joseph Horne Co., 501 Penn Ave., Pittsburgh, Pa. 15222. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 139432 (Sub-No. 6TA), filed June 29, 1976. Applicant: SUNRISE TRANSPORTATION, INC., 9850 East Highway 120, Manteca, Calif. 95336. Applicant's representative: Thomas M. Loughran, 100 Bush St., 21st floor, San Francisco, Calif. 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Molasses and liquid feed supplement*, in bulk, in tank vehicles, from the plantsite of Cargill, Inc., at Stockton, Calif., to points in Deschutes, Crook, Wheeler, Grant, Klamath, Lake Jackson, Josephine, and Douglas Counties, Oreg., under a continuing contract with Cargill, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cargill, Inc., Cargill Bldg., Minneapolis, Minn. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 139923 (Sub-No. 16TA), filed June 25, 1976. Applicant: MILLER TRUCKING CO., INC., 105 S. 8th St., Stroud, Okla. 74079. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th St., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, from points in California, to Detroit, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Viviano Wine Importers, Inc., 15100 Second Ave., Detroit, Mich. 48203. Send protests to: Joe Green, District Supervisor, 240 Old Post Office Bldg., 215 N.W. 3rd St., Oklahoma City, Okla. 73102.

No. MC 139973 (Sub-No. 8TA), filed June 28, 1976. Applicant: J. H. WARE TRUCKING CO., 909 Brown St., P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Meats, meat products, and meat by-products, and commodities distributed by meat packinghouses*, as described in Section 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, in tank trucks), from Clovis, N. Mex., to points in Illinois, Indiana, Kentucky, Ohio, and Michigan, for 180 days. Supporting shipper: Swift Fresh Meats Company, Division of Swift & Company, 115 West Jackson Blvd., Chicago, Ill. 60604. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 140677 (Sub-No. 14TA), filed June 29, 1976. Applicant: JOHN T. BREWER, JOHN R. BREWER, AND LEWIS L. BREWER, doing business as BREWER TRUCKING, 1603 East Tallent, Rapid City, S. Dak. Applicant's representative: J. Maurice Andren, 1794 Sheridan Lake Road, Rapid City, S. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal building components, parts and accessories*, from Ixonia, Wis., and Minneapolis, Minn., and their commercial zones, to points in North Dakota, South Dakota, Nebraska, Iowa, and Minnesota, for 180 days. Supporting shipper: Shield Structures Corporation, 1290 N.E. 73rd Ave., Minneapolis, Minn. 55432. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 141247 (Sub-No. 2TA), filed June 24, 1976. Applicant: LAWRENCE PILGRIM, doing business as PILGRIM TRUCKING COMPANY, P.O. Box 77, Cleveland, Ga. 30528. Applicant's representative: Jeffery Johlman, Suite 400, 1447 Peachtree St., NE., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Crushed automobiles* and (2) *mobile hydraulic crusher*, in tow away service and equipment used in the operation thereof, between points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, under a continuing contract with Southeastern Auto Crushers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southeastern Auto Crushers, Inc., U.S. 129 South, Cleveland, Ga. 30528. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 141652 (Sub-No. 6TA), filed June 29, 1976. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, Miss. 39208. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Pictures, picture frames, and picture framing materials and supplies*, between Greenwood, Miss., on the one hand, and, on the other, Carson, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Picture and Frame Company, 1500 Commerce St., Greenwood, Miss. 38930. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 141764 (Sub-No. 1TA), filed June 28, 1976. Applicant: BLACKHAWK ENTERPRISES, INC., 853 Hancock St., Hayward, Calif. 94544. Applicant's representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cleaning compounds, food supplements, vitamins, cosmetics, plastic articles, printed materials and merchandise*, NOI, in refrigerated equipment, from Hayward, Calif., to Lyndhurst, N.J.; and (2) *Empty bottles or jars*, NOI, from Baltimore, Md., or Millville, N.J., to Hayward, Calif., under a continuing contract with Shaklee Industrial Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Shaklee Industrial Corporation, 2036 National Ave., Hayward, Calif. 94545. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 141776 (Sub-No. 1TA), filed June 29, 1976. Applicant: FOODTRAIN, INC., Spring & South Center Streets, Ringtown, Pa. 17967. Applicant's representative: Richard Rueda, Two Pann Center Plaza, Suite 612, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candies and confectioneries* NOI, *candy cough drops*, and *hollow mold chocolate candy*, from the plant and warehouse sites of Luden's, Incorporated, West Reading, Pa., to Cleveland and Cincinnati, Ohio; Detroit and Grand Rapids, Mich.; Melrose Park, Ill.; Milwaukee, Wis.; Minneapolis, Minn.; Des Moines, Iowa; and New Orleans, La., with the right to return refused, exchanged, rejected or damaged merchandise, for 180 days. Supporting shipper: Luden's, Incorporated, Reading, Pa. 19603. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 142172 (Sub-No. 1TA), filed June 28, 1976. Applicant: CAR TRUCK SHUTTLE SERVICE LIMITED, 1209 North Service Road, Oakdale, Ontario, Canada. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court St., Buffalo, N.Y. 14202. Authority sought to



operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks*, in driveway service, from the ports of entry on the International Boundary line between the United States and Canada, at or near Buffalo, N.Y., to Buffalo, N.Y., for 90 days. Applicant intends to interline, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mack Trucks, Inc., P.O. Box 1792, Allentown, Pa. 18105. Send protests to: George M. Parker, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 910 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 142173 (Sub-No. 1TA), filed June 25, 1976. Applicant: BYRON DWYER, doing business as BWYER'S DELIVERY COMPANY, 1217 Millbury, Northwood, Ohio 43619. Applicant's representative: Philip L. Dombey, 1200 Edison Plaza, 300 Madison Ave., Toledo,

Ohio 43603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances*, from the facilities of Highland Appliance Co., located at Toledo, Ohio, to retail customers of Highland Appliance Co., located at points in Lenawee and Monroe Counties, Mich., and the return for exchange or trade-in of used or defective household appliances to the facilities of Highland Appliance Co., in Toledo, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Highland Appliance Co., 21405 Trolley Drive, Taylor, Mich. 48180. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 3k3 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 142184 (Sub-No. 1TA), filed June 23, 1976. Applicant: MARION L. POND, doing business as POND TRUCK-

ING, 900 Santa Fe Ave., Long Beach, Calif. 90813. Applicant's representative: Carl H. Fritze, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood utility poles, crossarms and related hardware*, from the plantsite facilities of J. H. Baxter & Co., at or near Long Beach, Weed, and Redding, Calif., to points in Arizona, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. H. Baxter & Co., 431 North Brand Blvd., Glendale, Calif. 91203. Send protests to: Philip Yallowitz, District Supervisor, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

By the Commission.

ROBERT L. OSWALD,  
Secretary.

[FR Doc.76-20077 Filed 7-9-76; 8:45 am]



# **federal register**

MONDAY, JULY 12, 1976



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PART II:

## **DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**Public Health Service**

### **PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS**

**Advisory Groups**



## Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE,  
DEPARTMENT OF HEALTH, EDUCATION,  
AND WELFARESUBCHAPTER I—MEDICAL CARE QUALITY  
AND COST CONTAINMENTPART 101—PROFESSIONAL STANDARDS  
REVIEWAdvisory Groups to Professional Standards  
Review Organizations

On May 6, 1975, there was published in the *FEDERAL REGISTER* (40 FR 19762) a notice of proposed rulemaking regarding the establishment of Advisory Groups to Professional Standards Review Organizations as required by section 1162(e) of the Social Security Act (42 U.S.C. 1320c-11(e)). Interested persons were given until June 5, 1975, to submit written comments or responses thereon. Comments and suggestions received with regard to the notice of proposed rulemaking, responses thereto, and changes in the proposed regulation are summarized below.

1. It was suggested that the number of Advisory Groups required for each State be changed. One suggestion was that each PSRO should have an Advisory Group in States with more than one PSRO. Another suggestion was that those States with only two PSROs should be allowed to have only one Advisory Group for both PSROs if so desired. However, the suggestions were rejected as inconsistent with the statute.

2. Several comments were received regarding the number of members on the Advisory Group. Some comments objected that the provision for seven to eleven members in proposed § 101.2102 (a) (1) was too small to permit sufficient representation of interested parties and professional groups. However, since the number of members on the Advisory Groups is fixed by statute, this provision was left unchanged. It should be noted, though, that nothing in the Act or these regulations would preclude a PSRO from establishing other groups or committees for the purpose of obtaining advice.

3. One comment pointed out that the requirement that no more than one-half of the Advisory Group membership be newly appointed each year in proposed § 101.2102(a) (2) would make it impossible for an Advisory Group to have an odd number of members. This has been corrected in the final regulation. Clarification was also requested regarding the length of membership terms, and the section has accordingly been changed to provide that terms shall be for one year, with members not being eligible to serve more than three consecutive full terms.

4. A number of suggestions were received regarding the composition of Advisory Group membership set out in proposed § 101.2102(a) (3). It was suggested that provision for representatives of the Health Systems Agencies established pursuant to Pub. L. 93-641 and consumers on the Advisory Groups be made, but these suggestions were rejected as inconsistent with the statute. It was also urged that membership slots be reserved for specific practitioner and facility groups, but this was likewise rejected as

inappropriate in view of the statutory limit on the number of members and variations in local conditions. One commenter urged that various professional organizations be explicitly named in proposed § 101.2102(a) (3) (i). However, the approach of using a general definition was retained as being more appropriate given the statutory limit on number of Advisory Group seats and the requirement for rotation of membership among practitioner and health care facility groups. Also, enumeration of specific groups could result in the unintentional exclusion of other groups and a general definition could permit selections that were consistent with local needs and conditions. The general definition itself, though, was changed by inserting the words "or Federal" after "State" in proposed § 101.2102(a) (3) (i) in order to permit inclusion of non-physician health care practitioners who are not licensed by State law but meet Federal eligibility requirements. The omission of the word "or" in the phrase "direct patient care or services" in proposed § 101.2102(a) (3) (i) was also corrected and clarifies the intent to include among those groups covered by this section non-physician health care practitioners who do not provide patient care but do provide patient services which may be paid for under Titles V, XVIII or XIX. In addition, one comment suggested including a provision that no member of the Advisory Group or Nominating Committee nor a relative of a member have a financial interest in the provision of services at a health care facility. Such a recommendation was rejected as inappropriate in view of the purely advisory role of Advisory Groups.

5. A number of comments related to the selection procedures set out in proposed § 101.2102(b). It was suggested that provision be made for minority representation in Advisory Groups and on the Nominating Committee; suggestions were also received recommending consumer and non-physician practitioner and provider representation on the Nominating Committee. The general concerns regarding minorities and consumers have been specifically addressed by the addition of § 101.2106 and the provision of proposed § 101.2102(b) (2) (ii) respectively. The suggestions that the Nominating Committee be composed solely of non-physician practitioners and providers were rejected as inconsistent with the concept of a standing committee and unnecessary in view of the requirement of proposed § 101.2102 (b) (2) (ii) that nominations be solicited from such groups. There were other suggestions that the Nominating Committee include some persons other than physicians. It should be noted that nothing in these regulations precludes this kind of participation on the Nominating Committee. Suggestion was also made that proposed § 101.2102(b) (2) (ii) list specific organizations or other sources from which Nominating Committees would be required to seek nominations. As with proposed § 101.2102(a) (3) (i) discussed above, the more general approach was retained so that groups would not be unintentionally omitted and to provide

for flexibility in meeting local needs and conditions. A suggestion that the organizations of practitioners and providers from which nominations are sought be limited to the ones representing the majority of such practitioners or providers was not followed on the ground that such a restriction would be undue and would be inconsistent with the policy implicit in proposed § 101.2102(b) (2) (i).

6. Two comments urged that the Advisory Groups be more closely tied to their PSROs, one suggesting that the chairperson be a member of the PSRO Board of Directors, the other recommending that the organizational arrangements of the Advisory Groups be subject to approval by their PSROs. Neither approach was followed since it was felt that such a limitation of the Advisory Groups' independence from their PSROs could impair their ability to carry out their advisory function. Furthermore, the composition of the governing body of many PSROs would make the first suggestion inconsistent with § 101.2102(a) (3). However, the newly added § 101.2102(b) makes it clear that the Advisory Group is directly responsible to the Governing Body of the PSRO.

7. One comment took the position that Advisory Groups should be financially independent of their PSROs, but this suggestion was rejected as inconsistent with the statute.

8. Two comments sought clarification of proposed § 101.2103(c) relating to the minutes of Advisory Group meetings. To insure that rules applicable to Advisory Groups would be consistent with the confidentiality provisions applicable to PSROs, this section was revised to incorporate a reference to applicable regulations on confidentiality which will be published shortly.

9. A new subsection (b) was added to proposed § 101.2103 to remove any ambiguity concerning reporting requirements of the Advisory Group. The remaining subsections were renumbered accordingly.

10. One comment objected to the reference to the annual report of the PSROs in proposed § 101.2104 on the ground that such a provision properly belongs in regulations governing the organizational requirements applicable to PSROs. The section was rewritten accordingly.

11. Several comments were received concerning the duties and function of the Advisory Groups as set forth in proposed § 101.2105. One comment stated that there should be a specific statement that the Advisory Groups are not responsible for developing evaluation measurement tools or criteria by which care is to be evaluated. Since these would appear to be part of the PSROs' responsibility by statute, no change was considered necessary. Clarification was sought of the functions specified in proposed §§ 101.2105(a) (3) and 101.2105(a) (4); proposed § 101.2105 (a) (3) has accordingly been revised, but it was felt that further limiting the role proposed under § 101.2105(a) (4) was unwarranted in view of the already limited advisory function provided for therein.



Once comment suggested that Advisory Groups should be able to undertake activities not covered by proposed § 101.2105(a) without PSRO approval, but this was considered to be inadvisable because of the relationship of Advisory Group activities to the PSRO budget.

12. Minor editorial changes were made and typographical errors corrected.

Accordingly, a new Subpart U is added to Part 101 of Title 42, Code of Federal Regulations, as set forth below.

Effective date: The regulations are effective July 12, 1976.

Dated: June 2, 1976.

THEODORE COOPER,  
Assistant Secretary for Health.

Approved: July 1, 1976.

MARJORIE LYNCH,  
Acting Secretary.

Sec.	
101.2101	Scope.
101.2102	Membership.
101.2103	Organizational requirements.
101.2104	Reporting requirements.
101.2105	Duties and functions.
101.2106	Employment nondiscrimination.

AUTHORITY: Secs. 1102 and 1162(e), Social Security Act (42 U.S.C. 1302, 1320c-11(e)).

**Subpart U—Membership, Organization and Functions of Advisory Groups to Professional Standards Review Organizations**

**§ 101.2101 Scope.**

Section 1162(e) of the Social Security Act (hereinafter termed "the Act") provides that each Professional Standards Review Organization in any State not having a Statewide Professional Standards Review Council shall be advised and assisted in carrying out its functions by an Advisory Group. This subpart establishes the requirements for Professional Standards Review Organizations to follow in establishing and utilizing such Advisory Groups.

**§ 101.2102 Membership.**

(a) *Composition, Terms and Qualifications.* (1) Each Advisory Group shall have a minimum of seven and a maximum of eleven members.

(2) Advisory Group members shall be appointed for terms of one year. An appointed member shall not be eligible to serve more than three consecutive full terms. To the extent practicable, no more than one-half of the members of an Advisory Group shall be appointed for an initial term in any year subsequent to the first year.

(3) The membership of each Advisory Group shall consist of representatives of health care practitioners (other than physicians), of hospitals and of other health care facilities which provide within the Professional Standards Review Organization area health care services for which payment, in whole or in part, may be made under titles V, XVIII, or XIX of the Act and who are knowledgeable about the types of health care services being reviewed in the Professional Standards Review Organization

area. In addition, the membership of each Advisory Group shall meet the following requirements:

(i) *Representatives of health care practitioners (other than physicians).* At least one-half of the members of each Advisory Group shall be representatives of health care practitioners (other than physicians). For purposes of this subpart, health care practitioners (other than physicians) are those health professionals who do not hold a Doctor of Medicine or Doctor of Osteopathy degree, meet all applicable State or Federal requirements for practice of their profession, and are actively involved in the delivery of patient care or services which are directly or indirectly paid for under titles V, XVIII and/or XIX of the Act. Each such representative shall practice his or her profession in the Professional Standards Review Organization area.

(ii) *Representatives of hospitals.* One or more members of each Advisory Group shall be representatives of hospitals. Each such representative shall be actively involved in the administration of or provision of services in a hospital which is located in the Professional Standards Review Organization area, and which has arrangements for reimbursement for services under titles V, XVIII and/or XIX of the Act.

(iii) *Representatives of other health care facilities.* One or more members of each Advisory Group shall be representatives of health care facilities other than hospitals. At least one such member shall be a representative of a skilled nursing facility (as defined in section 1861(j) of the Act) or of an intermediate care facility (as defined in 45 CFR 249.10(b)(15)). Each such representative shall be actively involved in the administration of or provision of services in a health care facility other than a hospital which is located in the Professional Standards Review Organization area and which has in effect arrangements for reimbursement for services under titles V, XVIII and/or XIX of the Act.

(b) *Selection procedures.* (1) Each Professional Standards Review Organization in a State not having a Statewide Professional Standards Review Council shall have a standing committee, called the Advisory Group Nominating Committee, which shall solicit recommendations and nominate persons for Advisory Group membership. Each Advisory Group Nominating Committee shall have no fewer than five members and shall include at least three members of the governing body of the Professional Standards Review Organization.

(2) Each Professional Standards Review Organization shall develop a written plan for the selection of Advisory Group members. Such plan shall be submitted to the Secretary no later than 90 days after the date of execution of an agreement between the Secretary and the Professional Standards Review Organization under section 1152(a) of the Act, and must be approved by the Secretary prior to the selection of any Ad-

visory Group members. Such plan shall include the following provisions:

(i) Specification of the composition of the Advisory Group, including plans to rotate membership among practitioner and health care facility groups.

(ii) Specification of the organizations of health care practitioners (other than physicians), of hospitals, of other health care facilities and consumer and other interested groups from which recommendations will be sought by the Advisory Group Nominating Committee. If there are organizations comprised of practitioners or facilities within the Professional Standards Review Organization area, such organizations shall be included in those from which recommendations are sought.

(iii) Criteria and procedures for review of recommendations by the Advisory Group Nominating Committee.

(iv) Criteria and procedures for selection of Advisory Group members by the governing body of the Professional Standards Review Organization from nominations of the Advisory Group Nominating Committee.

**§ 101.2103 Organizational requirements.**

(a) Each Advisory Group shall establish its own organizational structure, elect its own chairperson, and develop written operating procedures, consistent with this subpart.

(b) Each Advisory Group will report directly to the governing body of the Professional Standards Review Organization.

(c) Each Advisory Group shall meet as a whole at least quarterly.

(d) Minutes shall be recorded for all Advisory Group meetings and shall be available to the public consistent, as appropriate, with applicable regulations of this Part concerning confidentiality.

(e) Each Professional Standards Review Organization shall provide its Advisory Group with staff support sufficient to enable the Advisory Group to carry out its duties and functions under this subpart.

(f) Expenses reasonably and necessarily incurred, as determined by the Secretary, by an Advisory Group in carrying out its duties and functions under this subpart shall be considered to be expenses necessarily incurred by its Professional Standards Review Organization.

**§ 101.2104 Reporting requirements.**

(a) Each Professional Standards Review Organization shall prepare annually for submission to the Secretary a report containing the following information:

(1) The Plan described in § 101.2102 (b)(2).

(2) The membership of the Advisory Group Nominating Committee.

(3) The membership of the Advisory Group.

(4) The organization of the Advisory Group.

(5) The Advisory Group's activities for the year, including the number of



meetings, a description of specific projects, accomplishments, and recommendations made by the Advisory Group to its Professional Standards Review Organization.

(b) Each Advisory Group shall prepare an annual report assessing the involvement of health care practitioners (other than physicians), and of hospitals and other health care facilities in the Professional Standards Review Organization program in its Professional Standards Review Organization area.

**§ 101.2105 Duties and functions.**

(a) Each Advisory Group shall advise and assist its Professional Standards Review Organization in the performance of its functions, specifically in the following areas and in any other areas con-

sidered appropriate by the Professional Standards Review Organization:

(1) In assuring maximum effective involvement of health care practitioners (other than physicians) in the Professional Standards Review Organization activities in its Professional Standards Review Organization area.

(2) In developing effective relationships with organizations representing health care practitioners (other than physicians), hospitals and/or health care facilities within the Professional Standards Review Organization area.

(3) In carrying out the functions of the Professional Standards Review Organization under section 1160(c) of the Act as they relate to health care practitioners (other than physicians), hospitals, and other health care facilities.

(4) In developing any modifications of the formal plan pursuant to section 1154 of the Act.

(b) An Advisory Group may undertake other activities with the approval of its Professional Standards Review Organization.

**§ 101.2106 Employment nondiscrimination.**

Attention is called to the requirements of Executive Order 11246 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex or national origin. Regulations implementing such Executive Order 11246, which are applicable to Advisory Groups under this Subpart, have been issued by the Secretary of Labor (41 CFR Ch. 60).

[FR Doc. 76-19859 Filed 7-9-76; 8:45 am]



MONDAY, JULY 12, 1976



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PART III:

DEPARTMENT OF  
HEALTH,  
EDUCATION, AND  
WELFARE

Public Health Service



STATEWIDE  
PROFESSIONAL  
STANDARDS REVIEW  
COUNCILS

Advisory Groups



# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Public Health Service

[ 42 CFR Part 101 ]

### ADVISORY GROUPS TO STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS

#### Notice of Proposed Rulemaking

Notice is hereby given that the Assistant Secretary for Health of the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, proposes to add a new Subpart V, entitled "Advisory Groups to Statewide Professional Standards Review Councils", to Part 101 of Title 42, Code of Federal Regulations. The purpose of the new Subpart V of Part 101 is to establish regulations governing the membership, organization and functions of Advisory Groups to Statewide Professional Standards Review Councils under section 1162(e) of the Social Security Act (42 U.S.C. 1320c-11(e)).

Interested persons are invited to submit written comments, suggestions or objections concerning the proposed regulations to the Director, Bureau of Quality Assurance, Health Services Administration, Room 16A-23, 5600 Fishers Lane, Rockville, Maryland 20852, on or before August 11, 1976. All comments received in response to this Notice will be considered and will be available for public inspection in the above-named office during regular business hours.

It is therefore proposed to amend 42 CFR Part 101 by adding a new Subpart V as set forth below.

Dated: May 24, 1976.

JAMES F. DICKSON,  
Acting Assistant Secretary for Health.

Approved: July 1, 1976.

MARJORIE LYNCH,  
Acting Secretary.

#### Subpart V—Advisory Groups to Statewide Professional Standards Review Councils

Sec.	
101.2201	Scope.
101.2202	Membership.
101.2203	Organizational requirements.
101.2204	Reporting requirements.
101.2205	Duties and functions.
101.2206	Employment nondiscrimination.

AUTHORITY: Secs. 1102 and 1162(e), Social Security Act (42 U.S.C. 1302, 1320c-11(e)).

#### Subpart V—Advisory Groups to Statewide Professional Standards Review Councils

##### § 101.2201 Scope.

Section 1162(e) of the Social Security Act ("the Act") provides that the Statewide Professional Standards Review Council for any State ("Statewide Council") shall be advised and assisted in carrying out its functions by an Advisory Group. This subpart establishes the requirements for Statewide Councils to follow in establishing and utilizing such Advisory Groups.

##### § 101.2202 Membership.

(a) *Composition, terms and qualifications.* (1) Each Advisory Group shall have a minimum of seven and a maximum of eleven members.

(2) Advisory Group members shall be appointed for terms of one year. An appointed member shall not be eligible to serve more than three consecutive full terms. To the extent practicable, no more than one-half of the members of the Advisory Group shall be appointed for an initial term in any year subsequent to the first year.

(3) The membership of each Advisory Group shall consist of representatives of health care practitioners (other than physicians), of hospitals and of other health care facilities which provide within the State health care services for which payment, in whole or in part, may be made under Titles V, XVIII or XIX of the Act and who are knowledgeable about the types of health care services being reviewed in the State. In addition, the membership of each Advisory Group shall meet the following requirements:

(i) *Representatives of health care practitioners (other than physicians).* At least one-half of the members of each Advisory Group shall be representatives of health care practitioners (other than physicians). For purposes of this subpart, health care practitioners (other than physicians) are those health professionals who do not hold a Doctor of Medicine or Doctor of Osteopathy degree, meet all applicable State or Federal requirements for practice of their profession, and are actively involved in the delivery of patient care or services which are directly or indirectly paid for under Titles V, XVIII and/or XIX of the Act. Each such representative shall practice his or her profession in the State.

(ii) *Representatives of hospitals.* One or more members of each Advisory Group shall be representatives of hospitals. Each such representative shall be actively involved in the administration of or provision of services in a hospital which is located in the State and which has in effect arrangements for reimbursement for services under Titles V, XVIII and/or XIX of the Act.

(iii) *Representatives of other health care facilities.* One or more members of each Advisory Group shall be representatives of health care facilities other than hospitals. At least one such member shall be a representative of a skilled nursing facility (as defined in section 1861(j) of the Act) or an intermediate care facility (as defined in 45 CFR 249.10(b)(15)). Each such representative shall be actively involved in the administration of, or provision of, services in a health care facility other than a hospital which is located in the State and which has in effect arrangements, for reimbursement for services under Titles V, XVIII and/or XIX of the Act.

(b) *Selection procedures.* (1) Each Statewide Council shall have a standing committee, called the Advisory Group Nominating Committee, which shall

solicit recommendations and nominate persons for Advisory Group membership. Each Advisory Group Nominating Committee shall have not less than five members and shall include at least one representative of each of the three membership categories set forth in section 1162(b) (1), (2) and (3) of the Act.

(2) Each Statewide Council shall develop a written plan for the selection of Advisory Group members. Such plan shall be submitted to the Secretary no later than 90 days after the date of execution of an agreement between the Secretary and the Statewide Council under section 1162(d) of the Act and must be approved by the Secretary prior to the selection of any Advisory Group members. Such plan shall include the following provisions:

(i) Specification of the composition of the Advisory Group, including plans to rotate membership among practitioner and health care facility groups.

(ii) Specification of the organizations representing health care practitioners (other than physicians), hospitals, other health care facilities and consumer and other interested groups from which recommendations will be sought by the Advisory Group Nominating Committee. If there are organizations comprised of practitioners or facilities within the State, such organizations shall be included in those from which recommendations are sought.

(iii) Criteria and procedures for review of recommendations by the Advisory Group Nominating Committee.

(iv) Criteria and procedures for selection of Advisory Group members by the Statewide Council from nominations of the Advisory Group Nominating Committee.

##### § 101.2203 Organizational requirements.

(a) Each Advisory Group shall establish its own organization structure, elect its own chairperson, and develop written operating procedures, consistent with this subpart.

(b) Each Advisory Group shall report directly to its Statewide Council.

(c) Each Advisory Group shall meet as a whole at least quarterly.

(d) Minutes shall be recorded for all Advisory Group meetings and shall be available to the public, consistent as appropriate, with applicable regulations of this Part concerning confidentiality.

(e) Each Statewide Council shall provide its Advisory Group with staff support sufficient to enable the Advisory Group to carry out its duties and functions under this subpart.

(f) Expenses reasonably and necessarily incurred, as determined by the Secretary, by an Advisory Group in carrying out its duties and functions under this subpart shall be considered to be expenses necessarily incurred by its Statewide Council.

##### § 101.2204 Reporting requirements.

(a) Each Statewide Council shall prepare annually for submission to the Sec-



retary a report containing the following information:

- (1) The plan described in § 101.2202 (b)(2).
- (2) The membership of the Advisory Group Nominating Committee.
- (3) The membership of the Advisory Group.
- (4) The organization of the Advisory Group.
- (5) The Advisory Group's activities for the year, including the number of meetings, and a description of specific projects, accomplishments, and recommendations made by the Advisory Group to its Statewide Council.
- (b) Each Advisory Group shall prepare an annual report assessing the involvement of health care practitioners (other than physicians), and of hospitals and other health care facilities in the Professional Standards Review Organization program in its State.

**§ 101.2205 Duties and functions.**

Each Advisory Group shall advise and assist its Statewide Council in the performance of the Council's functions, specifically in the following areas and in any other areas considered appropriate by the Statewide Council:

- (a) (1) In assuring maximum effective involvement of health care practitioners (other than physicians) in the Professional Standards Review Organization activities in its State.
- (2) In developing effective relationships with organizations representing health care practitioners (other than physicians), hospitals and/or health care facilities within its State.
- (3) In carrying out the functions of the Statewide Council under section 1160 (c) of the Act as they relate to health care practitioners (other than physicians), hospitals and other health care facilities.

(4) In carrying out the Statewide Council's functions under section 1162(c) of the Act.

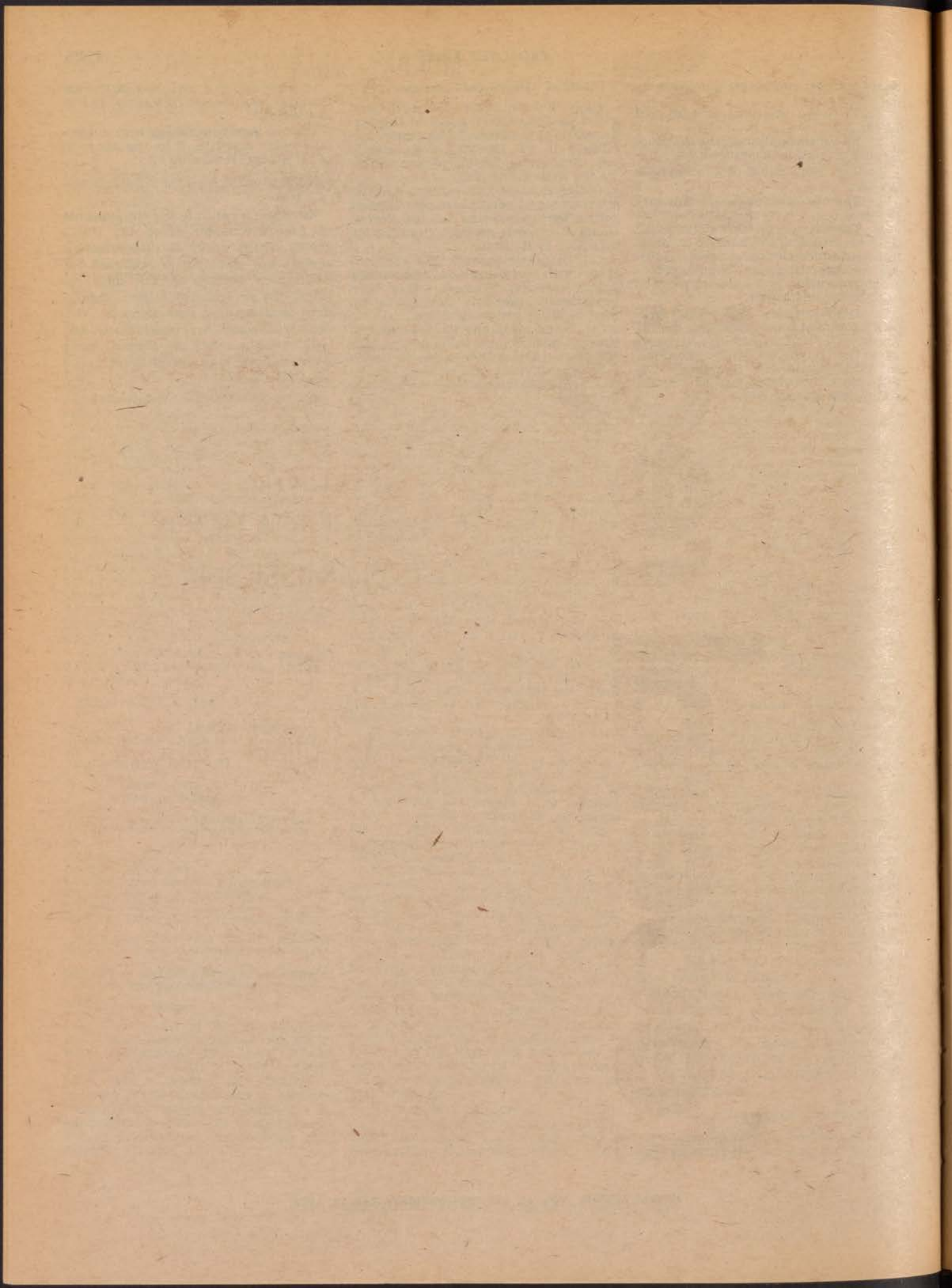
(b) An Advisory Group may undertake other activities with the approval of its Statewide Council.

**§ 101.2206 Employment nondiscrimination.**

Attention is called to the requirements of Executive Order 11246 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex or national origin. Regulations implementing such Executive Order 11246, which are applicable to Advisory Groups under this Subpart, have been issued by the Secretary of Labor (41 CFR Ch. 60).

[FR Doc.76-19858 Filed 7-9-76;8:45 am]







# **federal register**

MONDAY, JULY 12, 1976



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PART IV:

FEDERAL  
COMMUNICATIONS  
COMMISSION



National Telephone Network

Standard Plugs and Jacks



## Title 47—Telecommunication

CHAPTER I—FEDERAL  
COMMUNICATIONS COMMISSION

[Docket No. 20774; FCC 76-617]

PART 68—CONNECTION OF TERMINAL  
EQUIPMENT TO THE TELEPHONE NET-  
WORK

## STANDARD PLUGS AND JACKS

## Report and Order

## INTRODUCTION

In the Matter of Revision of Part 68 of the Commission's Rules to Specify Standard Plugs and Jacks for the Connection of Telephone Equipment to the Nationwide Telephone Network.

1. This proceeding is an outgrowth of our decisions in Docket No. 19528,<sup>1</sup> in which we established a registration program designed to allow users of the nationwide telephone network to connect terminal equipment<sup>2</sup> to the network without the need for carrier-supplied protective couplers ("connecting arrangements"), provided that such equipment complies with standards incorporated into the registration program to protect the network against harm. The standards and registration procedures are contained in a new Part 68 of the Commission's rules.

2. Our decisions in Docket No. 19528 require all terminal equipment, other than PBX and key telephone equipment, to be connected to the telephone network through standard plugs and jacks.<sup>3</sup> This requirement is based on a long history of untrained telephone users installing equipment (such as extension telephones, automatic answering machines, operator's headsets, and conferencing devices) in this manner without causing harm to the telephone network. By following this carrier-promulgated approach, it has been unnecessary to impose additional requirements on installation of registered equipment.

3. We purposefully declined to specify specific standard plug/jack designs in the belief that mutually acceptable designs would be voluntarily arrived at by cooperative action of the affected industry—telephone carriers and telephone equipment manufacturers. We expected that such entities would meet and arrive at suitable designs without Commission involvement. However, because of confusion expressed in numerous inquiries which we subsequently received,

we issued a Public Notice<sup>4</sup> inviting interested parties to the Commission's Washington, D.C. offices on specified dates, to provide them a forum for such discussion. On April 12, 1976, at the conclusion of these meetings, we issued a notice of proposed rulemaking herein ("Notice"), (FCC 76-319), which published the consensus views of the attendees of the meetings, and which invited comment thereon. Specifically, we invited comment on the following issues:

(1) Since the attendees had recommended adoption of certain Bell System plug/jack designs which are subject to licensing by the Western Electric Company, whether the Commission should modify the requirements of paragraph 49 of the First Report and Order in Docket No. 19528, supra, which proscribed adoption of any plug designs subject to telephone company licensing or any other telephone company-imposed restrictions;

(2) Whether the meeting-sponsored configurations, set out in the Appendix to the Notice, for use of 6 pin, 8 pin and 50 pin plug/jack arrangements—as well as certain adapters—will accommodate connection of known and presently foreseeable equipment requirements (regardless of whether the recommended Bell System designs or alternatives are adopted); and

(3) Whether certain data configurations of the 8 pin and 50 pin plugs should contain convex keying to prevent the inadvertent insertion of a standard data plug into a standard voice jack, and whether interim standards should be adopted for connection of data equipment, since the proposed designs are not presently in production.

4. We received comments from American Telephone and Telegraph Company (AT&T), GTE Service Corporation and its affiliated domestic telephone operating companies (GTE), Continental Telephone Corporation (Continental), the United States Independent Telephone Association (USITA) representing 1618 non-Bell telephone companies, Dictaphone Corporation, Exxon Enterprises, Inc. (Exxon), International Business Machines Corporation (IBM), Phone-Mate, Inc., Precision Components, Inc., Rixon, Inc., Rollins Protective Services, Inc. (Rollins), the Independent Data Communications Manufacturers Association (IDCMA), Communications Certification Laboratory (CCL), and the New York Public Interest Research Group, Inc. (NYPIRG). Reply comments were filed by AT&T, GTE, Exxon, Rixon, Rollins, IDCMA and NYPIRG.

5. Comments and replies fell generally into the following three categories. First, there were comments addressing the specific issues framed in the Notice with regard to the appropriateness of the proposed plug/jack designs and configurations. Second, there were comments urging adoption of additional plug/jack designs and configurations. Third, there were comments seeking waivers of the Commission's general requirement that telephone terminal equipment (other

than PBX and key telephone equipment) shall be connected to the telephone network through the use of standard plugs and jacks. Comments in this third category in essence seek reconsideration of the First Report and Second Report and associated § 68.104 of our rules which have imposed this requirement.

## PLUG/JACK DESIGNS

6. Attendees of the meetings recommended that the specific AT&T-proposed "modular" 6 pin and 8 pin "modular" plug/jack designs and 50 pin "ribbon" plug/jack designs detailed in the Notice be adopted as standard, even though the 6 pin and 8 pin designs are subject to licensing by Western Electric, and the Commission proscribed adoption of any plug designs subject to telephone company licensing or any other telephone company-imposed restrictions. Although there were exceptions, the comments generally supported this consensus view, provided that adapters between the standard plug/jack designs and certain pre-existing plug/jack designs which are presently in use are also accommodated in the program. Exxon comments that the language of the Notice which limited supply of certain adapters to telephone carriers, and not customers, was too restrictive. It also comments that our restrictive "paragraph 49 language" should not be varied and that licensing by a telephone company should not be permitted of any plug/jack design which we adopt. IBM comments that AT&T's proposed licensing agreement should accommodate the possibility of foreign manufacture of plugs and jacks and grant rights under worldwide patents as well as United States patents. In reply, AT&T responds by indicating that Exxon's position arguing that AT&T will receive a "windfall" if its designs are adopted subject to patent royalties ignores the "windfall" which AT&T's competitors would receive if AT&T's designs are adopted without payment of royalties. In response to Exxon's second point, AT&T argues that it is entirely appropriate that it be indemnified from liability for patent claims against AT&T arising from the combination of customer-provided equipment and AT&T's facilities, as is currently provided in AT&T's tariffs. In response to IBM's comments, AT&T states that its subsidiary, Western Electric Company, upon request would extend such licenses for manufacture in other countries.<sup>5</sup>

7. The comments which we have received convince us that the AT&T-sponsored plug/jack designs are technically and economically sound and that the public interest would be best served by adoption of these designs. These designs, although extremely small and light, are of a sturdy construction, and because of the manufacturing processes used to produce them, are quite inexpensive. No designs were suggested which were more

<sup>1</sup> Interstate and Foreign Message Toll Telephone Service—First Report and Order, 56 F.C.C. 2d 593 (1975); Memorandum Opinion and Order, 57 F.C.C. 2d 1216 (1976); Memorandum Opinion and Order, 58 F.C.C. 2d 716 (1976); Second Report and Order, 58 F.C.C. 2d 736 (1976); Memorandum Opinion and Order, FCC 76-377 (released April 28, 1976). See 41 FR 17305.

<sup>2</sup> Coin telephones and equipment connected with party-line service are not included within the scope of the registration program.

<sup>3</sup> See particularly First Report and Order, para. 49; Second Report and Order, para. 26; and § 68.104 of our rules. A suitable means of connection for PBX and key telephone equipment has not yet been established.

<sup>4</sup> Public Notice 60105, released January 21, 1976. This Notice was mailed to each entity on AT&T's current mailing list for the dissemination of technical data to equipment manufacturers (some 2,000 entities) and to all parties of record in Docket No. 19528.

<sup>5</sup> The standard agreements attached to our Notice happened to be examples of agreements used where only United States patents are involved.



versatile or cheaper to produce. Furthermore, as noted in the Bell System statement contained in Appendix C of our Notice, wholly apart from our adoption of the standard plug and jack requirement, "the Bell Operating telephone companies have already installed more than 15 million of the 'miniature' jacks and will have installed a total of 30 million of such jacks by the end of 1976," at no additional charge to its customers. For these reasons, we are adopting these AT&T-sponsored designs in the expectation that no additional costs will be passed on to telephone users because of our standard plug and jack requirement.<sup>6</sup> Finally, there was virtually unanimous endorsement of these designs by the attendees at the meetings, and no party filed comments objecting to these designs. However, we are troubled that telephone company licensure under the patent laws could be used as a discriminatory and anticompetitive tool to thwart sales of competitors' equipment. Therefore we shall modify our policy, stated in paragraph 49 of the First Report and Order in Docket No. 19528, as set forth below.

8. The plug and jack designs set out in Appendix A hereto are hereby adopted as the designs for the standard plugs and jacks required by § 68.104 of our rules. These plug and jack designs may be subject to telephone company licensing only in accordance with the following conditions,<sup>7</sup> and no other telephone company-imposed restrictions on connection of registered terminal equipment and registered protective circuitry may be imposed:

(a) The unilateral and bilateral license agreements set out in Appendix B hereto shall be used for all patent license agreements for standard plugs and jacks.

(b) Uniform standard royalties shall be charged to all desiring licenses. The maximum royalty, under a unilateral license, shall not exceed 5% of the licensee's sales price of plugs and jacks and ¼ of 1% of the licensee's sales price for cords.<sup>8</sup>

<sup>6</sup> We were informed at our meetings that the telephone companies' use of these plugs and jacks is in fact reducing the cost of providing telephone service.

<sup>7</sup> All of these conditions are fully in accord with representations made by AT&T in its comments herein. Our imposition of these conditions indicates our intention to hold AT&T to these representations. In addition, AT&T represented that where the standard plugs, jacks and cords are not available from other suppliers, Western Electric Company would offer these items for sale at prices equal to prices charged by Western Electric to the Bell System telephone companies. This offer was made in recognition that standard plugs, jacks and cords may not be available from any other source in the initial stages of our program, and that otherwise AT&T would gain a significant competitive advantage over other equipment manufacturers. We will require AT&T to adhere to this offer.

<sup>8</sup> AT&T has represented that the royalty is expected to be in the range of ½ cent to one cent per unit assuming that other manufacturers charge prices similar to those charged by the Western Electric Company for such devices. If we subsequently are apprised that royalties are disproportionate to this representation, we will reconsider our limit-

(c) AT&T, its subsidiaries and affiliates, shall make available, without charge, adequate product information to assure that standard plugs, jacks and cords designed by AT&T can be produced by a competent manufacturer.

(d) On request, AT&T, shall include licenses on its worldwide (non-United States) patents which implement the claims of its United States patents, in countries other than the United States, at no additional royalties.

We believe that the foregoing strikes a reasonable balance between the public interest in standardization of technically and economically beneficial designs, and our belief that AT&T should not be able to obtain a discriminatory and anticompetitive advantage over its competitors in the supply of telephone equipment through the imposition of royalties. In addition, our Rules shall specify the use of therein-specified standard plugs, jacks and adapters "or equivalent." Thus, if an entity wishes to produce an "equivalent," it will be free to do so, subject, of course, to the patent laws.

9. GTE and AT&T each proposed (notwithstanding their assertions that vessel and vehicular telephone installations should be exempt from our plug/jack requirements) that an additional plug and jack be added to the standard plugs and jacks proposed in our Notice. Specifically, they proposed the adoption of a weatherproof, 3-position twist-type parallel voice connector for such installations, and no party objected to inclusion of such a connector as standard. Accordingly, we are adopting this plug and jack as a standard, and note that its inclusion moots many of the carriers' concerns with regard to the use of the "modular" plugs and jacks in moisture-laden and corrosive environments.

#### PLUG/JACK CONFIGURATIONS

10. The specific meeting-sponsored configurations for use of the proposed 6, 8 and 50 pin standard connectors were intended to accommodate known and presently foreseeable uses of such plugs, jacks and adapters, for connection of equipment other than PBX and key telephone equipment. At the outset, it should be noted that in broadly characterizing these connectors by the maximum number of pins, we did not intend to limit deployment of connectors which physically have less than the maximum number of pins inserted, where appropriate. Thus, AT&T recommends we substitute "positions" for "pins" in our discussion of the configurations. We shall do so.

11. In the following discussion of plug/jack configurations, we have grouped the various configurations into four categories: parallel voice connectors, parallel

limited approval of telephone company licensing of plug and jack designs, or seek the imposition of appropriate sanctions through our own or other governmental process. Since plugs and jacks are increasingly fabricated as an integrated unit with cords, AT&T has accordingly proposed licensure of its cord patents which are relevant to the use of standard plugs, jacks and adapters.

data connectors, series connectors, and adapters. Parallel voice and parallel data connectors are both used for the parallel connection of equipment to telephone communications channels or facilities (including connection to PBX and key telephone common equipment). However parallel data connectors incorporate the additional feature of having the jack wired to either attenuate data signals, or to limit data signals to the maximum signal power level which is permitted by particular installation. Parallel voice connectors will be used to connect telephone instruments, most forms of ancillary equipment (such as telephone answering machines and loudspeaking devices), and data equipment registered in accordance with § 68.308(a)(4)(iii) of our rules (e.g., data equipment operating in the "permissive" fixed -9 dBm output mode). Parallel data connectors will be used by data equipment registered in accordance with § 68.308(a)(4)(i) or (ii) of our rules. Series connectors will be used for the series connection of equipment such as automatic dialing devices and burglar alarm devices, as well as certain data equipment. Series jacks contain an internal mechanism which shorts certain connections when the series plug is withdrawn and thereby accomplish the Commission's requirement that such a jack be arranged so that if the plug connected thereto is withdrawn, no interference to the operation of equipment at the customer's premises which remains connected to the telephone network, shall occur by reason of such withdrawal. Finally, various adapters were proposed, both in the Notice, and in comments received thereon. We shall address each of these categories herein, and related matters raised in comments and replies in this proceeding.

12. Parallel voice connectors. As proposed in our Notice, the parallel voice connectors would be configured so as to allow parallel connection of telephone equipment both to telephone communication channels (lines and trunks) and to the common equipment of PBXs and key telephone systems. One matter which is presently before the Commission on reconsideration of its Second Report and Order in Docket No. 19528 is to what extent equipment of various suppliers shall be intermixed with PBX and key telephone common equipment, and we shall address that matter in Docket No. 19528. However, it developed at the cooperative industry-carrier meetings that where there is a simple, defined interface between the PBX or key telephone common equipment and remote station equipment (generally, in older PBX and key telephone system designs), an appropriate parallel voice connector can be used for the connection of data and ancillary equipment, and telephone instruments. In new PBX and key telephone system designs, there is considerable integration of the common equipment and the telephone instruments themselves, and thus a clearly definable set of interface parameters may no longer exist. The older key systems require that for each station line which is "picked up" (by an ap-



appropriate lowering of the tip-ring impedance during the "off-hook" state), a low-resistance closure of an "A/A1" pair of wires also be made, to prevent interference with the "hold" features of such equipment. Accordingly, A/A1 connections are required to be present on parallel voice connectors used with such systems. In addition, some equipment (such as data equipment used in the "permissive" -9 dBm level mode) cannot tolerate the attenuation imposed by key telephone common equipment, thus an optional arrangement is provided whereby the tip-ring connections are made on the line side of the common equipment, and the A/A1 connections are made on the station side of the common equipment.

13. Specific proposed configurations in the parallel voice category include: Bridged (paralleled) tip/ring with and without A/A1 connections on the 6 position connectors; bridged tip/ring on a newly-proposed (in the comments) 3 position weatherproof connector; bridged tip/ring for each of two lines on the 6 position connectors; and bridged tip/ring, with and without A/A1 connections for multiple-line applications on the 50 position connectors. Since there are no objections to these proposals we are adopting them, and specific implementing rules are contained in Appendix A attached hereto.

14. Parallel data connectors. Our Rules presently specify two means of connecting loop-optimized data equipment to the telephone network (as opposed to "permissive" -9 dBm fixed level equipment).<sup>9</sup> These are the fixed-loss loop method, whereby a maximum, standard high level for data equipment output will be uniquely attenuated in a data jack to the permissible level for each particular loop to which the jack is connected, and the programmed method, whereby programming means are inserted in the jack by the telephone carrier at the time of its installation to cause the data level output of equipment plugged into such a jack to be limited to the maximum permissible level for each particular loop to which the jack is connected. At our meetings, the interested participants agreed that the programming means used in programmed jacks shall be the installation of an appropriate resistor and its connection to two pins of the jack. Registered data equipment using the programmed technique will use this resistor's value in its circuitry to appropriately limit the data signal power.<sup>10</sup> These methods of connection of data equipment will be accomplished through use of various configurations of data plugs and jacks.

15. In our Notice, we proposed the use of 8 position keyed connectors to accomplish bridged tip/ring connection, with and without A/A1 connection to both telephone communications channels (lines and trunks) and PBX and key telephone common equipment, and the use of 50 position "ribbon" connectors to accomplish multiple bridged tip/ring connections, without A/A1 connections. In both cases, various combinations of the fixed-loss and programmed techniques were proposed.

16. In its comments in this proceeding, AT&T referenced its Petition for Reconsideration of our Second Report and Order in Docket No. 19528 wherein it took the position that no data equipment using the fixed-loss and programmable techniques can be installed behind customer-provided PBX and key telephone common equipment, as it would be impractical for the telephone company to install a uniquely-attenuated jack behind another supplier's equipment. Allegedly consistent with this position, AT&T proposed in its comments in this proceeding that no standard connector configurations for data which incorporate A/A1 connections be adopted, although we had proposed the same in our Notice, as submitted by the cooperative industry-carrier meetings. AT&T's position is that it would be inappropriate for it to install a programmed or attenuated jack behind another supplier's equipment. In order to comply with the approach adopted in our rules,<sup>11</sup> where customer-provided PBX or key telephone common equipment and associated intra-system wiring is involved, the local telephone company would have to measure the attenuation between the dataset location and the telephone company central office, and then install a data jack to the customer's intrasystem wiring.<sup>12</sup> Clearly this argument does not relate to the installation of such a jack behind a telephone company-provided PBX or key telephone system.

We are not taking a position at this time as to whether, or under what conditions, the carrier should undertake the supply of and/or installation of a data jack in these circumstances; such will be dealt with in our order on reconsideration of our Second Report in Docket No. 19528. However, it is still appropriate to include data jack arrangements incorporating A/A1 leads in this proceeding to at least cover the case of connection of a dataset behind carrier-provided common equipment. For this reason, we are rejecting AT&T's proposed variation

of this consensus judgment arrived at during the course of our meetings.

17. As we stated in our Notice, our staff had suggested that data jacks be mechanically compatible with standard voice plugs, to permit alternate voice/data usage of a jack (a not uncommon requirement). This suggestion was followed and a configuration of the 8 position data jack was proposed which would allow insertion of a standard 6 position voice plug in its center.<sup>13</sup> Pin assignments for various functions of the 8 position data plug and associated data jack were chosen such that excessive signal power cannot result if a data plug is inadvertently plugged into an 8 position jack used for voice (e.g., in a key telephone system). However, the telephone companies are already using the 8 position jack in certain key telephone systems, and in such systems if a data plug were inadvertently plugged in, service disruption or damage to the key system or the dataset could occur. For this reason, it was agreed at the meetings that the 8 position data plugs should contain convex "keying," and the 8 position data jacks should contain corresponding concave "keying." Under this approach, a data plug would be blocked from insertion into a jack that did not contain a channel corresponding to the convex "key" on the plug, but a voice plug could be inserted into a data jack. Various parties have commented that such keying is not required on a 50 position "ribbon" connector, as equipment installed using a multi-line data plug is normally installed and maintained by trained personnel, and it is unlikely that the 50 position data "ribbon" plug will be inadvertently inserted into a 50 position jack configured for voice.<sup>14</sup> We agree with these positions. Keying will be required on the 8 position data plugs and jacks to prevent possible service disruption and damage to equipment, and will not be required on 50 position connectors when used for data applications. We are permitting use of the 50 position connectors for single-line data installations, as well as multiple-line installations, to provide an immediately available standard means of connecting data equipment in the near future, while the keyed 8 position connectors are unavailable.

18. In summary, we are providing three methods for parallel connection of data equipment. First, data equipment operating at a nonadjustable signal power level no greater than -9 dBm may be connected to any standard (voice or data) telephone jack, with or without A/A1 connections, as desired. Second, data equipment may be connected, using the programmed method, to a keyed 8 position data jack containing a programming resistor, with or without A/A1 con-

<sup>9</sup> See § 68.308 of our Rules.

<sup>10</sup> Under § 68.308(a)(3) of our Rules, the "one port" PBX and key telephone common equipment is not permitted to have net gain. Thus, the maximum permitted data signal power level (voiceband) at the dataset termination would be somewhat higher than the signal power permitted at the interface to telephone carrier communication channel, to overcome attenuation in the common equipment and intra-system wiring. This attenuation would be unknown in any given installation unless measured.

<sup>13</sup> Pin assignments for tip and ring were chosen to permit such compatibility.

<sup>14</sup> Rixon asserted this position in its comments, and AT&T concurred in its reply. IDCMA supported Rixon's view and further indicated that "keyed" 50 position connectors are not presently available, whereas the standard, unkeyed connector is available from a multiplicity of suppliers.

<sup>9</sup> See § 68.308(a)(4) of our rules.

<sup>10</sup> One technique proposed for its use was to use the resistor as part of the circuitry of an attenuator which affects only the output signal level, and not the incoming signals. Some participants felt that this would permit additional optimization over the fixed-loss loop technique which attenuates incoming signals as well as outgoing signal power.



nections,<sup>15</sup> as desired, or to a 50 position connector containing programming resistors for up to eight lines.<sup>16</sup> Third, data equipment may be connected, using the fixed loss loop method, to a keyed 8 position data jack containing both a programming resistor and attenuating circuitry, with or without A/A1 connections, as desired, or to a 50 position connector containing both programming resistors and attenuating circuitry for up to eight lines.

19. Series connectors. Participants at our meetings indicated that there are several types of equipment which currently use series connections to telephone company channels or facilities: pulse dialers, loop current sensing circuits (generally in datasets), and burglar alarm systems.<sup>17</sup> The series connector which was proposed at the meetings, and in our Notice, is a variation of the 8 position jack, for use with a standard 8 position plug, and which contains two "shorting bars," or springs, which have the effect of shorting two pairs of connections when no plug is inserted, and removing these shorts when the plug is inserted. Under the proposed configurations for the series connector (as in the case of the 8 position parallel data jacks), the series jacks are compatible with 6 position voice plugs, for some forms of alternate use. The proposed series connector is capable of use where registered equipment is placed in series with a telephone communication channel (e.g., an alarm reporting application), and where registered equipment is placed in series with a telephone company facility, such as a telephone set (e.g., where ancillary devices such as automatic dialers are used in conjunction with the dialing circuitry of a telephone instrument). The specific proposed configurations are depicted both with and without A/A1 con-

nections, to accommodate the series connection of equipment to key telephone systems. Finally, a set of contacts is available, under one proposed configuration, for transmission of "mode indication" information which is commonly required by certain datasets.<sup>18</sup>

20. RPS, a manufacturer of burglar alarm equipment, argues that since the 8 position series jack can be used for most of the purposes of a 6 position parallel voice jack, we should prescribe the 8 position series jack as standard for both purposes, to avoid a multiplicity of standard jacks. Although we agree with RPS' contention that the series jack can serve substantially all voice applications, the 8 position series jack is both more complex and more costly than the 6 position parallel jack usable for the vast majority of voice applications, and the increased cost of such a jack should not be borne by the majority of users whose needs can be satisfied by the less costly jack. Also, RPS' argument was in part posited on the belief that if all voice installations are accomplished through the use of series jacks, then users would be able to purchase series-type ancillary or terminal equipment and merely plug it in to any such jack. AT&T refutes this belief by pointing out that by its own statements, RPS' burglar alarms must be interposed between the telephone line and all telephone equipment on the customer's premises for proper operation. Any one jack on the customer's premises, if it were of the series-type, would not necessarily be so interposed. Thus, even if we were to adopt RPS' proposal and prescribe the use of the series jack for all voice applications, RPS' stated goals would not necessarily be reached. For these reasons, we are rejecting RPS' proposal, and prescribing both the 6 position parallel jack, and the 8 position series jack as standard.

21. Data usage of series connectors. Datasets used with the switched telephone network may either contain circuitry within them to originate and answer telephone calls ("automatic" operation), or be used with a telephone set which is employed to originate and answer calls, and then switch the telephone connection over to the dataset ("manual" operation). Such a telephone set generally contains a switch for this purpose in one of its switchhook buttons (called an "exclusion key") which automatically re-connects the telephone line to the telephone set when the handset is placed on-hook. Since datasets are typically sensitive to equipment which might be connected to the telephone line while the dataset is in operation, this "exclusion key" is often arranged to cut off all other telephone equipment from the line when it connects the dataset to the line, to prevent such equipment from interfering with the dataset's operation. Where a telephone company-provided telephone set is used for this purpose, the dataset only needs a parallel connection to the telephone set's "exclusion key." However, if the customer wishes to use a customer-provided telephone or ancillary device

with a dataset, some means must be provided to interpose the customer-provided equipment's "exclusion" feature between the telephone line and all other telephone equipment which is normally connected to that line. This would dictate the use of a series jack. However, datasets often require an electrical indication that they have been connected to the telephone line, in addition to the actual line connections received when the "exclusion key" is operated. Therefore it was proposed that such a "mode indication" signal would be provided through contacts reserved for this purpose on one of the series jack configurations. In order to leave with the telephone company the discretionary act of setting data signal power levels, where the programmed method or fixed loss loop method of connecting data equipment is employed, a parallel data connector must be installed in addition to the series connector.

22. Mode indicator. As was discussed, a "mode indicator" signal may be desired when either a customer-provided "exclusion key" function is used, or when a telephone company-provided "exclusion key" telephone is used.<sup>19</sup> Where such a "mode indicator" signal must be passed through a parallel data jack to a dataset, the only pins which are available are the pins which otherwise would be assigned to A/A1. We see no problem in allowing the customer to choose assigning these pins, when installation is requested, to either A/A1 or "mode indication," as datasets using these respective functions will tend to be mutually exclusive. A dataset which requires the A/A1 function to interface with a key telephone system will be of the automatic type, while a dataset requiring the "mode indication" function will be of the manual type. In the event that a manual type dataset is used with a telephone instrument associated with a key telephone system, the customer may either forego the "mode indication" function, or the A/A1 function (if acceptable operation can result), or can have the 50 position multiple line data connector installed with both sets of connections brought out on such a connector. As we have already noted, equipment which uses the 50 position connectors will be installed by trained personnel, and a problem of compatibility such as this will adequately be handled by such personnel.

23. Adapters. As we stated in our Notice, it was agreed at the meetings that adapters will be required for various purposes. One such purpose is the facile installation of registered equipment where the customer has pre-existing non-standard jacks already installed by the telephone carrier at his premises. In such cases, it was proposed that the carriers provide adapters which would permit the connection of registered equipment with standard plugs to the non-standard existing jacks. Specifically proposed in our Notice were two such adapters: an

<sup>19</sup> We are discussing the use of "exclusion key" and "mode indicator" functions only in terms of data equipment. However, this should not be construed as limiting the use of such functions solely to data; other uses, presently un contemplated, may arise.

<sup>18</sup> We discuss this in more detail infra.

<sup>15</sup> As discussed infra, at the customer's option the connections reserved for A/A1 may be used for "mode indicator" connections where a data jack is associated with a series jack used for transfer of the telephone connection from a telephone set to a dataset through the use of a switch on the telephone set (e.g., where the telephone set is used to establish a data call).

<sup>16</sup> As no multiple line arrangement was proposed which incorporated A/A1 connections, the multiple line arrangements do not incorporate such connections.

<sup>17</sup> These equipment types are currently in use on the telephone network, and are connected through "connecting arrangements" which are physically interposed between telephone company provided services and facilities. Since the "connecting arrangements" are telephone carrier provided, AT&T had asserted that no customer-provided equipment interfered with the carrier-provided "end-to-end" service. This assertion simply ignores the fact that even with the "connecting arrangement", customer-provided equipment was functionally interposed. If the customer-provided equipment malfunctioned in a manner which generated incorrect electrical signals, the only way the customer could restore his "end-to-end" service was to disconnect the customer-provided equipment from the "connecting arrangement." Thus, we have only followed the carriers' own course-of-conduct in setting forth a similar means for the customer to restore his service where a series connector is used.



adapter between square-array four position jacks which are in some use in the Bell System and Independent telephone company areas and the standard plugs, and an adapter between twelve position jacks which are in use in the mid-West and the standard plugs.<sup>20</sup> In addition, it was proposed that the carriers provide a "cube tap" type of adapter which in essence converts a single standard jack into two standard jacks. It was also proposed that other adapters might be designed and manufactured by interested parties, but that the telephone carriers would not offer to supply such adapters, as they feel that by offering additional adapters they would tend to extend the use of non-standard plugs and jacks.

24. We have received various comments on the adapters which were proposed, and on additional adapters which it was felt should also be adopted as standard. GTE suggests that a fourth adapter be made available by telephone companies to accommodate pre-existing installations of a 6 pin "Teleconnector" non-standard jack which is presently in use in some telephone companies' areas. This is consistent with the above-stated rationale for such adapters, and we shall adopt it.

25. NYPIRG and Phone-Mate argue that a customer-installable "adapter" which should be adopted would be a replacement cover for preexisting connector blocks which would convert such connecting blocks to the new standard jack. By installing this "adapter", a customer might avoid incurring charges which would be associated with a visit by telephone company personnel.<sup>21</sup> AT&T argues that if we were to adopt this "adapter", we would abandon our Part 68 view that the telephone company is to install a jack, as installation of this "adapter" is tantamount to jack installation. Also, AT&T argues that there would be a temptation for customers to rearrange the wiring on connecting blocks to conform to the standard assignment of pins in the standard jack on the "adapter", as wiring of the screw positions on the connecting blocks varies. An unsophisticated telephone customer might well interfere with wiring on the block, or damage it, and ultimately result in a repair visit by the telephone company. This possibility, while only an unsubstantiated speculation by AT&T, does seem to undercut our fundamental conceptual treatment of installation of equipment by customers, that such installation must be easily reversible by untrained customers to permit recovery of the telephone company's service by simple and effective means—withdrawal of a plug. In addition, GTE indicates that the specific proposed "adapter" is not mechanically compatible with many connecting blocks used by the

Independent telephone companies (although it apparently is compatible with the Bell System blocks), and attempted installation of such a device on certain of the blocks used by GTE would actually damage the block and disrupt service. For these reasons, we must reject the use of an "adapter" between connecting blocks and standard jacks.<sup>22</sup>

26. AT&T proposes, for the first time in its Reply, elimination of the provision of a "cube tap" type of adapter by the carriers,<sup>23</sup> on the theory that the carriers should only offer adapters to the new standard jacks, and not an adapter which expands the flexibility of usage of a standard jack (such as the "cube tap" type). While we do not quarrel with AT&T's implicit position that our rules should only specify means whereby a customer can acquire various arrangements from the telephone companies for the installation of standard jacks, it should be noted that the "cube tap" adapter was arrived at during the course of the meetings as a means whereby a customer who already had telephone instruments on his premises installed through the use of standard plugs and jacks, could acquire an additional jack at a telephone set's location for the connection of ancillary equipment such as a telephone answering device. In view of the position stated in Appendix D of our Notice to which AT&T had concurred, it is clear that AT&T had no problem with the use of a "cube-tap" type adapter in conjunction with a telephone company provided telephone set and customer-provided equipment. Yet, in its Reply, AT&T now argues that the "cube-tap" adapter is similar to a series jack in that it breaks the "end-to-end" service provided by the telephone company, and that, therefore such an adapter should only be provided by the customer.<sup>24</sup> We can discern no reason why a "cube-tap"

<sup>20</sup> We do so with some reluctance. This "adapter" would permit the telephone consumer to avoid incurring charges for the installation of a standard jack. Moreover, notwithstanding the carriers' allegations, we are informed that in Canada, where the Canadian Government has adopted an equipment registration program somewhat similar to our own, this "adapter" is standard. However, as more installations are converted to the use of standard plugs and jacks, as part of the telephone companies' on-going program to do so (during repair and installation operations), this problem will tend to disappear. Our disposition of this request is without prejudice to our later consideration of this matter.

<sup>21</sup> This late-date variance of the consensus judgments of the meeting attendees (including AT&T) was not subject to notice, nor are comments permitted on it under the procedures of this proceeding.

<sup>22</sup> The Notice stated: "Adapter is always provided by the telephone company when one or both miniature jacks are used for telephone company equipment. Adapter may be furnished by the telephone company or the customer when both miniature jacks are used for registered CPE [customer-provided equipment]." AT&T has clearly abandoned this position in that it is now proposing that only a customer-provided adapter is appropriate where one jack is used for customer-provided equipment.

type adapter cannot be provided by both telephone companies and others upon request. The telephone companies indicated at our meetings that they intended to use such devices for their own installations, and therefore they will be available to customers.

27. Various other adapters are proposed as standard. Thus, Exxon proposes the adoption of three adapters which can be interposed between a telephone company-provided telephone instrument equipped with a standard plug, and its jack, to accommodate series connection of customer-provided equipment to that telephone instrument. Such an adapter would, in Exxon's view, be customer-provided. RPS proposes that a similar series adapter be provided by the telephone carriers. We have already discussed our views as to series connections, and we find that Exxon's proposal is consistent with these views,<sup>25</sup> and that such an adapter should be capable of use in our program. However, we view the standards which we are adopting in the rules as relating only to those arrangements and configurations which a customer should have the right to request of his telephone company; Exxon's proposed adapters are compatible with the standard jacks we are adopting herein. A customer with equipment terminated in an interposed adapter such as Exxon proposes could install it using the plugs and jacks already specified under these rules, and therefore we find it unnecessary to adopt these adapters as standard.

28. With regard to RPS' proposal that the telephone carriers be required to provide an interposed series adapter, we would note that our discussion of the operation of RPS equipment in paragraph 20, above, is equally applicable here. That is, RPS has asserted that for its burglar alarm equipment to properly operate, it must have the capability of cutting all of the customer's telephones off the telephone line while the burglar alarm is dialing, so that a burglar cannot interfere with the dialing by lifting a telephone handset. Thus, such an adapter would have to be in series with all telephone instruments at the customer's premises. An interposed adapter would only so operate if a single telephone instrument were connected (through standard plugs and jacks) to the customer's telephone line. Therefore, in view of the fact that the adapter will not properly operate on all telephone installations, and in view of the certain proper operation of the alternative series jack which will be available, and which will be installed in the proper electrical position with respect to other telephone equipment on the customer's line, we feel that if there is to be dispute about the proper operation of RPS' burglar alarm equipment when used with an interposed adapter, rather than a series jack, such dispute should be between RPS and its customer, and should not involve a telephone company. For this reason, we will

<sup>25</sup> That is, the customer can restore his telephone service, in the event of an equipment malfunction, by removing the interposed adapter.

<sup>20</sup> In both cases, the conversion would be to the standard parallel 6 position voice jack.

<sup>21</sup> While the telephone companies are now several years into a program to convert all installations to standard plugs and jacks, a large number of pre-existing telephone set installations are in service with the connections accomplished through the use of screws on connecting blocks under which are placed wires and connecting lugs.



not impose the requirement that telephone companies provide such an adapter.

**EXEMPTIONS TO THE STANDARD PLUG AND JACK REQUIREMENT**

29. No party, in comments in this proceeding or in Docket No. 19528, has objected to our fundamental premise that untrained telephone users are capable of installing equipment by inserting standard plugs into standard jacks without adverse effect. Thus we reaffirm our conclusion in Docket No. 19528 that standard plugs and jacks shall generally be the means of connection for all equipment other than PBX and key telephone equipment.<sup>28</sup>

30. AT&T, GTE, Continental and USITA have each asserted that, notwithstanding the general applicability of the plug/jack requirement, there are numerous situations involving telephone company-provided equipment, where this requirement is inappropriate. Among the situations identified are installations in explosive atmospheres, fire and police call boxes, outdoor locations, elevators, hospitals, telephones on parked or moored vehicles, installations in corrosive atmospheres, lifeline service, panel telephones, "terminal equipment of a critical function that the customer requests to be hard-wired for purposes of safety or necessity," and locations subject to equipment theft such as prisons, hotel/motel rooms, apartment lobbies, auto service stations, restaurants, and other "similar places where telephones are needed in the conduct of the business, but nonetheless must be located within reach of the public which the business serves." Thus the telephone companies would have us establish a multitude of general exemptions to our standard plug and jack requirement, which exemptions would run solely to telephone company-provided equipment.

31. The comments that are before us merely enumerate situations where it is alleged the standard plug and jack requirement is inappropriate. However, except as noted in paragraph 32 below, these comments do not provide any reasonable basis for us to establish exemptions to the standard plug and jack requirement. There has been no showing that the proposed plugs and jacks are not sufficiently safe and secure for these special applications. Furthermore, some of the proposed exemption categories are so vague as to undermine our desire to standardize connection of equipment through standard plugs and jacks. In addition, several of the request exemptions are addressed to situations involving the

potential theft of telephones. We note that installation of a mechanical restraint (such as a simple loop around the cord which is smaller than the plug) would deter theft to the same extent as hard-wiring, while still allowing the use of a standard plug and jack and compliance with the "easy and immediate disconnection" requirement of Section 68.104 of our Rules.

32. Since customer installation of equipment in "hazardous" locations is already authorized under our tariffs, we will exempt equipment used in "hazardous" locations from our plug and jack requirements. Such equipment may be customer-provided as well as telephone company-provided, and may be installed by either.<sup>29</sup>

33. In view of the absence of comments fully addressing the need for exemptions to the standard plug and jack requirement, we will establish no exemptions, except as noted in paragraph 32 above, to this requirement at the present time. Telephone companies and others are free, however, to file properly supported petitions for rulemaking requesting the establishment of appropriate exemptions to the standard plug and jack requirement. We are serving notice to the carriers that we are unpersuaded that any exemptions which may be established should not apply equally to carrier-provided and customer-provided equipment.

**CONCLUSION**

34. In conclusion, we are adopting the plug/jack designs set out in Appendix A hereto, subject to the conditions set out in paragraph 8 above. Further, we are adopting the plug/jack configurations set out in Appendix A hereto. Lastly we are not, at the present time, adopting any general exemptions to the standard plug and jack requirement.

35. Accordingly, it is ordered, pursuant to Sections 4(i), 4(j), 201-205, 208, 215, 218, 313, 314, 403, 404, and 602 of the Communications Act of 1934, as amended, that Part 68 of the Commission's rules and regulations, 47 CFR Part 68, is hereby amended in accordance with Appendix A to this Order, effective July 12, 1976.<sup>30</sup>

36. It is further ordered, That this proceeding is hereby terminated.

(Secs. 4, 201-205, 208, 215, 218, 313, 314, 403, 404, 602, 48 Stat., as amended, 1066, 1070, 1072, 1073, 1076, 1077, 1087, 1094, 1102; 47

<sup>28</sup> See AT&T Tariff F.C.C. No. 263, Section 2.7.8.

<sup>29</sup> Since our registration program is already effective for customer-provided data and ancillary equipment, and the program requires the use of standard plugs and jacks for connecting such equipment, we are making these rules effective immediately upon their release. In our Notice herein, we solicited comments on why we should not make these rules effective immediately, and no party filed objections to such action. Further, since no party will be adversely affected, we believe the public interest will best be served by the immediate implementation of these rules.

U.S.C. 154, 201-205, 208, 215, 218, 313, 403, 404, 602.)

Adopted: June 29, 1976.

Released: July 12, 1976.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>30</sup>  
VINCENT J. MULLINS,  
Secretary.

The Commission's Rules and Regulations (Chapter I of Title 47 of the Code of Federal Regulations) are amended as follows:

Section 68.104, headnote and text, are amended to read as follows:

**§ 68.104 Means of connection.**

(a) *General.* Except for telephone company-provided ringers and except as provided in subsection (c), all connections to the telephone network shall be made through the standard plugs and standard telephone company-provided jacks, or equivalent, described in Subpart F, in such a manner as to allow for easy and immediate disconnection of the terminal equipment. Standard jacks shall be so arranged that, if the plug connected thereto is withdrawn, no interference to the operation of equipment at the customer's premises which remains connected to the telephone network, shall occur by reason of such withdrawal.

(b) *Data Equipment.* Where a customer desires to connect data equipment which has been registered in accordance with § 68.308(a)(4)(i) or (ii), he shall notify the telephone company of each telephone line to which he intends to connect such equipment. The telephone company, after determining the attenuation of each such telephone line between the interface and the telephone company central office, will make such connections as are necessary in each standard data jack which it will install, so as to allow the maximum signal power delivered by such data equipment to the telephone company central office to reach but not exceed the maximum allowable signal power permitted at the telephone company central office.

(c) [Reserved]

Section 68.308(a)(4)(i) and (ii) is amended as follows:

**§ 68.308 Signal power limitations.**

(a) \* \* \*

(4) \* \* \*

(i) A maximum level adjustable to no greater than -4 dB with respect to one milliwatt, for connection to a telephone company provided data jack. (Fixed loss loop method.)

(ii) A maximum level set by means of connection in a telephone company-provided data jack, which level can be programmed in 1 dB steps from -12 dB to -3 dB with respect to one milliwatt. (Programmed method.)

A new Subpart F is added as follows:

**Subpart F—Connectors**

**§ 68.500 Specifications.**

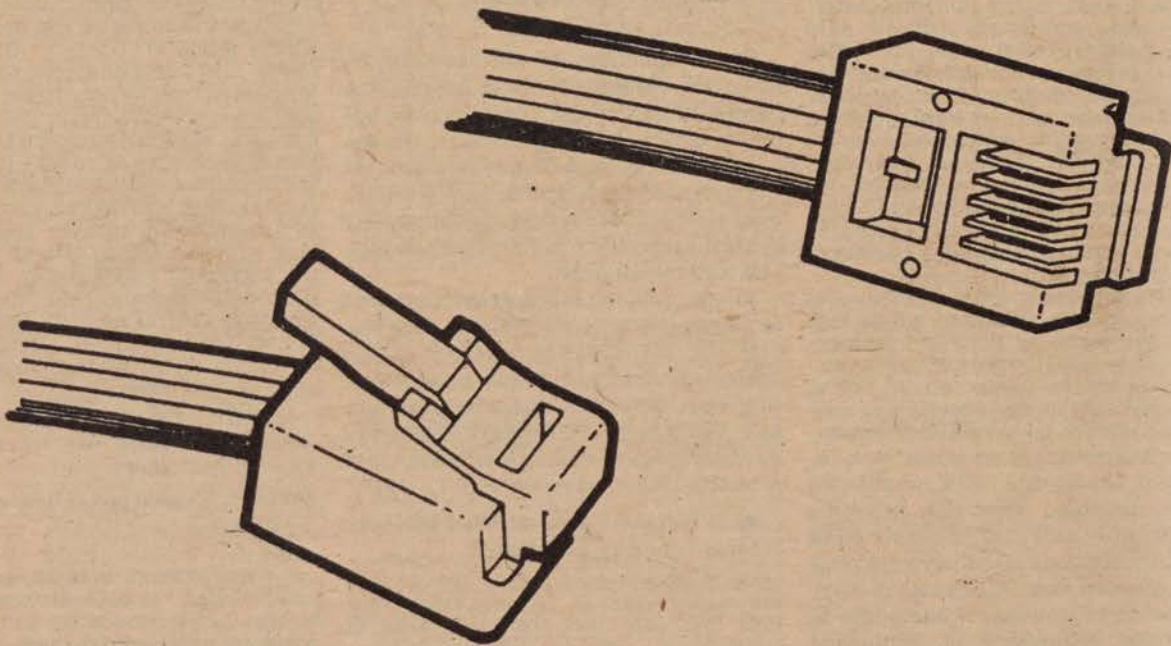
(a) Miniature 6-position plug:

<sup>30</sup> Commissioner Hooks dissenting.

<sup>30</sup> Where it can be demonstrated that the application of this principle will cause hardship to a telephone company, we will entertain a request for a waiver, in accordance with *Mebane Home Telephone Co.*, 53 F.C.C. 2d 473 (1975). Moreover, where standard jacks are not available during the transition period (ending January 1, 1977), equipment may be connected through alternative means. For detailed explanation, see *Memorandum Opinion and Order in Docket No. 19528*, FCC 76-377 (released April 28, 1976), para. 13.



Figure 68.500(a)(1)--View



(Note: This plug is depicted equipped with 4 contacts; it may be fabricated with its full 6 contact capability.)



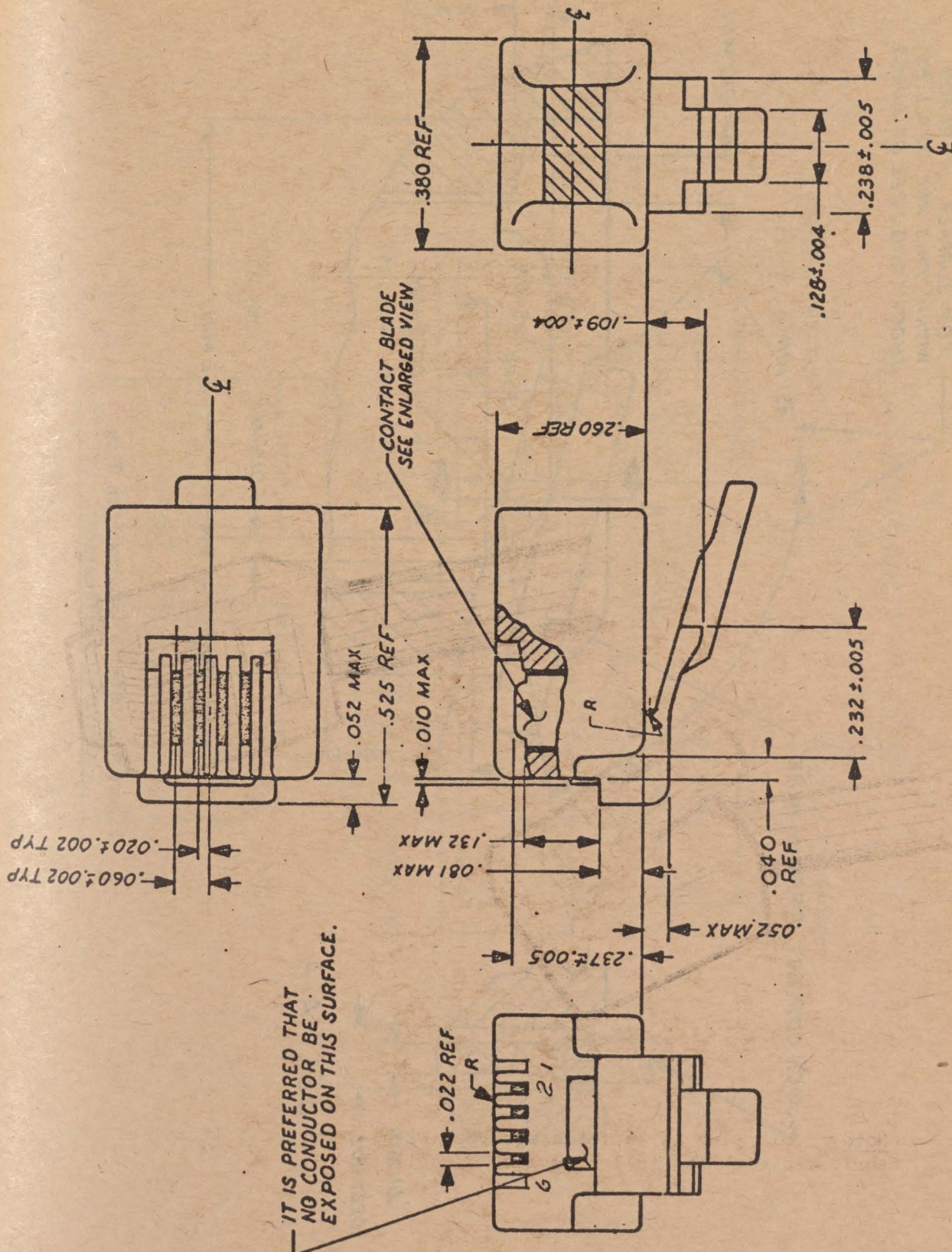


Figure 68.500(a)(2)--6 Position Plug  
Mechanical Specification







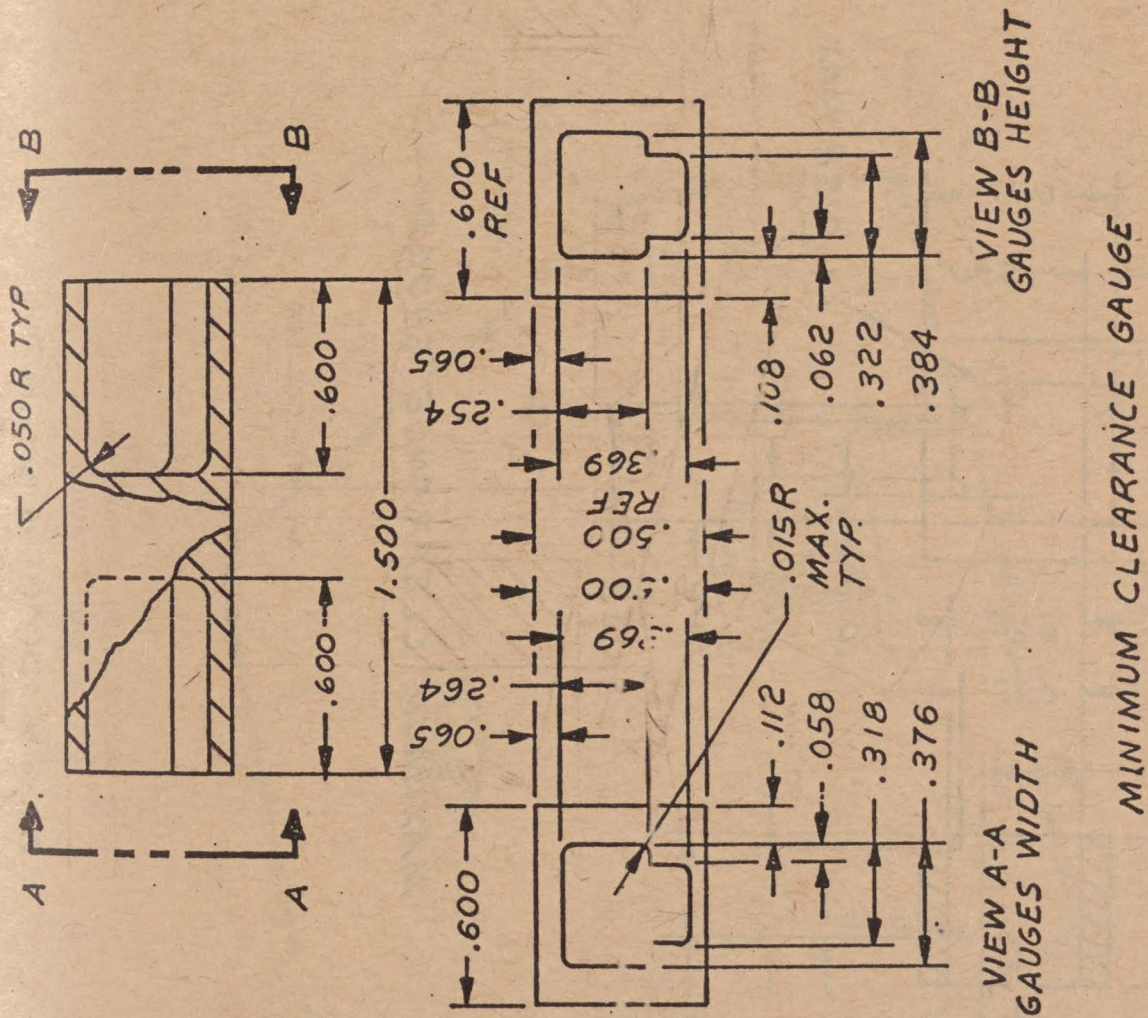
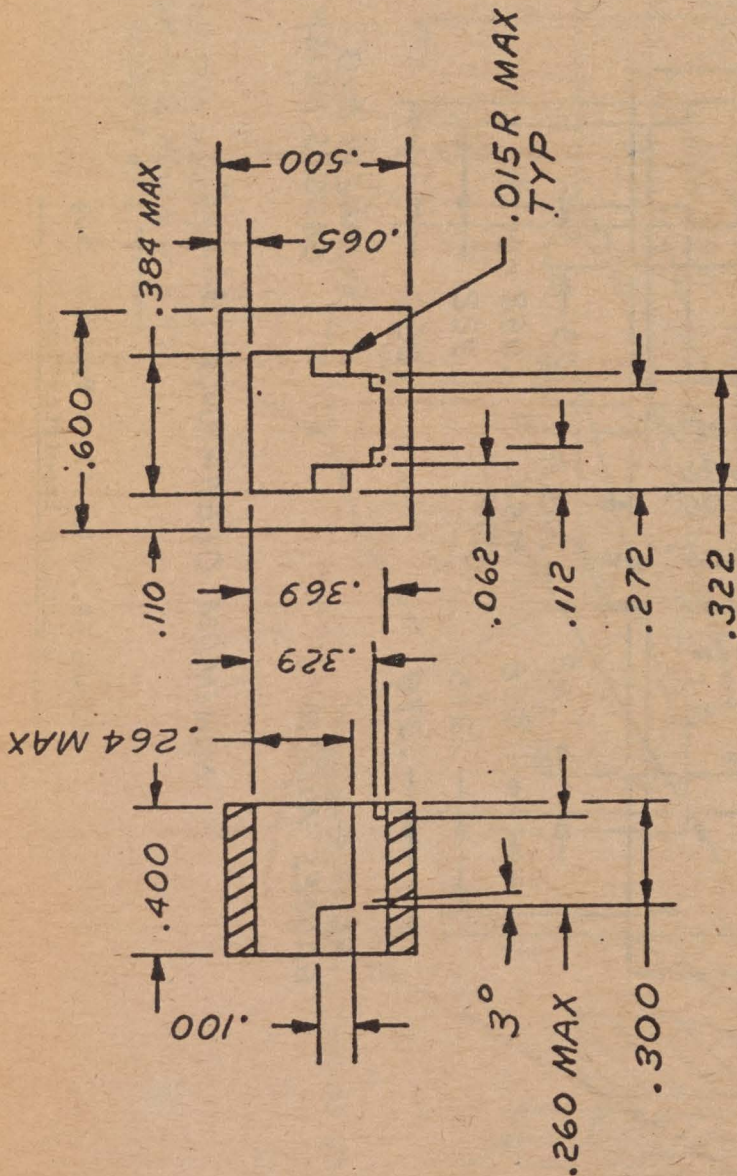


Figure 68.500(a)(4)--6 Position Plug  
Clearance Specification



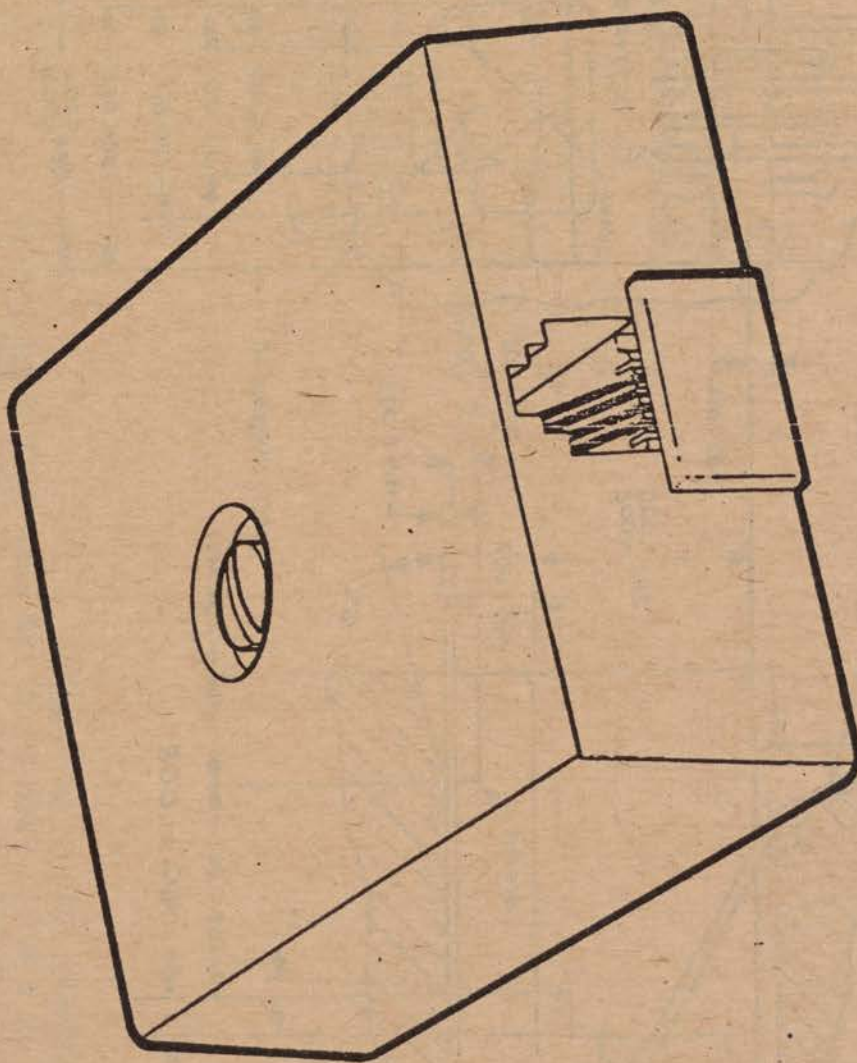


MAXIMUM CLEARANCE GAUGE

Figure 68.500(a)(5)--6 Position Plug  
Clearance Specification



## (b) Miniature 6-position jack:

Figure 68.500(b)(1)--View

(Note: This jack is depicted equipped with 4 contacts; it may be fabricated with its full 6 contact capability.)



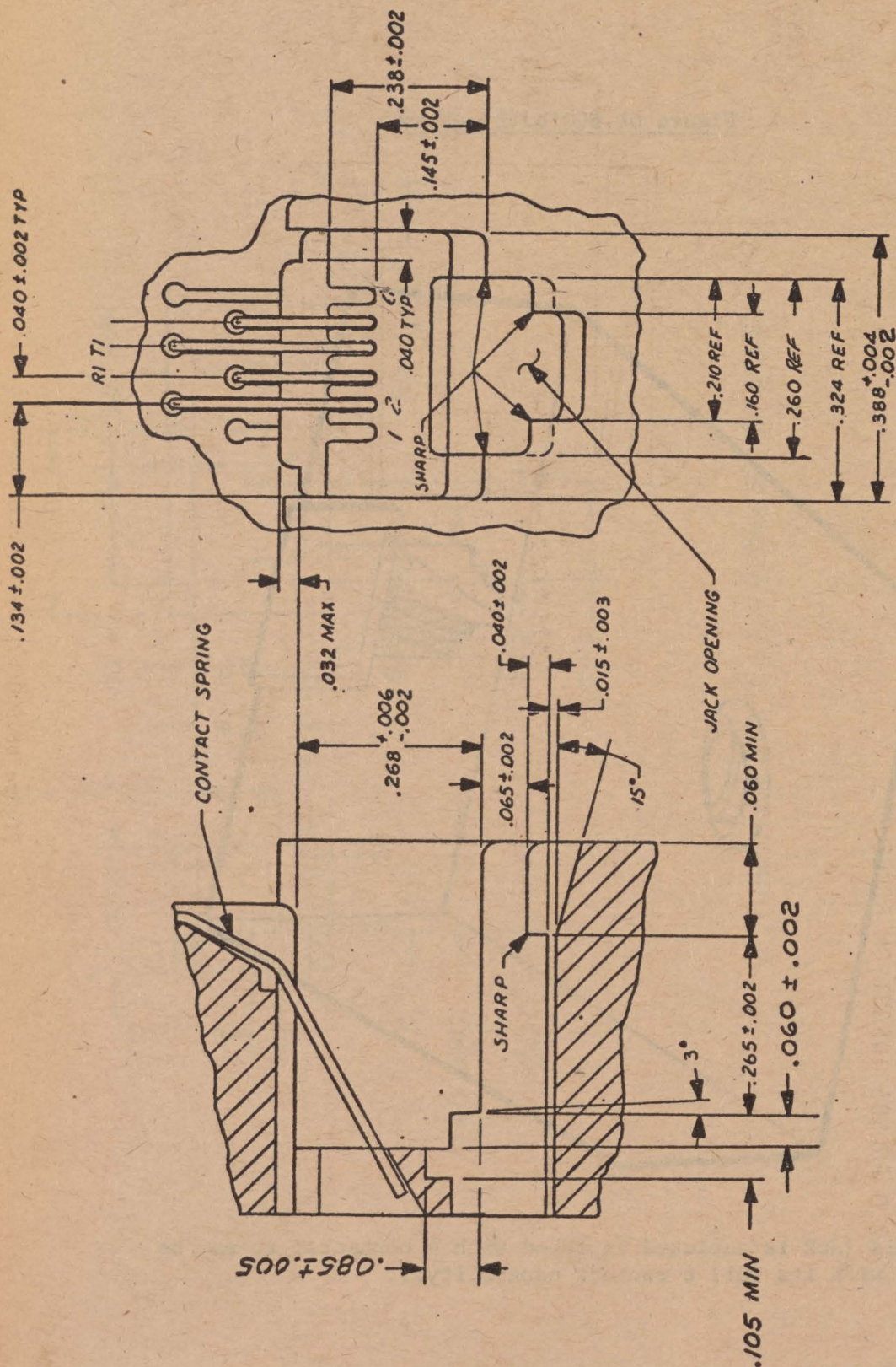
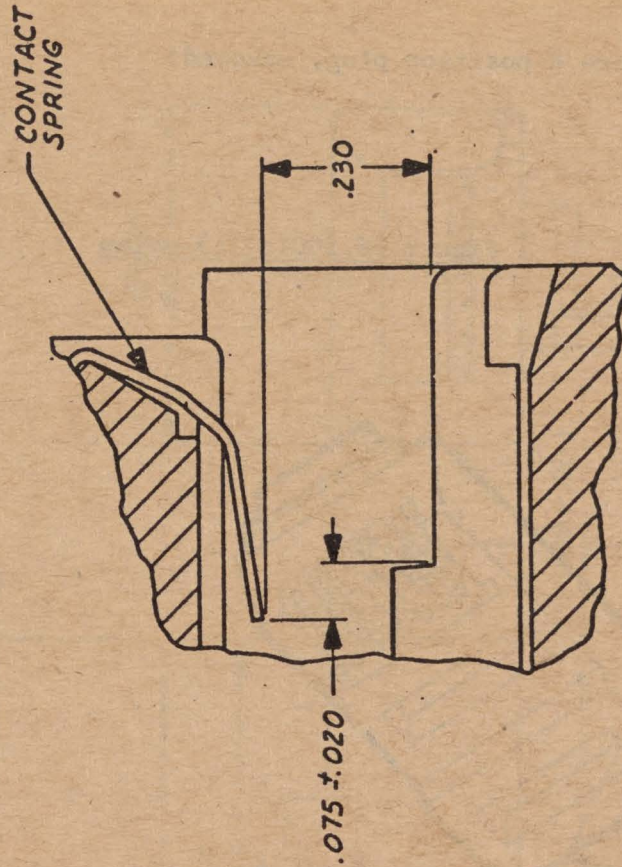


Figure 68.500(b)(2)--6 Position Jack  
Mechanical Specification



NOTES:

1. THE JACK SHALL BE CAPABLE OF ACCEPTING A 0.386 INCH BY 0.266 INCH GAGE WITH 2 POUNDS OR LESS INSERTION FORCE.
2. THE JACK SHALL NOT ACCEPT A 0.392 INCH BY 0.254 INCH GAGE OR A 0.275 INCH BY 0.376 INCH GAGE WITH 1.0 TO 2.0 POUNDS INSERTION FORCE.



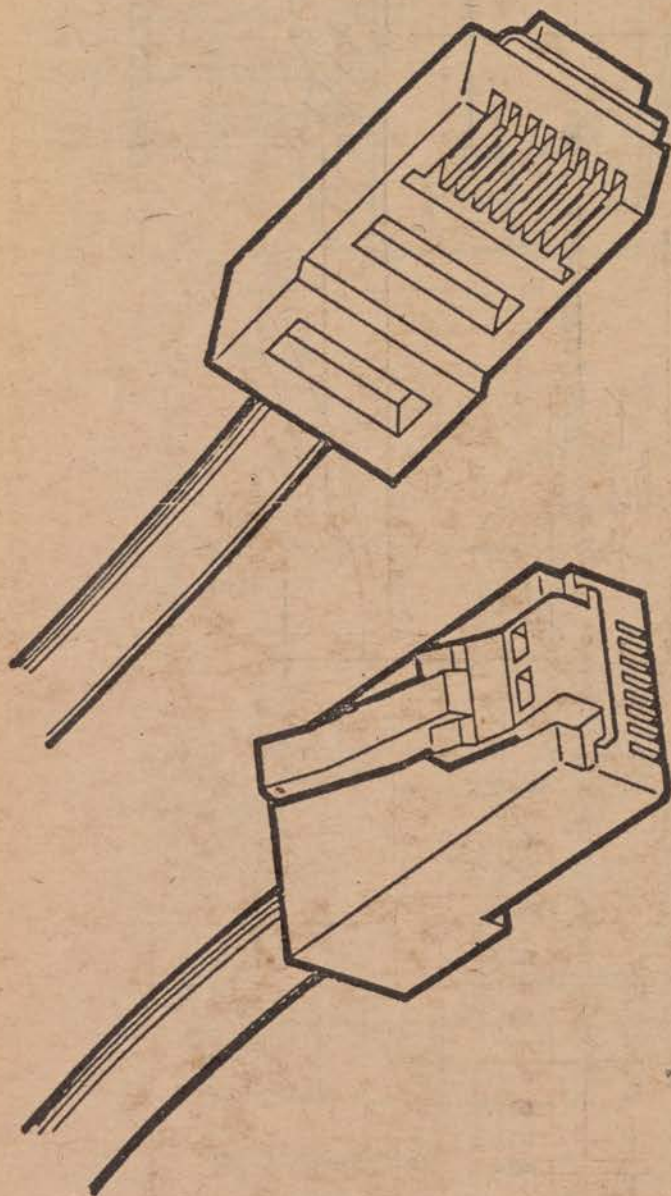
DEFLECTED HEIGHT

Figure 68.500(b)(3)--6 Position Jack  
Contact Specification



(c) Miniature 8-position plug, unkeyed:

Figure 68.500(c)(1)--View





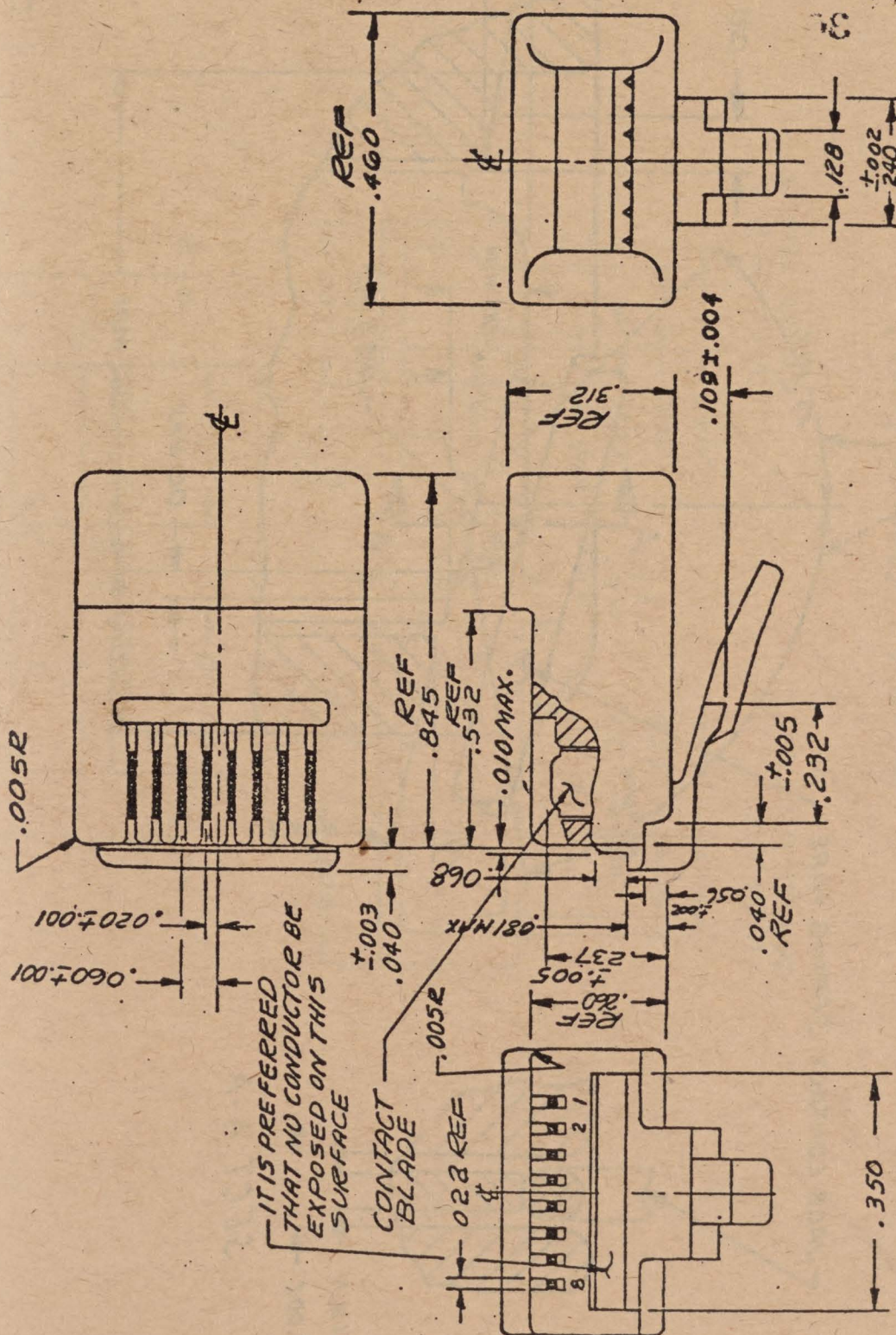


Figure 68.500(c)(2)--8 Position Unkeyed Plug, Mechanical Specification







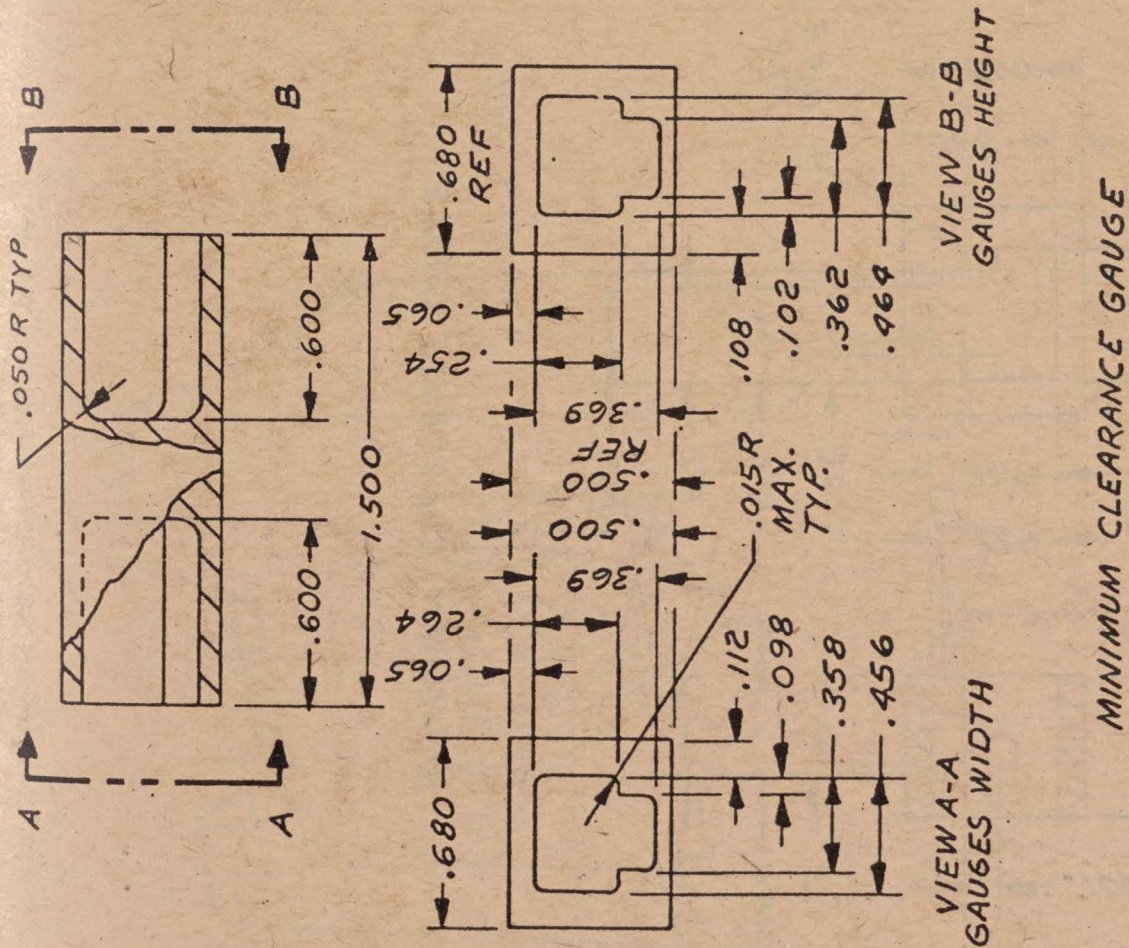
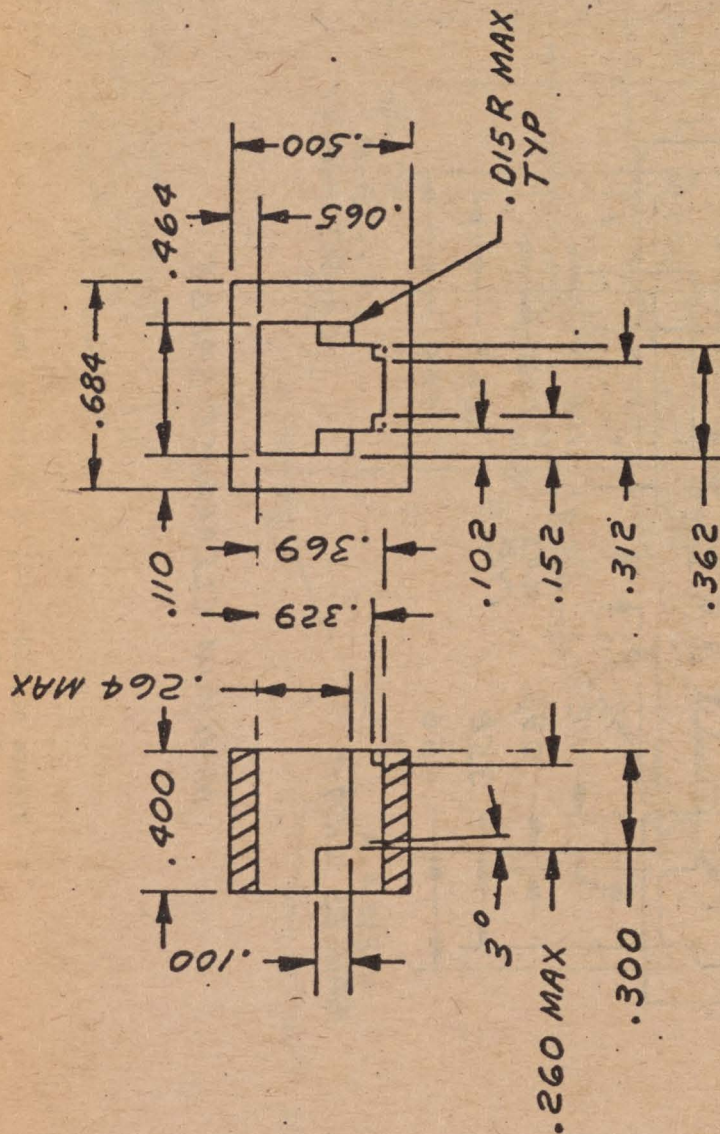


Figure 68.500(c)(4)--8 Position Unkeyed  
Plug, Clearance Specification





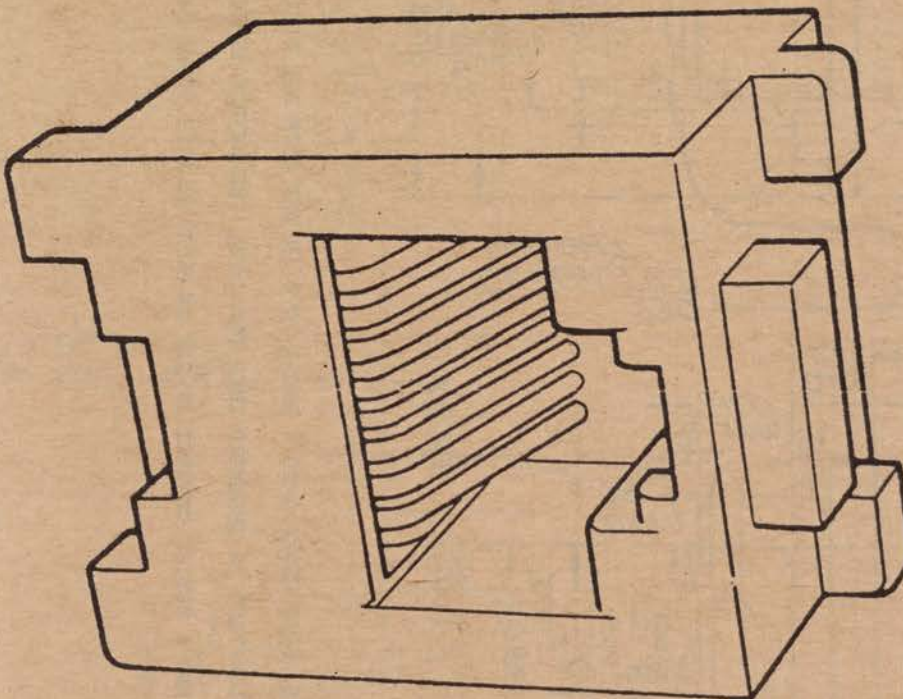
MAXIMUM CLEARANCE GAUGE

Figure 68.500(c)(5)--8 Position Unkeyed  
Plug, Clearance Specification

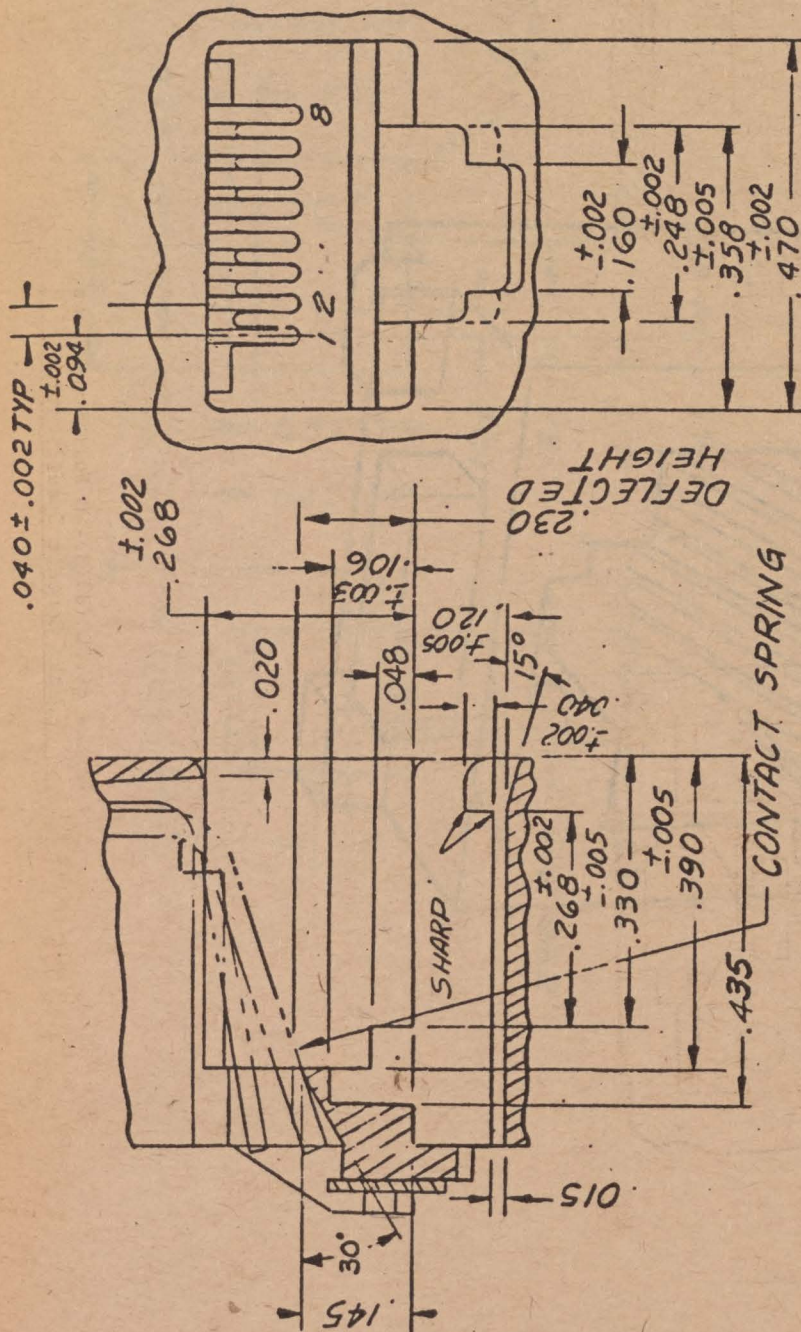


(d) Miniature 8-position series jack:

Figure 68.500(d)(1)--View







IN THE NORMAL MODE, CONDUCTORS 1 TO 4 AND 5 TO 8 IN THE JACK ARE BRIDGED. WHEN A MINIATURE 8 POSITION PLUG IS INSERTED INTO THE JACK, THE BRIDGE IS LIFTED OFF THESE CONDUCTORS AND A SERIES CONNECTION CAN BE MADE IN BOTH SIDES OF THE LINE.

Figure 68.500(d)(2)--8 Position Series  
Jack, Mechanical Specification



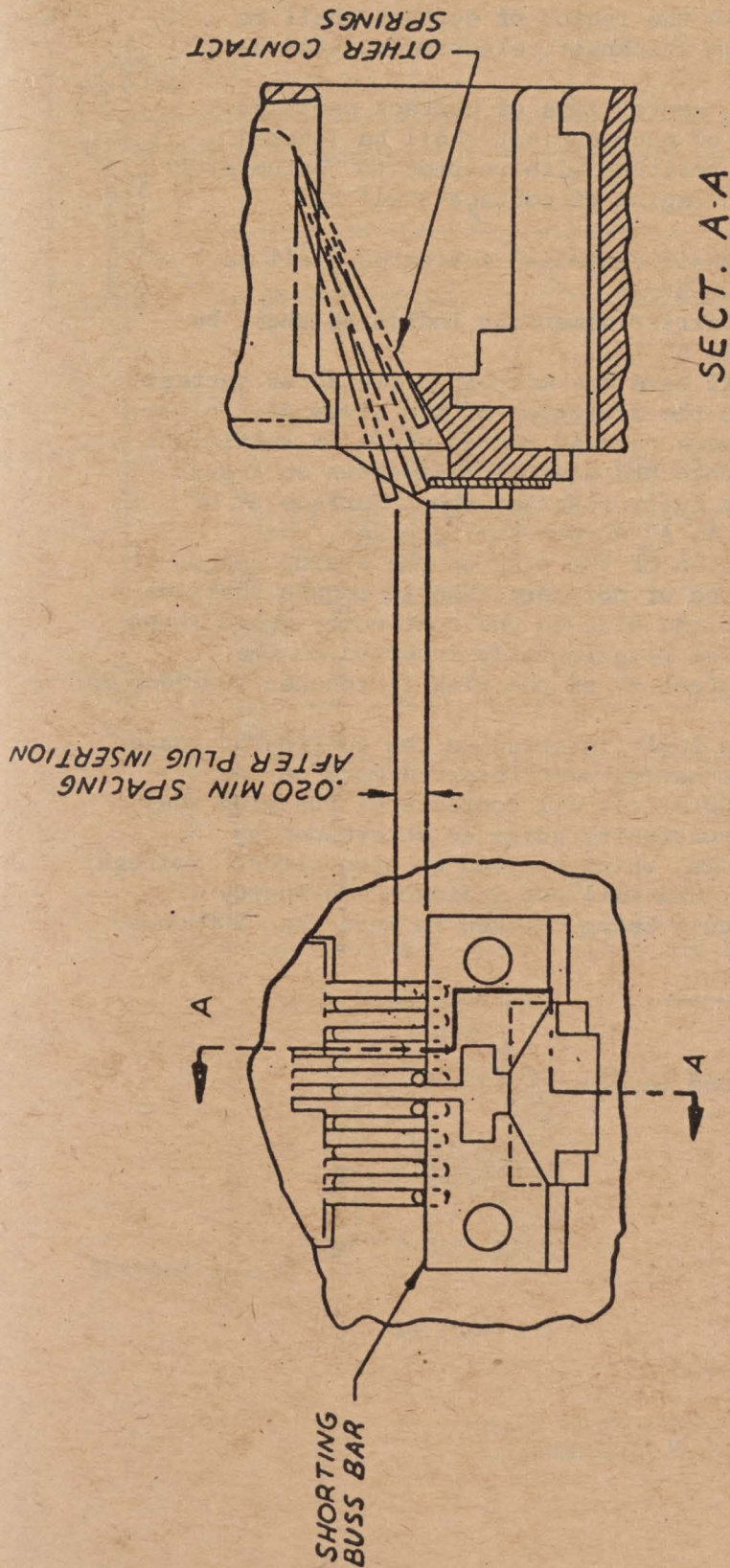


Figure 68.500(d)(3)--8 Position Series  
Jack, Contact Specification



(e) 50-position miniature ribbon plug:

(1) Contact finish in the region of contact shall be gold, 0.000030 inch minimum thickness, electrodeposited hard gold preferred 1/.

(2) "Datum B" is the center line of contact cavities.

(3) The center line of each contact shall be located within 0.009 inch of true position with respect to "Datum B" 1/.

(4) Contact width at region of contact shall be  $0.045 \pm 0.002$  inch 1/.

(5) Center line of shell dimension indicated shall be within 0.005 inch of "Datum B" 1/.

(6) Center line of barrier dimension indicated shall be within 0.005 inch of "Datum B" 1/.

(7) "Surface X" shall have a 4 microinch finish or better; finishing shall be done in the direction of the arrow 2/.

(8) A force of not more than 40 pounds shall be sufficient to fully insert the plug onto the sizing guage shown on Figure 68.500(e)(1). The plug is fully inserted when "Surface A" of the plug 1/ touches "Surface A" of the sizing guage.

(9) After one insertion of the plug on the sizing guage, Figure 68.500(e)(2), a force of not more than 10 pounds shall be sufficient to fully insert the plug on the continuity guage shown in Figure 68.500(e)(3). The plug is fully inserted on the continuity guage when "Surface A" of the plug 1/ touches "Surface A" of the continuity guage.

(10) When the plug is fully inserted on the continuity guage, Figure 68.500(e)(3), after having been inserted once on the sizing guage, Figure 68.500(e)(2), all contacts of the plug shall electrically contact the continuity guage as determined by an electrical continuity test which applies an open circuit voltage of not more than 10 volts, and will not indicate continuity if the resistance of the circuit being checked is more than 200 ohms.

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1/ Figure 68.500(e)(1).

2/ Figures 68.500(e)(2) and (e)(3).



APPENDIX A-19

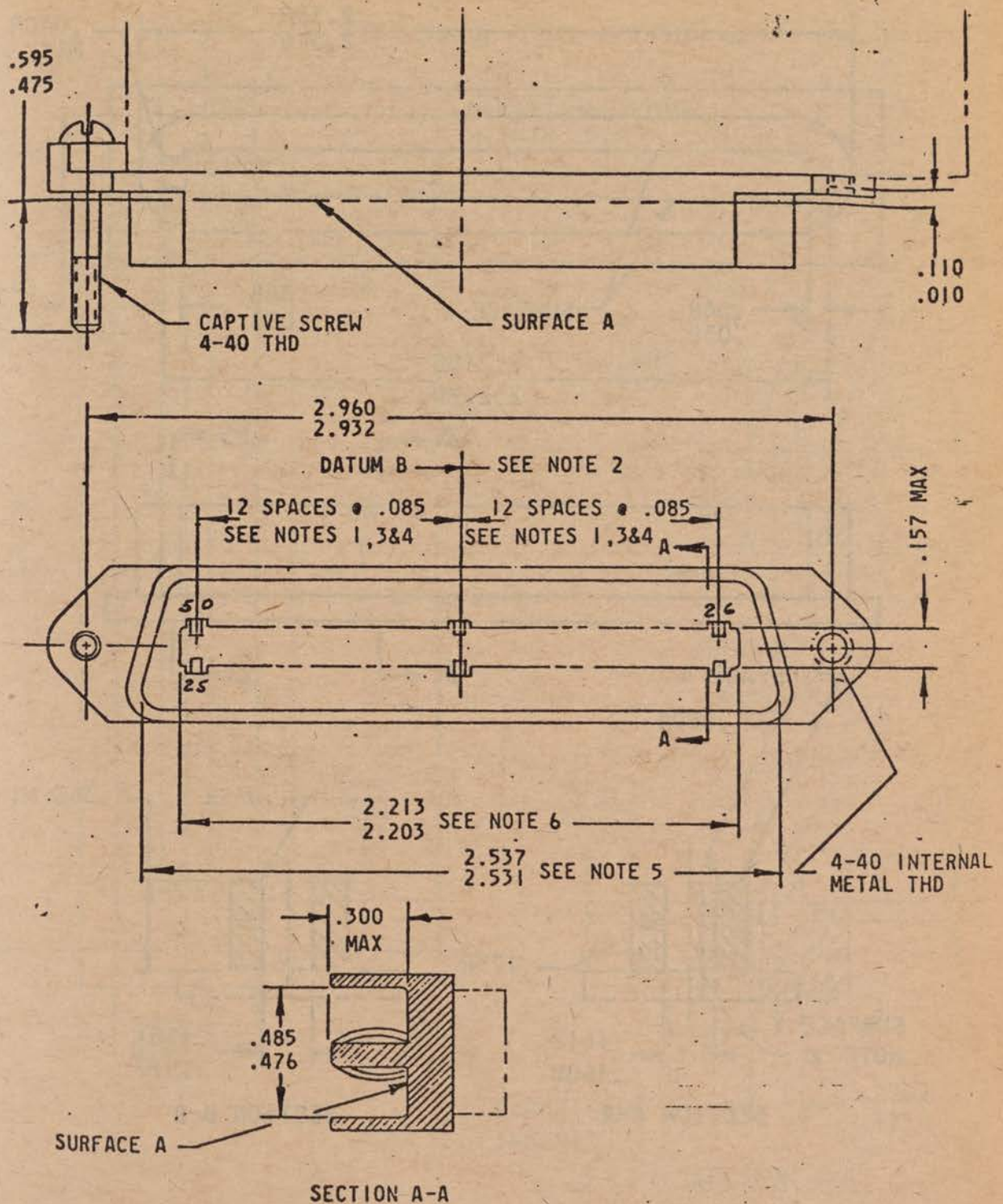


Figure 68.500(e)(1)--50 Position  
Miniature Ribbon Plug



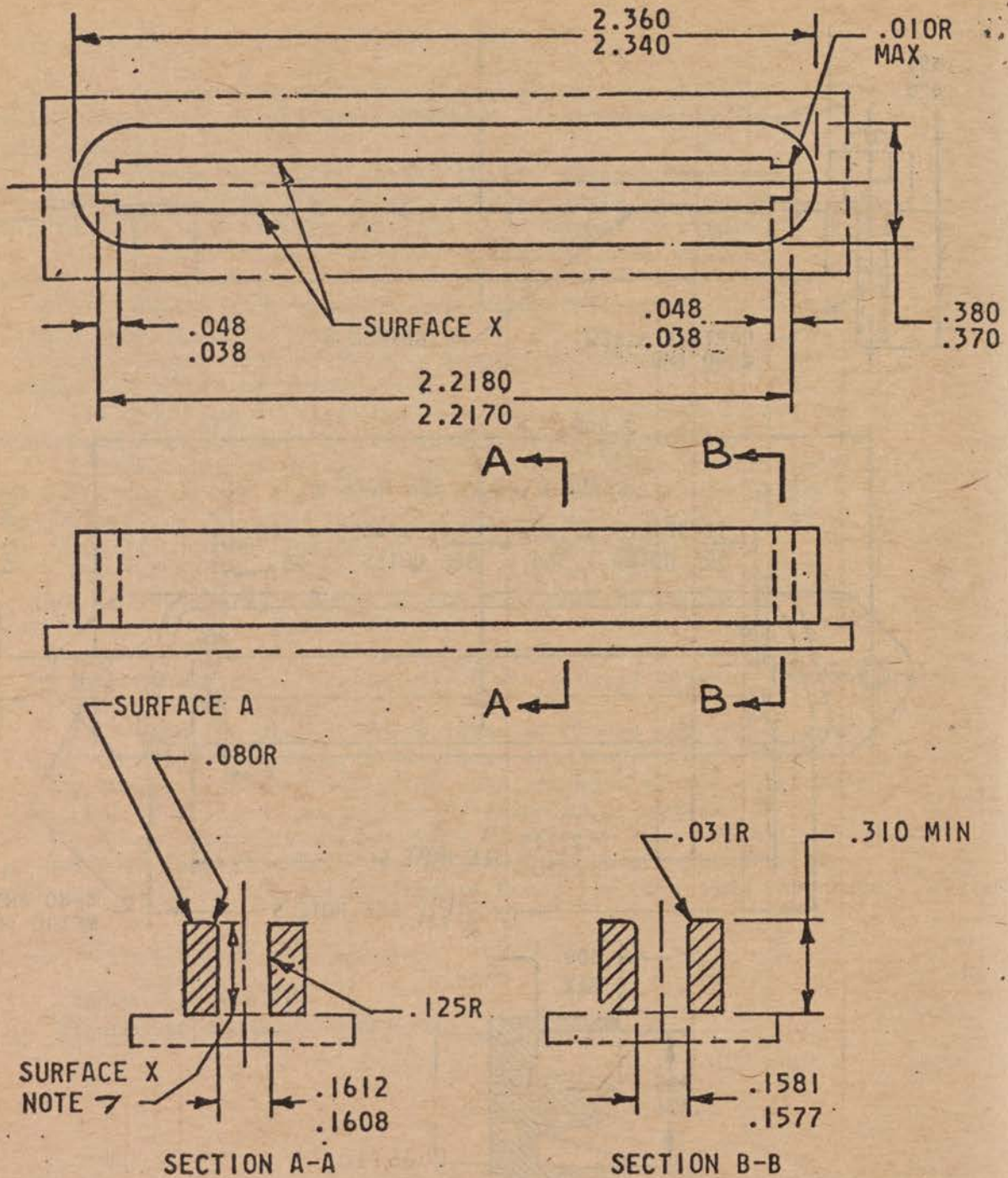


Figure 68.500(e)(2)--50 Position  
Miniature Ribbon Plug  
Sizing Gauge



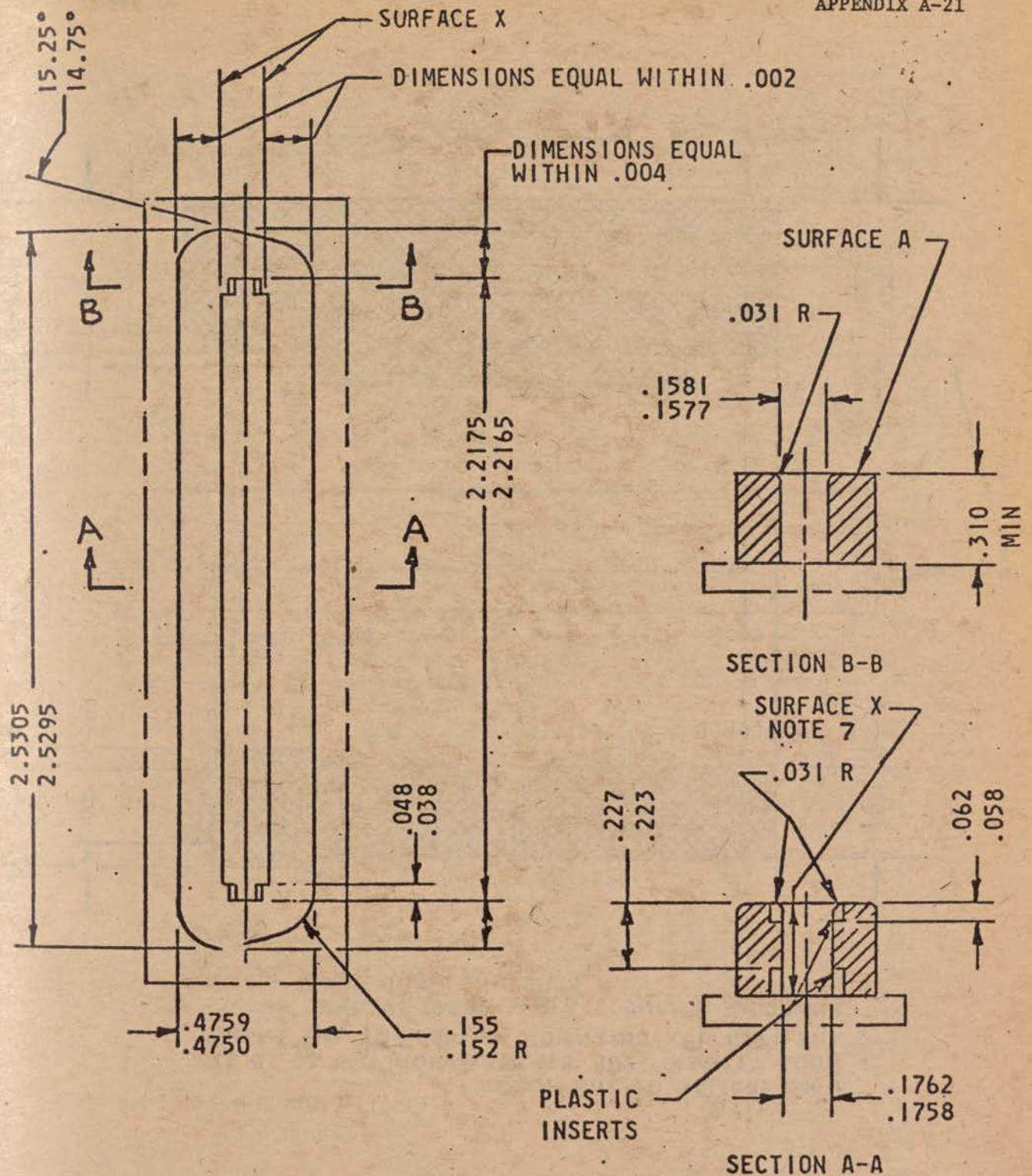


Figure 68.500(e)(3)--50 Position  
Miniature Ribbon Plug  
Continuity Gauge







APPENDIX A-23

(f) 50-position miniature ribbon jack:

- (1) Contact finish in the region of contact shall be gold, 0.000030 inch minimum thickness, electrodeposited hard gold preferred 1/.
- (2) "Datum B" is the center line of contact cavities.
- (3) The center line of each contact shall be located within 0.009 inch of true position with respect to "Datum B" 1/.
- (4) Contact width at region of contact shall be  $0.045 \pm 0.002$  inch 1/.
- (5) Center line of shell dimension indicated shall be within 0.005 inch of "Datum B" 1/.
- (6) Center line of cavity dimension indicated shall be within 0.005 inch of "Datum B" 1/.
- (7) "Surface X" shall have a 4 microinch finish or better; finishing shall be done in the direction of the arrow 2/.
- (8) A force of not more than 30 pounds shall be sufficient to fully insert the jack onto the sizing guage shown on Figure 68.500(f)(2). The jack is fully inserted when "Surface A" of the jack 1/ touches "Surface A" of the sizing guage.
- (9) After one insertion of the jack on the sizing guage, Figure 68.500(f)(2), a force of not more than 10 pounds shall be sufficient to fully insert the jack on the continuity guage shown in Figure 68.500(f)(3). The jack is fully inserted on the continuity guage when "Surface A" of the jack 1/ touches "Surface A" of the continuity guage.
- (10) When the jack is fully inserted on the continuity guage, Figure 68.500(f)(3), after having been inserted once on the sizing guage, all contacts of the jack shall electrically contact the continuity guage as determined by an electrical continuity test which applies an open circuit voltage of not more than 10 volts, and will not indicate continuity if the resistance of the circuit being checked is more than 200 ohms.

---

1/ Figure 68.500(f)(1).

2/ Figures 68.500(f)(2) and (f)(3).



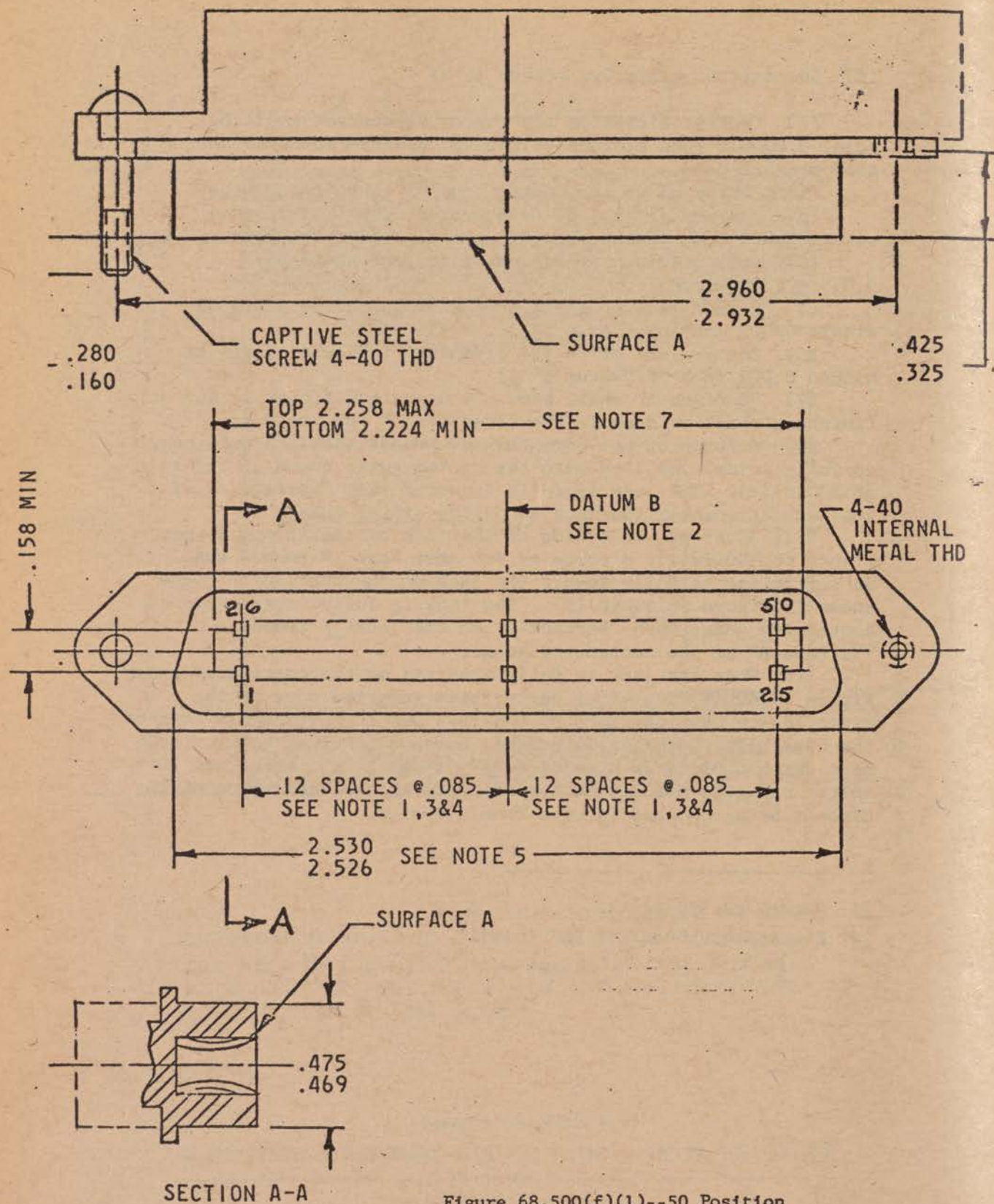


Figure 68.500(f)(1)--50 Position  
Miniature Ribbon Jack



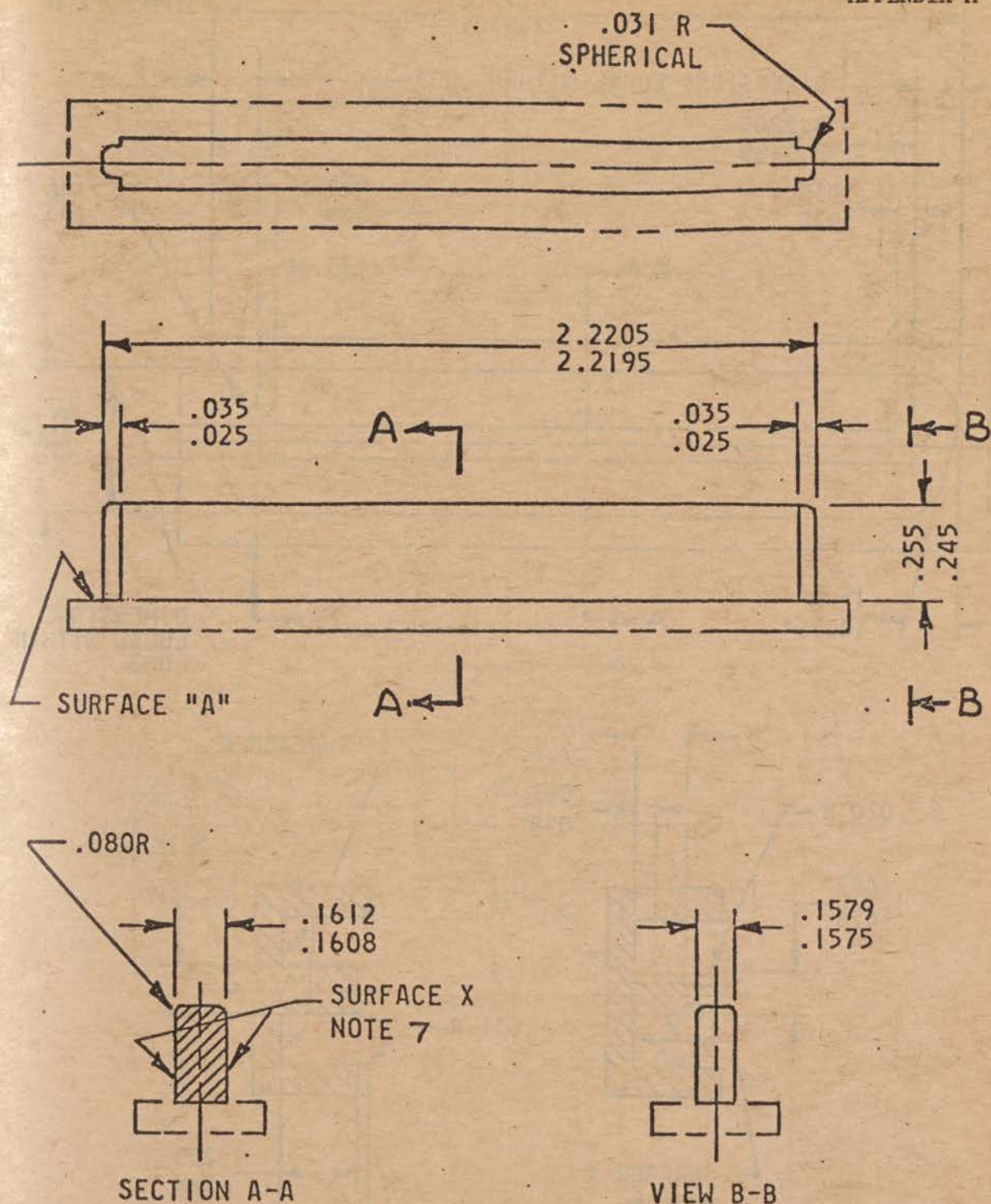
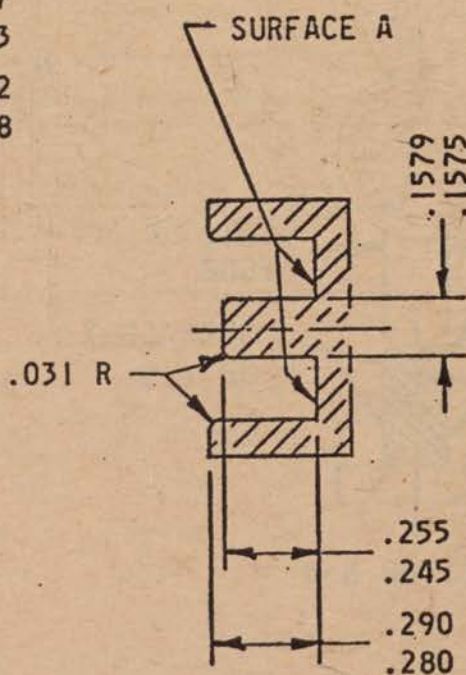
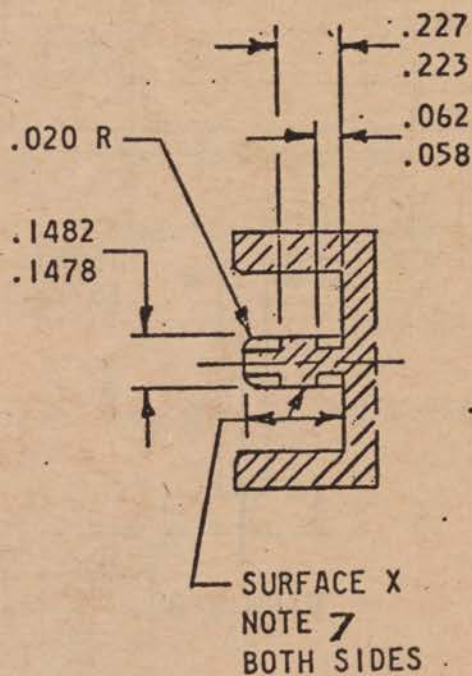
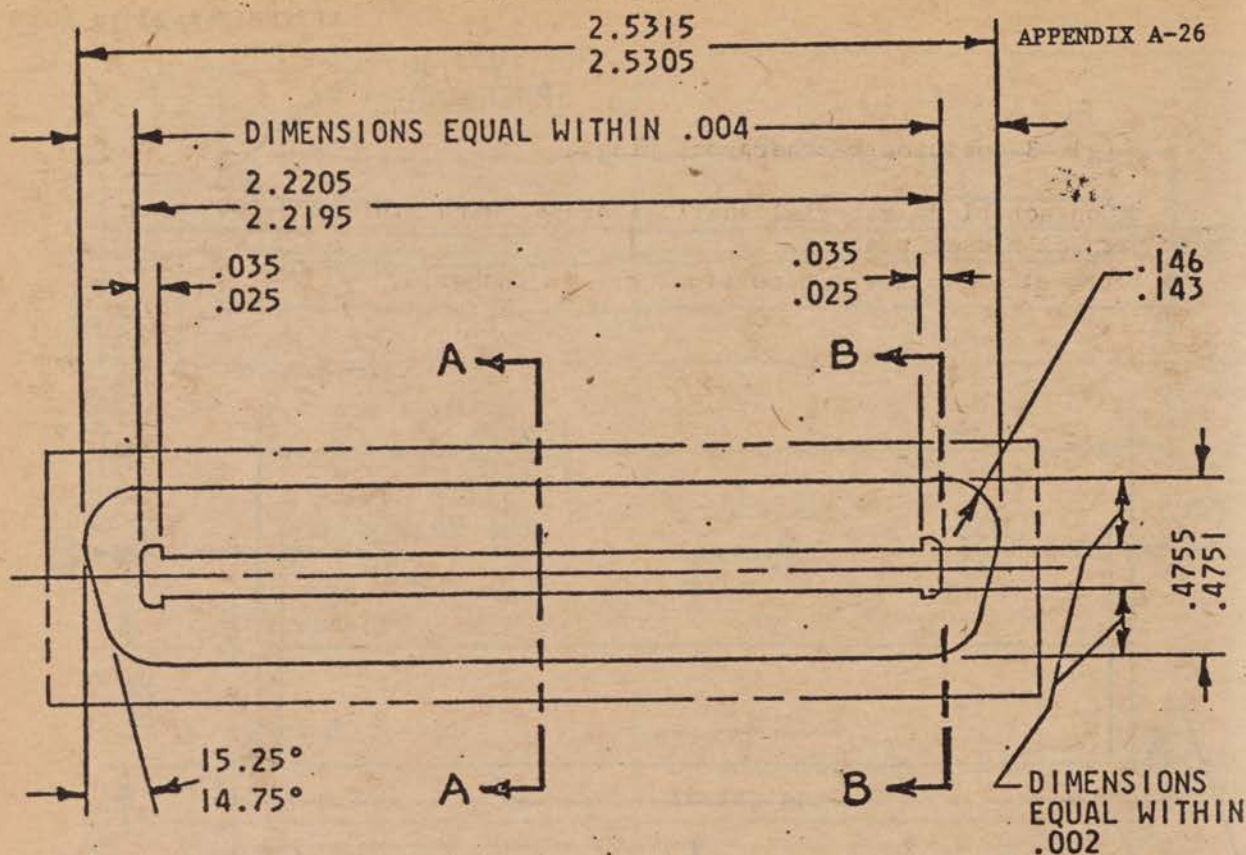


Figure 68.500(f)(2)--50 Position  
Miniature Ribbon Jack  
Sizing Gauge





SECTION A-A

SECTION B-B

Figure 68.500(f)(3)--50 Position  
Miniature Ribbon Jack  
Continuity Gauge



(g) 3-position weatherproof plug:

Contact blade material shall be brass, with minimum 0.0003 inch thick nickel plating.

(Note: All linear dimensions are in inches.)

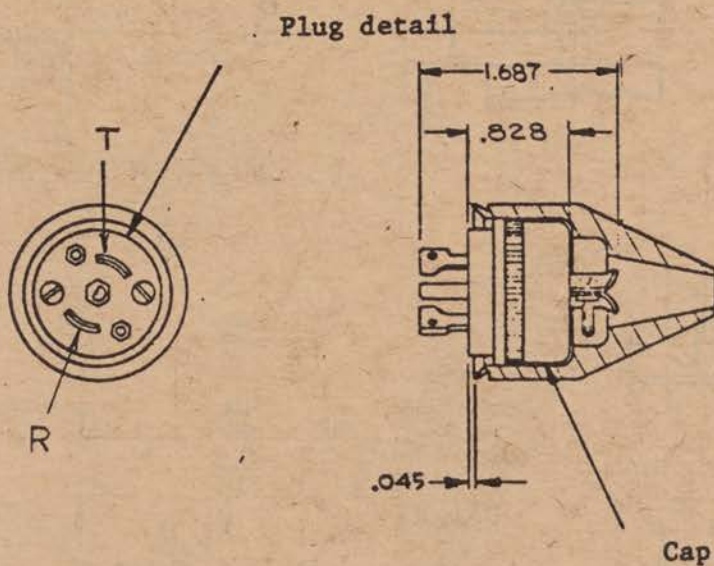


Figure 68.500(g)(1)--3 Position Plug  
Plug Assembly







(h) 3-position weatherproof jack:

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Contact blade material shall be brass, with minimum 0.0003 inch thick nickel plating.

(Note: All linear dimensions are in inches.)

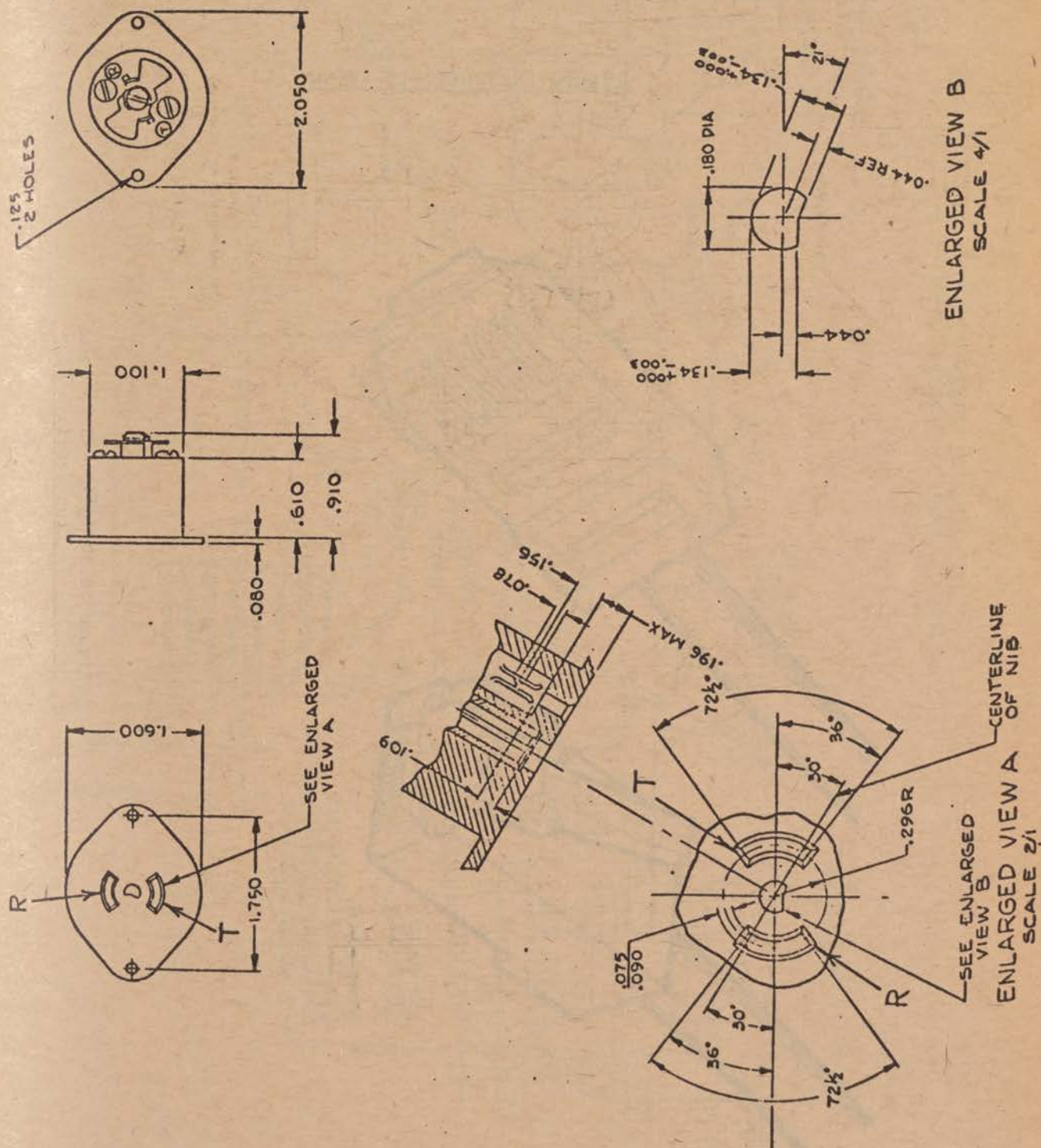
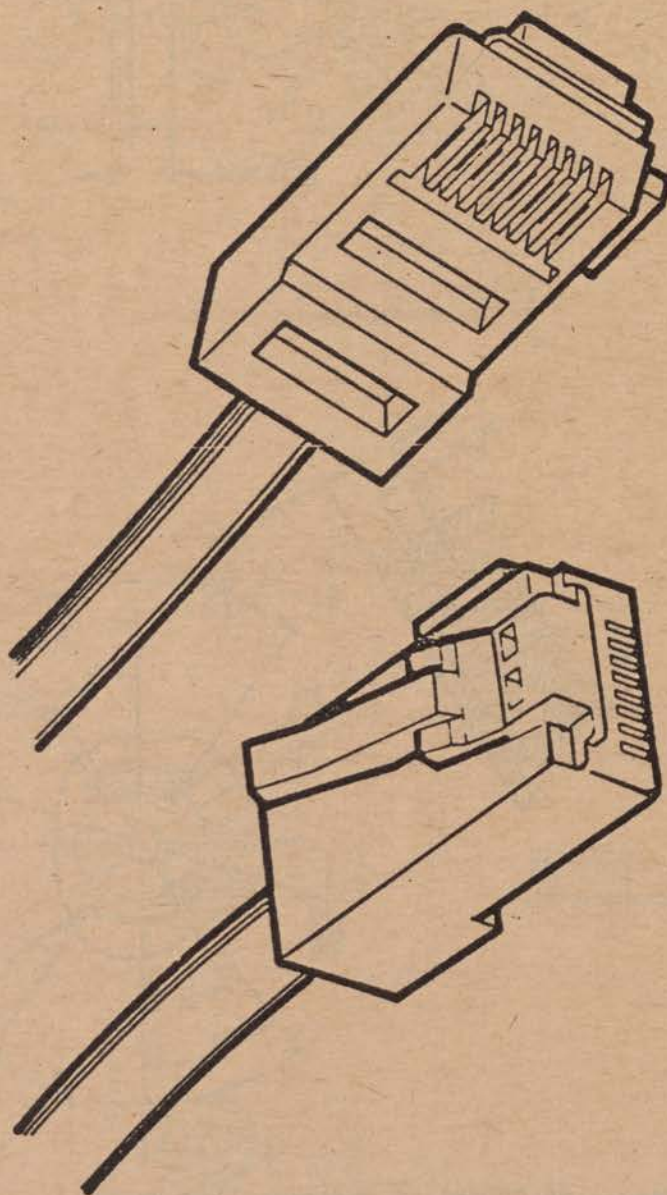


Figure 68.500(h)--3 Position Plug Detail

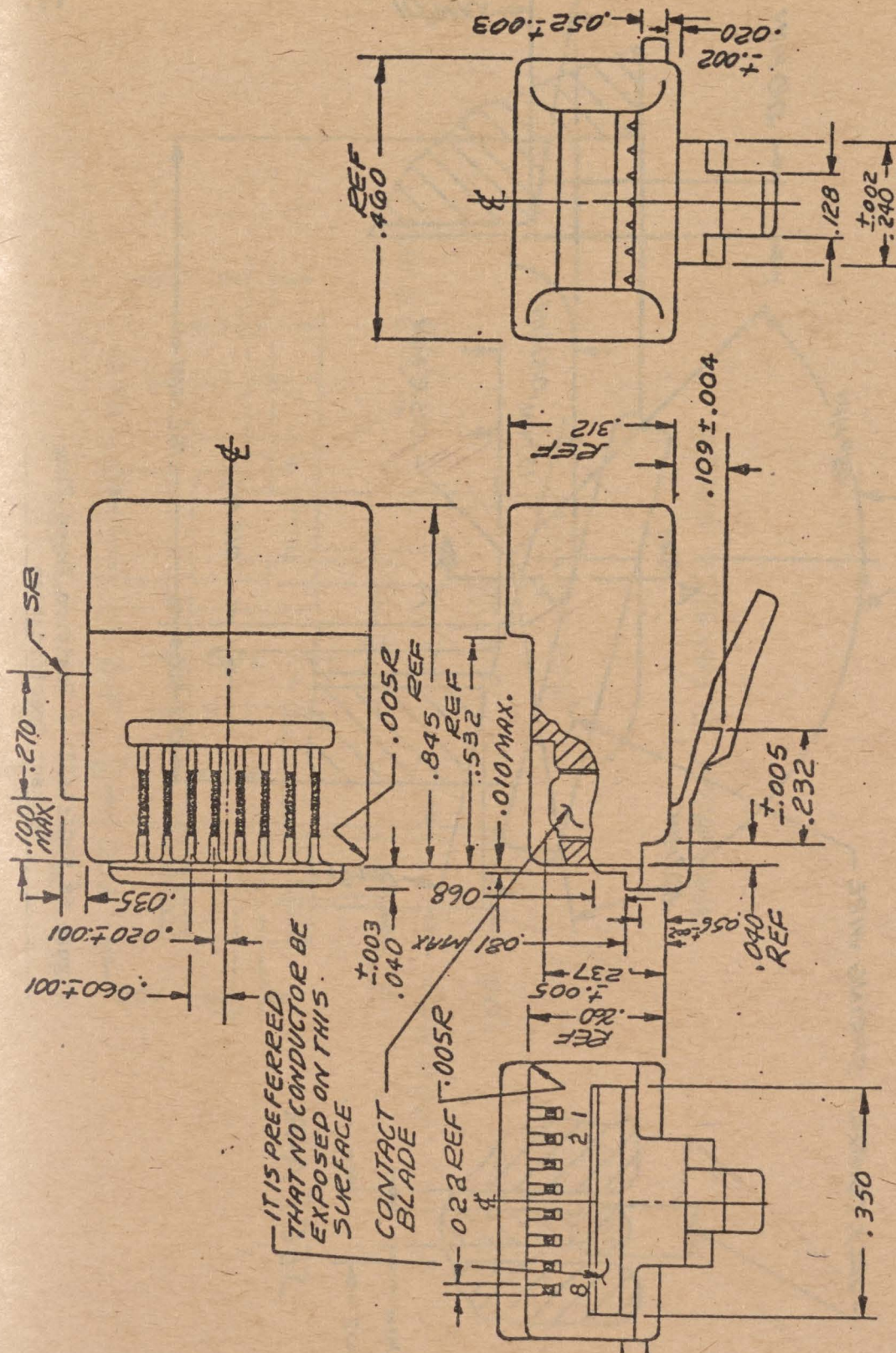


(i) Miniature 8-position keyed plug:

Figure 68.500(i)(1)--View







**Figure 68.500(1)(2)--8 Position Keyed Plug, Mechanical Specification**



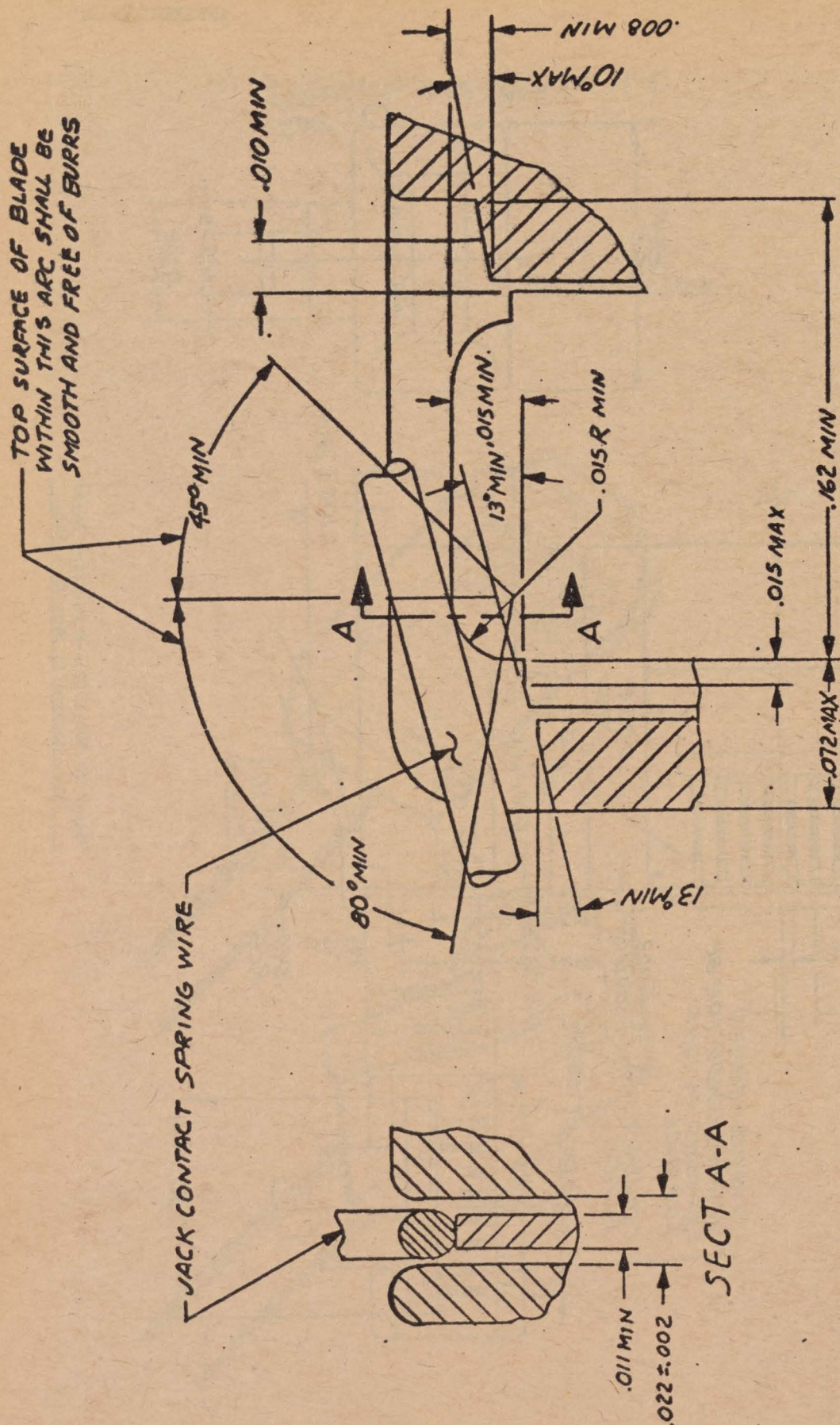
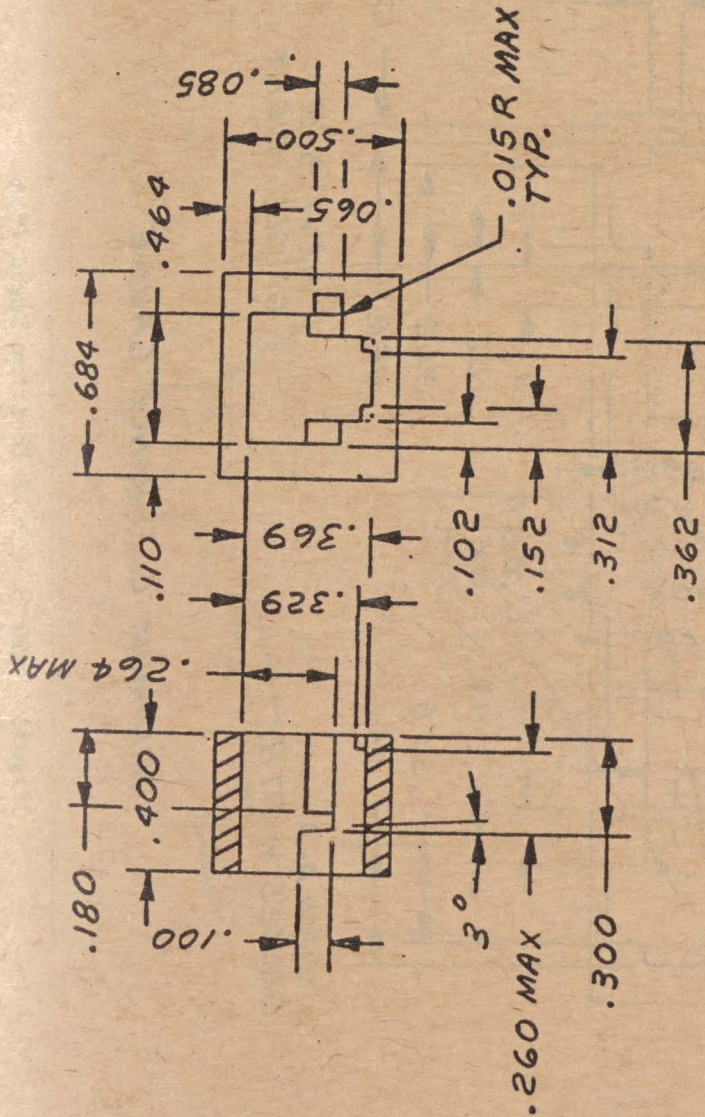


Figure 68.500(1)(3)--8 Position Keyed Plug  
Contact Specification

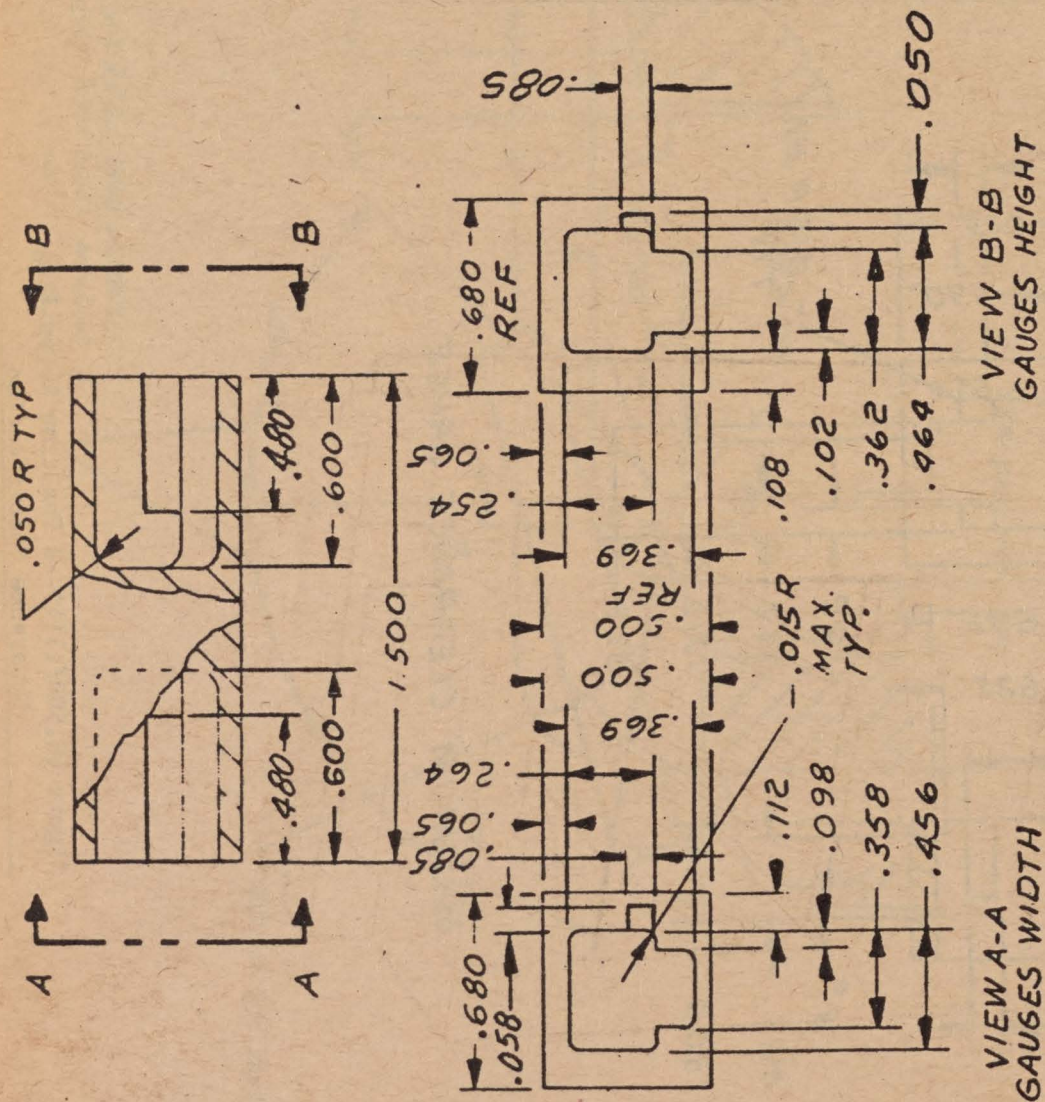




MAXIMUM CLEARANCE GAUGE

Figure 68.500(1)(4)--8 Position Keyed Plug  
Clearance Specification





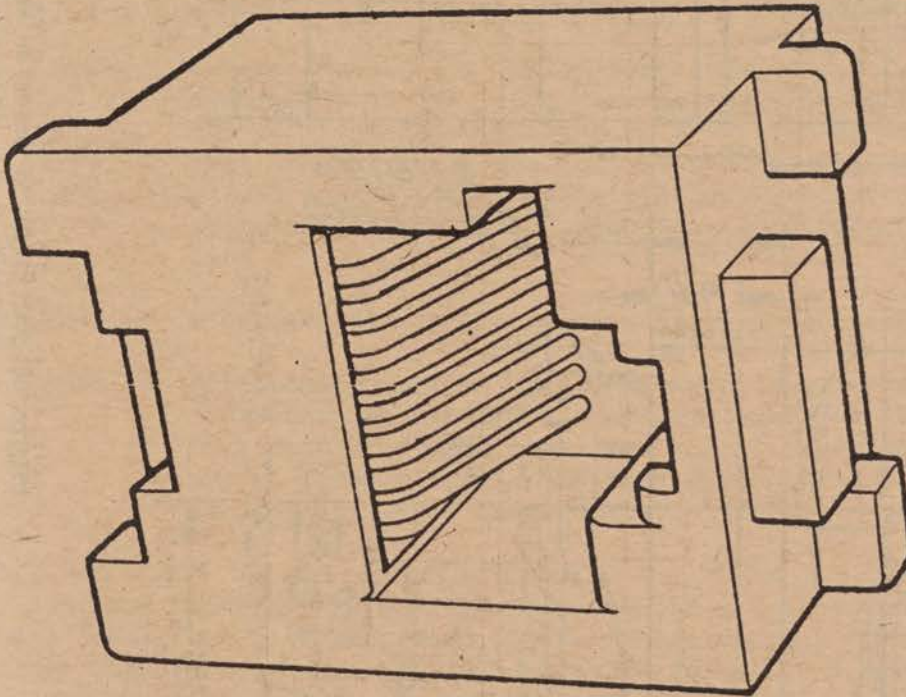
### MINIMUM CLEARANCE GAUGE

Figure 68.500(1)(5)--8 Position Keyed Plug  
Clearance Specification



(j) Miniature 8-position keyed jack:

Figure 68.500(j)(1)--View









Section 68.502 Configurations.

This Section describes connection configurations which telephone subscribers may request their local telephone company to provide, in accordance with Section 68.104 of these Rules. In the absence of a request for a specific jack configuration, the telephone company shall install the standard jack depicted in Section 68.502(a)(1). The listed configurations are for connections to be made by the telephone company to the standard jacks specified in this Subpart. Plugs on registered terminal equipment and registered protective circuitry shall be wired so as to be compatible with the jack connections specified herein. The following nomenclature is used in this Section:

- T/R - Connections to the "tip" and "ring" wires of a telephone communications line, trunk, channel or facility.
- A/A1 - Connections to the "hold" functions of key telephone systems which use such connections. In such systems, the "A" lead corresponding to a particular telephone line is shorted to the "A1" lead when that line is placed in the "off-hook" state to permit proper operation of the "hold" functions associated with that line.
- Bridged - A bridged connection is a parallel connection.
- Data - Data configurations are those which use jacks incorporating components to limit signal power levels of data equipment. Data equipment with a maximum signal power output of -9 dBm may be connected to other than data configurations. See Section 68.308 of these Rules.

A "USOC" (Universal Service Ordering Code) is specified for each configuration. These USOCs are generic telephone company service ordering codes. If a telephone subscriber wishes to have the telephone company install a standard jack other than the one depicted in Section 68.502(a)(1) below, he shall specify the appropriate USOC when requesting the installation.



(a) Bridged configurations other than data; single line connections.(1) Bridged T/R; 6 position jack.

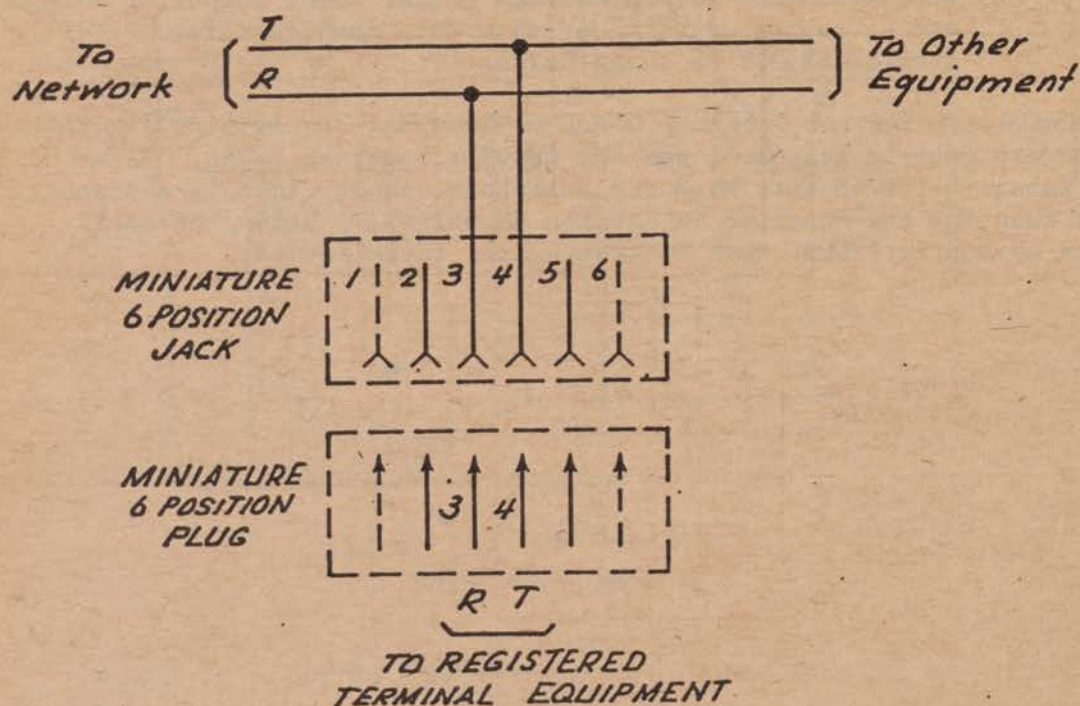
ELECTRICAL NETWORK CONNECTION: Single line bridged tip and ring only - Conductors 1, 2, 5 and 6 are reserved for telephone company use.

UNIVERSAL SERVICE ORDER CODE (USOC): RJ11W for Portable Wall-Mounted equipment - RJ11C all others.

MECHANICAL ARRANGEMENT: Miniature 6 position jack.

TYPICAL USAGE: Single line non-key telephones and ancillary devices.

## WIRING DIAGRAM:





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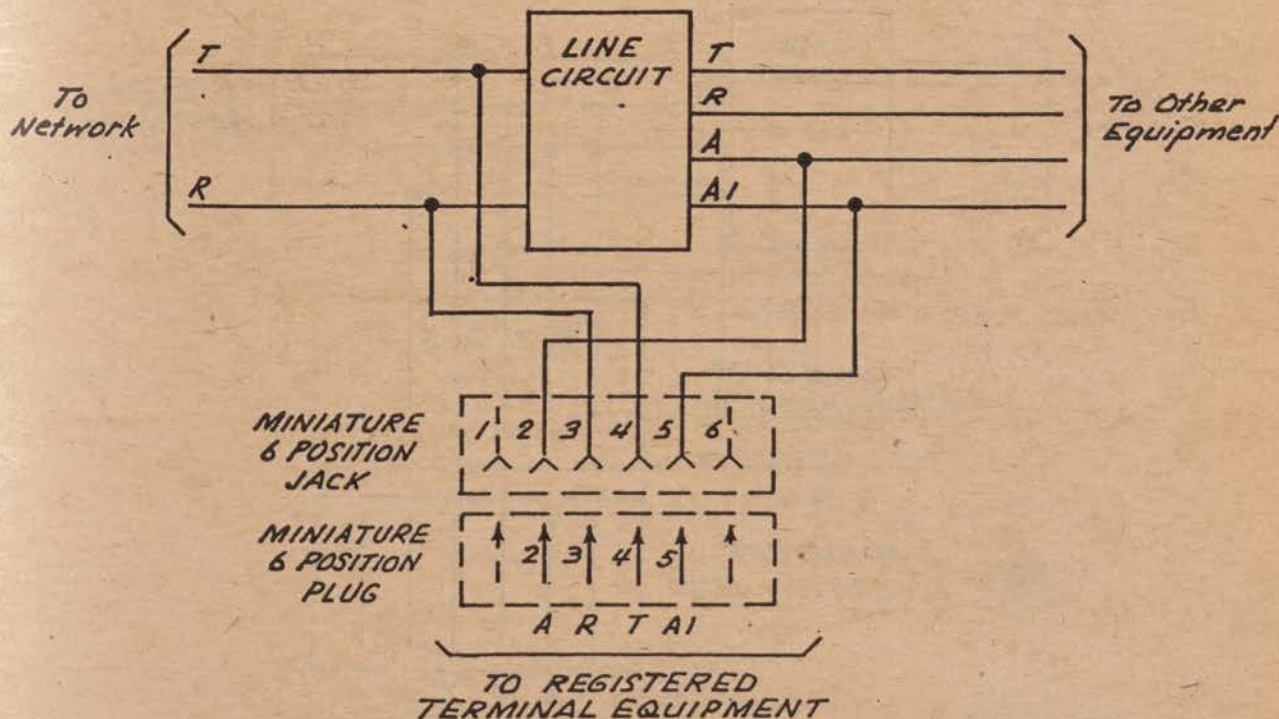
(2) Bridged T/R ahead of the line circuit of a key telephone system with A/AI; 6 position jack.

**ELECTRICAL NETWORK CONNECTION:** Single line bridged tip and ring ahead of the line circuit of a key system, with A and AI leads - Conductors 1 and 6 are reserved for telephone company use.

**UNIVERSAL SERVICE ORDER CODE (USOC):** RJ12W for Portable Wall-Mounted equipment - RJ12C for all others.

**MECHANICAL ARRANGEMENT:** Miniature 6 position jack.

**TYPICAL USAGE:** Single line non-key telephone sets and ancillary devices connected to a key system where registered terminal equipment is not compatible with electrical characteristics of tip and ring behind line circuit.





(3) Bridged T/R behind the line circuit of a key telephone system with A/AI; 6 position jack.

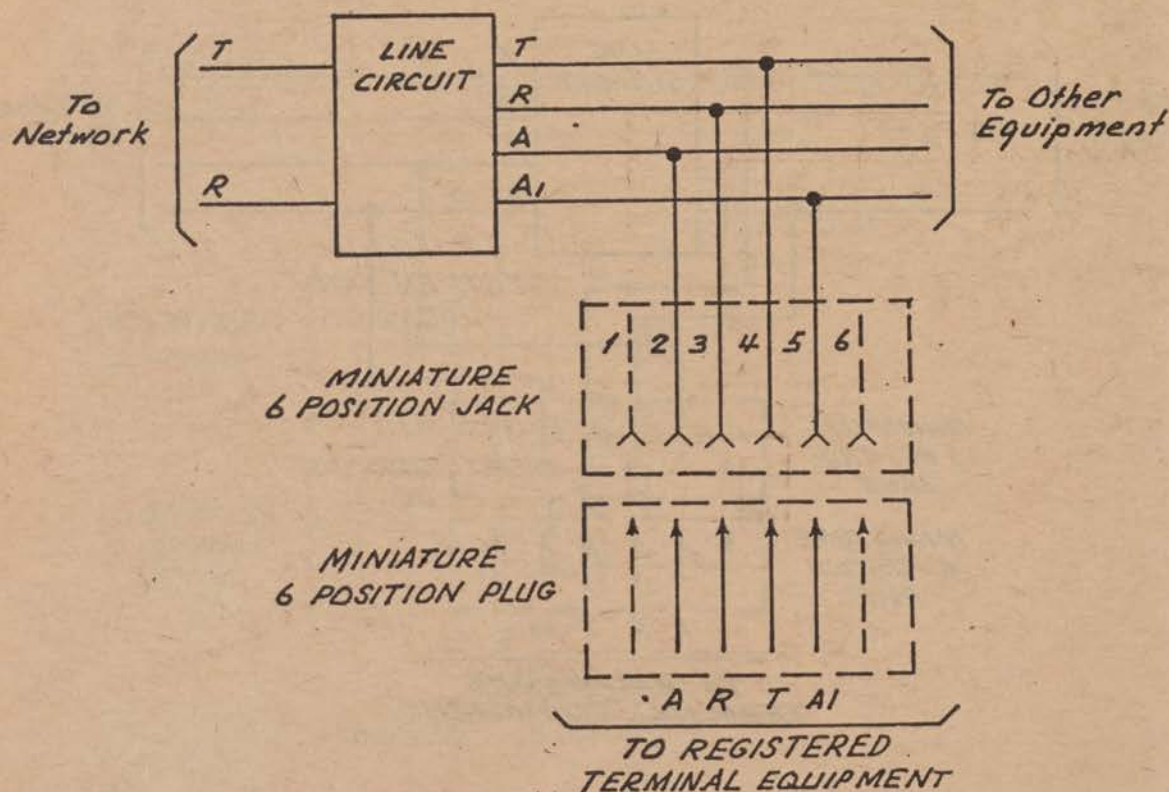
**ELECTRICAL NETWORK CONNECTION:** Single line bridged tip, ring, A and AI leads behind the line circuit of a key system. Conductors 1 and 6 are reserved for telephone company use.

**UNIVERSAL SERVICE ORDER CODE (USOC):** RJ13W for Portable Wall-Mounted equipment - RJ13C for all others.

**MECHANICAL ARRANGEMENT:** Miniature 6 position jack.

**TYPICAL USAGE:** Single line non-key telephone sets and ancillary devices connected to a key system. This arrangement is preferred to arrangement shown in Subsection (a)(2).

**WIRING DIAGRAM:**





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- (4) Bridged T/R; 3 position weatherproof jack.

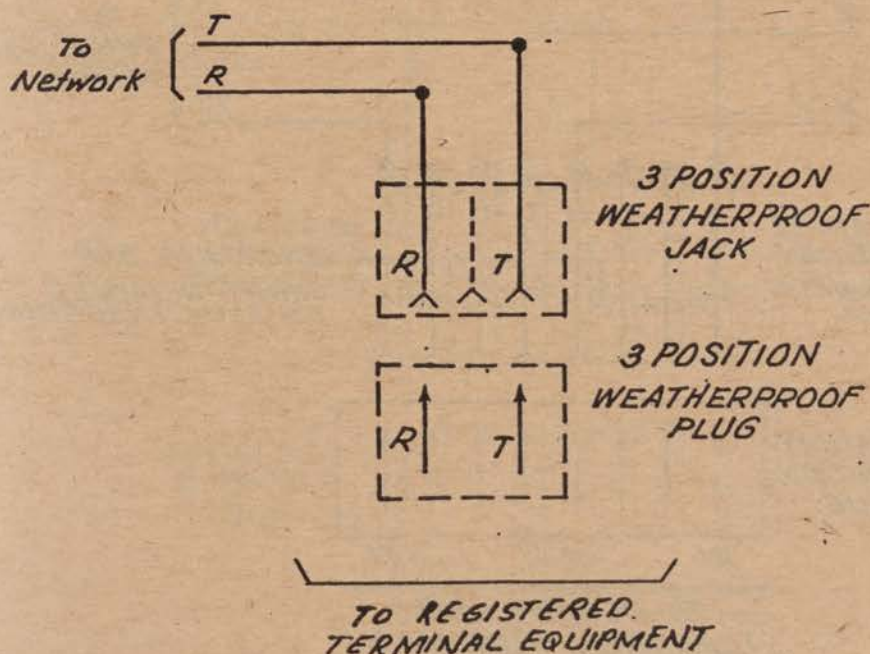
ELECTRICAL NETWORK CONNECTION: Single line bridged tip and ring.

UNIVERSAL SERVICE ORDER CODE: RJ15C

MECHANICAL ARRANGEMENT: 3 position weatherproof jack

TYPICAL USAGE: Providing telephone service to boats in marinas.

WIRING DIAGRAM:





(b) Series configurations.

- (1) Series T/R ahead of all station equipment;  
8 position series jack.

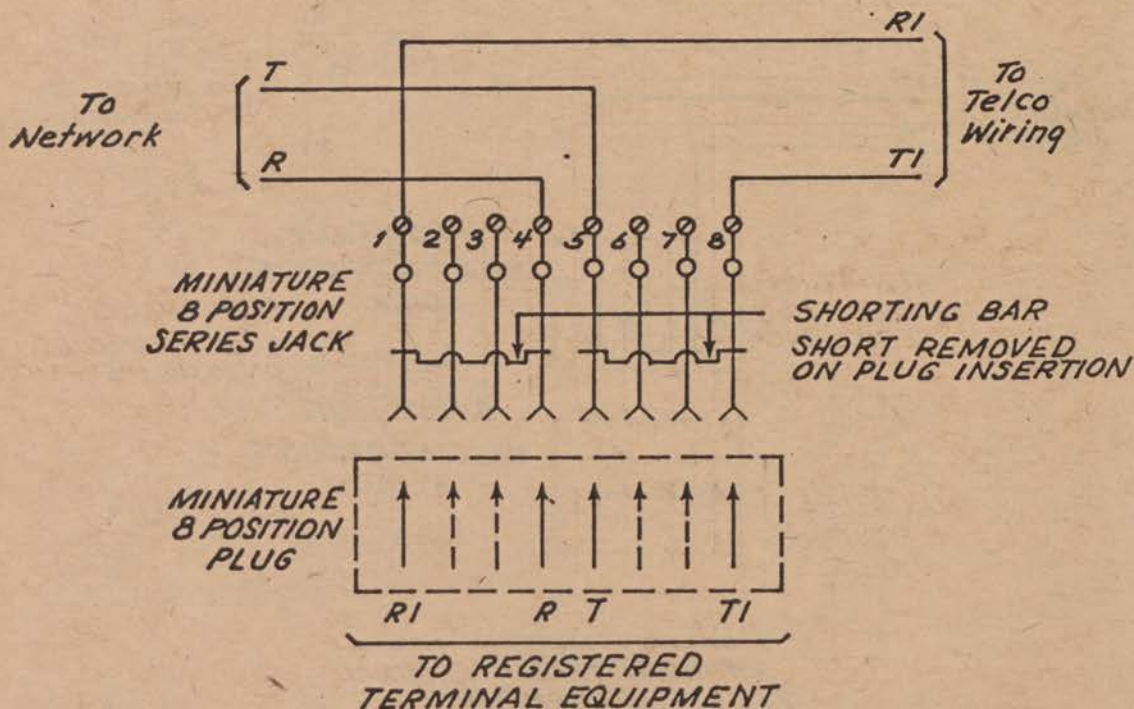
ELECTRICAL NETWORK CONNECTION: Series tip and ring ahead of all station equipment. Conductors 2, 3, 6 and 7 are reserved for telephone company use.

UNIVERSAL SERVICE ORDER CODE (USOC): RJ31X

MECHANICAL ARRANGEMENT: Miniature 8 position series jack

TYPICAL USAGE: Alarm reporting devices.

WIRING DIAGRAM:





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(2) Series T/R at station; 8 position series jack.

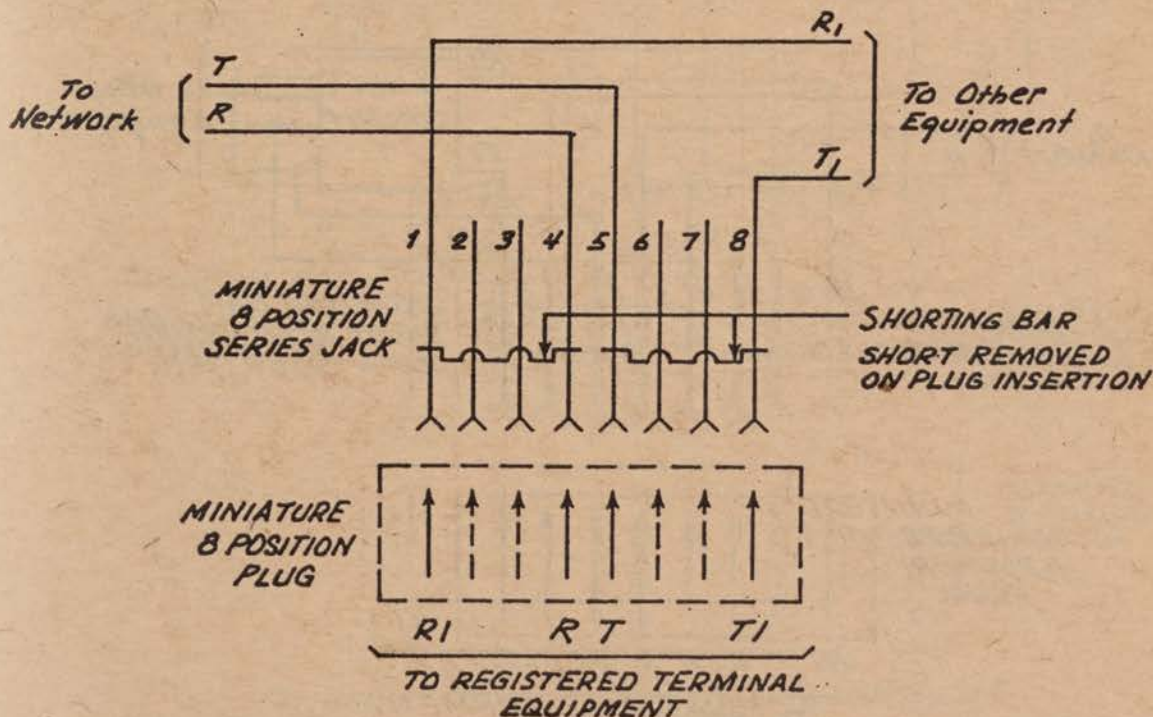
**ELECTRICAL NETWORK CONNECTION:** Series tip and ring. Conductors 2, 3, 6 and 7 are reserved for telephone company use.

**UNIVERSAL SERVICE ORDER CODE (USOC):** RJ32X

**MECHANICAL ARRANGEMENT:** Miniature 8 position series jack.

**TYPICAL USAGE:** Series ancillary devices such as automatic dialers. Single line sets with exclusion.

**WIRING DIAGRAM:**





(3) Series T/R ahead of the line circuit of a key telephone system with A/AI; 8 position series jack.

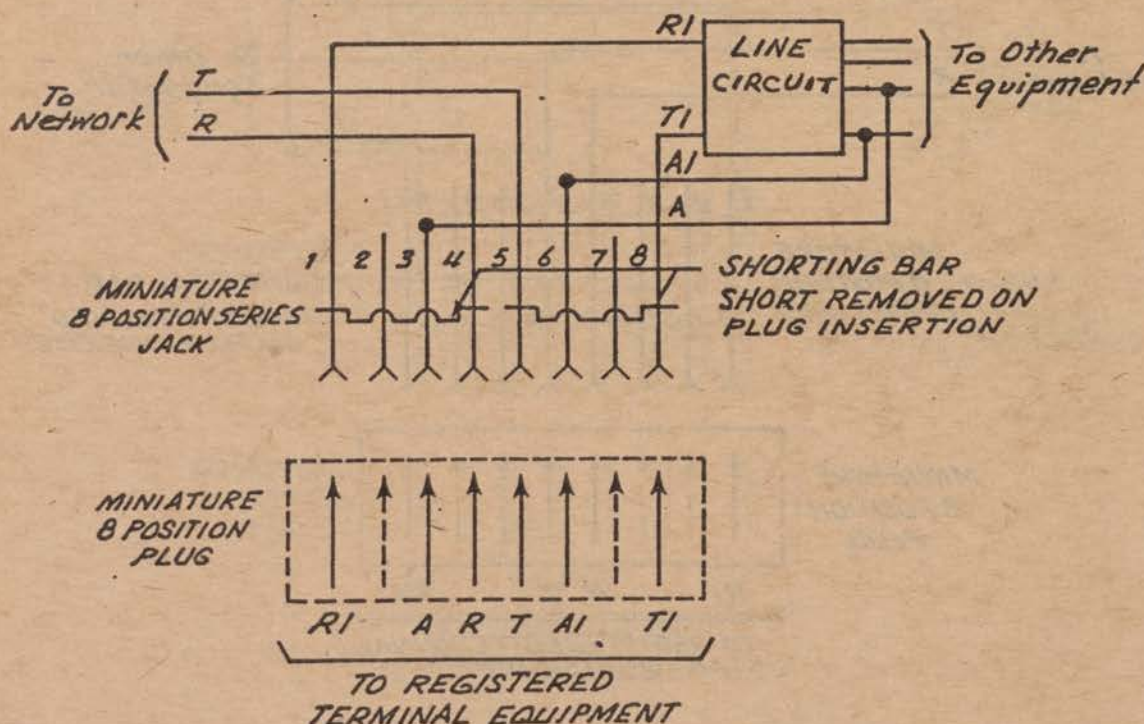
**ELECTRICAL NETWORK CONNECTION:** Series tip and ring ahead of the line circuit of a key system with A and AI leads. Conductors 2 and 7 are reserved for telephone company use.

**UNIVERSAL SERVICE ORDER CODE (USOC):** RJ33X

**MECHANICAL ARRANGEMENT:** Miniature 8 position series jack

**TYPICAL USAGE:** Series ancillary devices connected to a key system where registered terminal equipment is not compatible with electrical characteristics of tip and ring behind line circuit.

**WIRING DIAGRAM:**





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(4) Series T/R behind the line circuit of a key telephone system with A/AI; 8 position series jack.

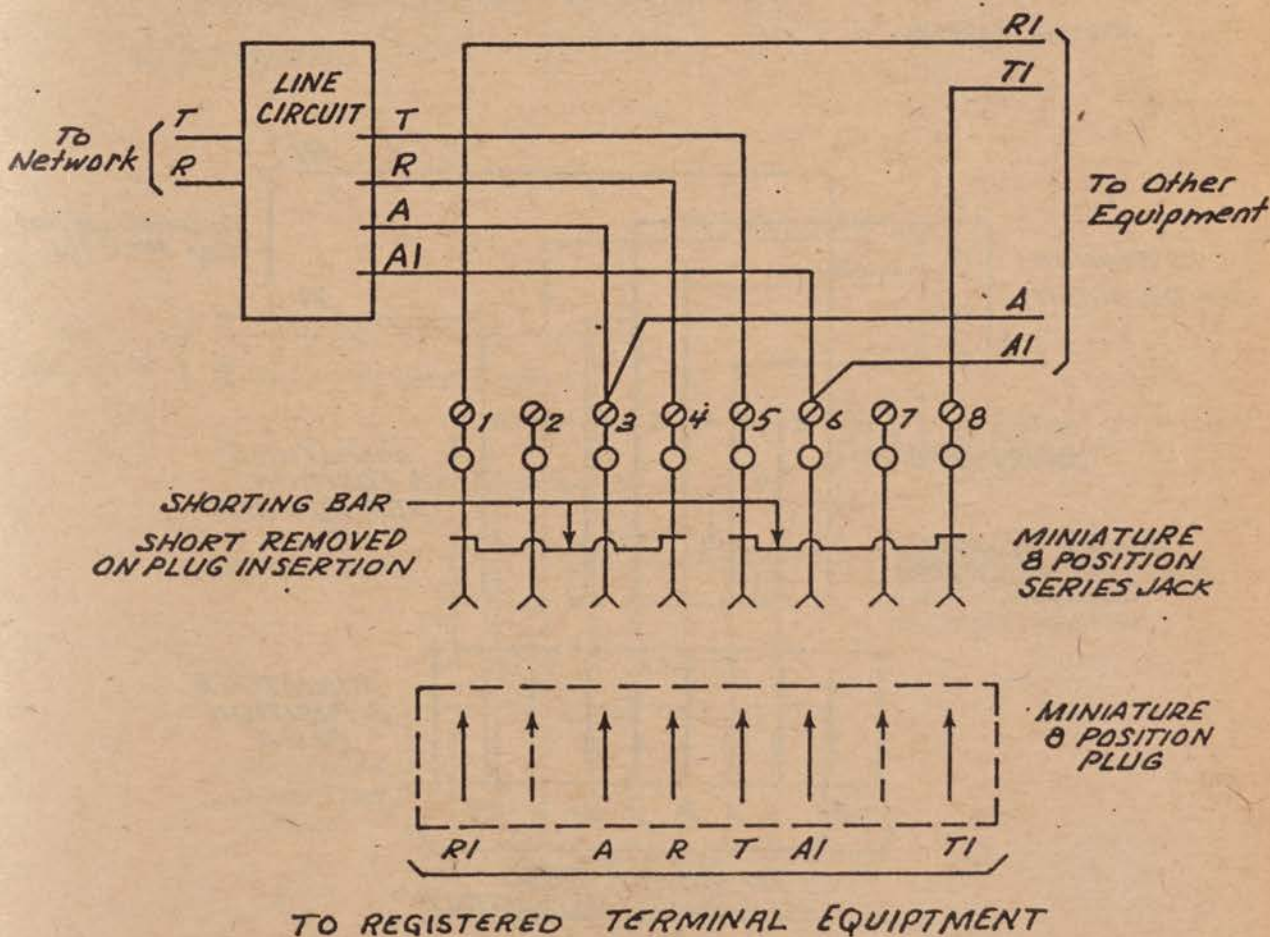
ELECTRICAL NETWORK CONNECTION: Series tip, ring, A and AI leads behind the line circuit of a key system. Conductors 2 and 7 are reserved for telephone company use.

UNIVERSAL SERVICE ORDER CODE (USOC): RJ34X

MECHANICAL ARRANGEMENT: Miniature 8 position series jack

TYPICAL USAGE: A single line set with exclusion or series ancillary device connected to a key system. This arrangement is preferred to arrangement shown in Subsection (b)(3).

WIRING DIAGRAM:





(5) Series T/R at key telephone station, behind station pickup key with A/AI; 8 position series jack.

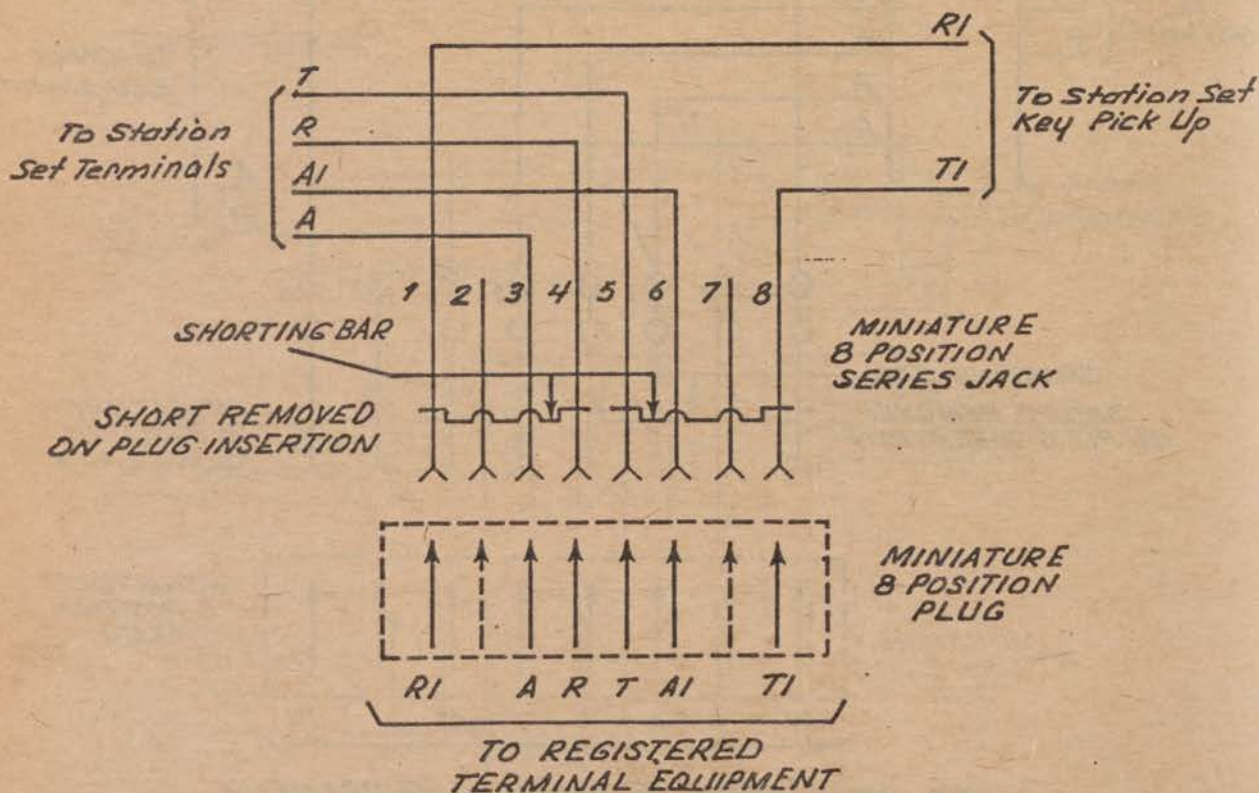
**ELECTRICAL NETWORK CONNECTION:** Series connection to the multiplied tip, ring, A and AI leads behind the pick-up keys of a key telephone.

**UNIVERSAL SERVICE ORDER CORD (USOC):** RJ35X

**MECHANICAL ARRANGEMENT:** Miniature 8 position series jack.

**TYPICAL USAGE:** Series ancillary devices connected to key telephone set.

**WIRING DIAGRAM:**





(6) Series T/R with mode indication signal; 8 position series jack.

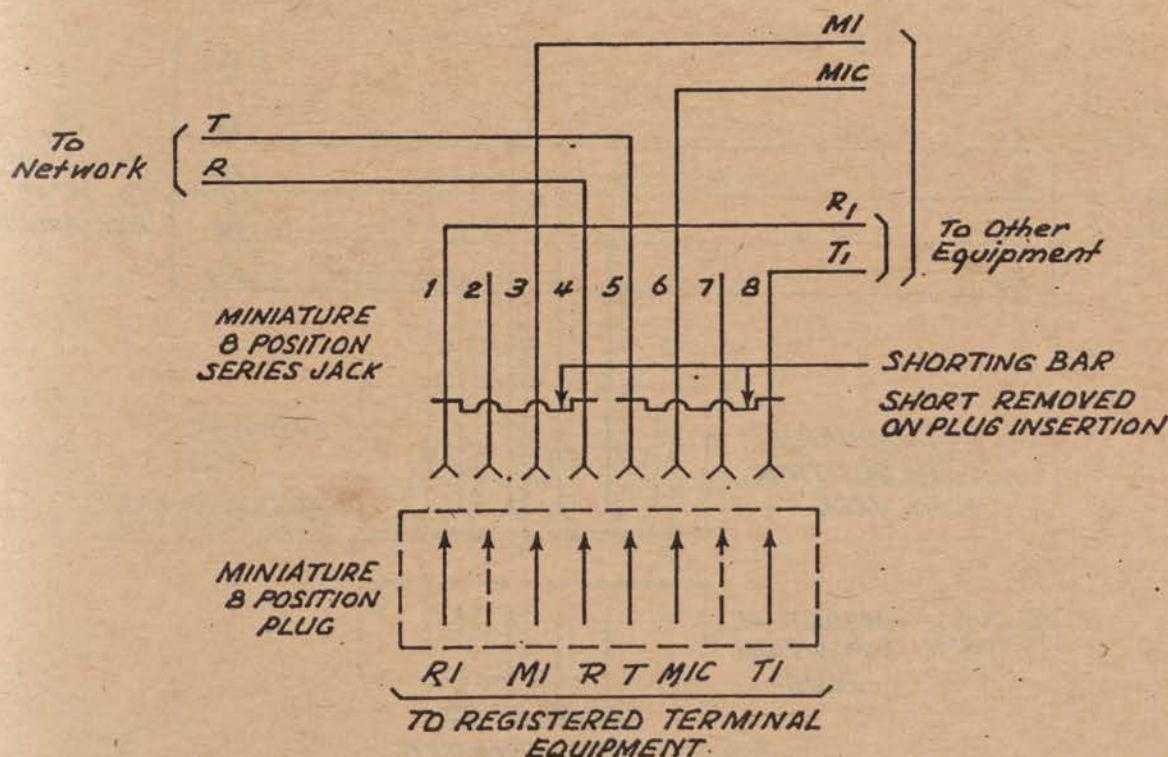
**ELECTRICAL NETWORK CONNECTION:** Series tip and ring with mode indication to station behind series connection. Conductors 2 and 7 are reserved for telephone company use.

**UNIVERSAL SERVICE ORDER CODE (USOC):** RJ36X

**MECHANICAL ARRANGEMENT:** Miniature 8 position series jack

**TYPICAL USAGE:** Mode indication (exclusion key) telephone set in series with data jack. Customer shall specify whether a closure or open shall indicate "exclusion" mode.

**WIRING DIAGRAM:**





(c) Two-line configurations.(1) Bridged T/R; 6 position jack.

ELECTRICAL NETWORK CONNECTION: Two line bridged tip and ring.

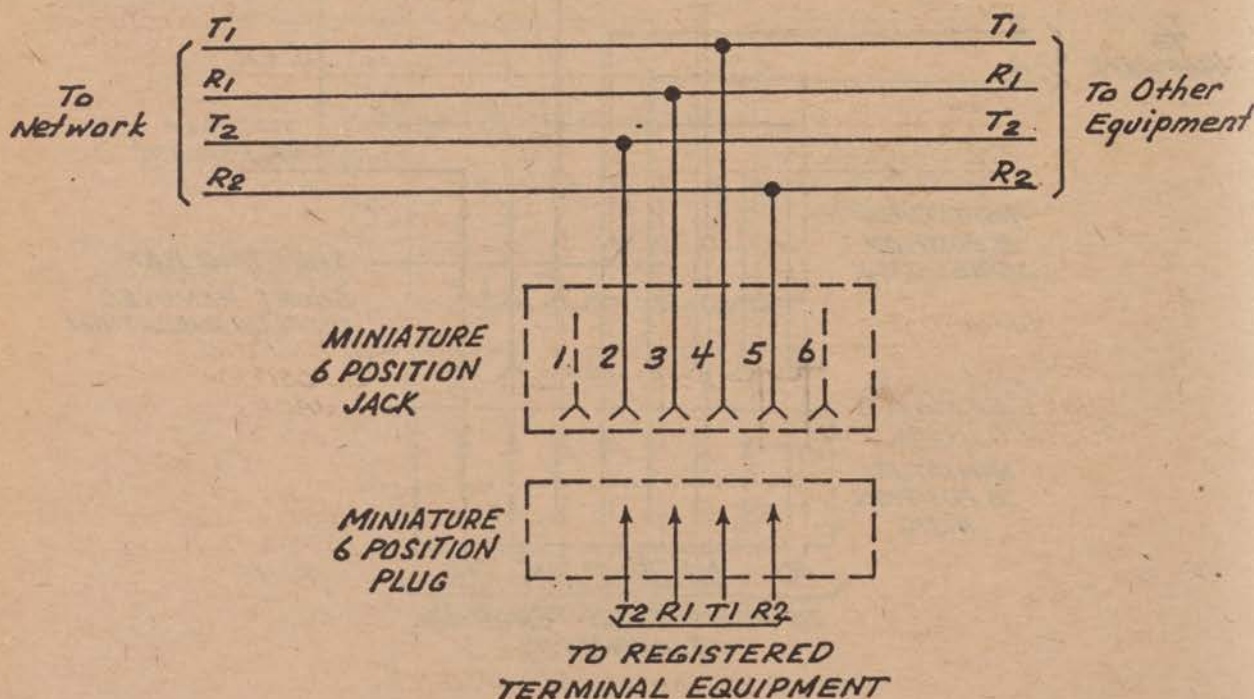
UNIVERSAL SERVICE ORDER CODE (USOC): RJ14W for Portable Wall-Mounted equipment - RJ14C for all others.

MECHANICAL ARRANGEMENT: Miniature 6 position jack.

TYPICAL USAGE: Two line non-key telephone sets and ancillary devices.

## WIRING DIAGRAM:

Note: The telephone company will wire the lines to the jack in the sequence designated by the customer.





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(2) Series T/R on first line and bridged T/R on second line; 8 position series jack.

ELECTRICAL NETWORK CONNECTION: Two line bridged tip and ring with exclusion on Line 1. Conductors 2 and 7 reserved for telephone company use.

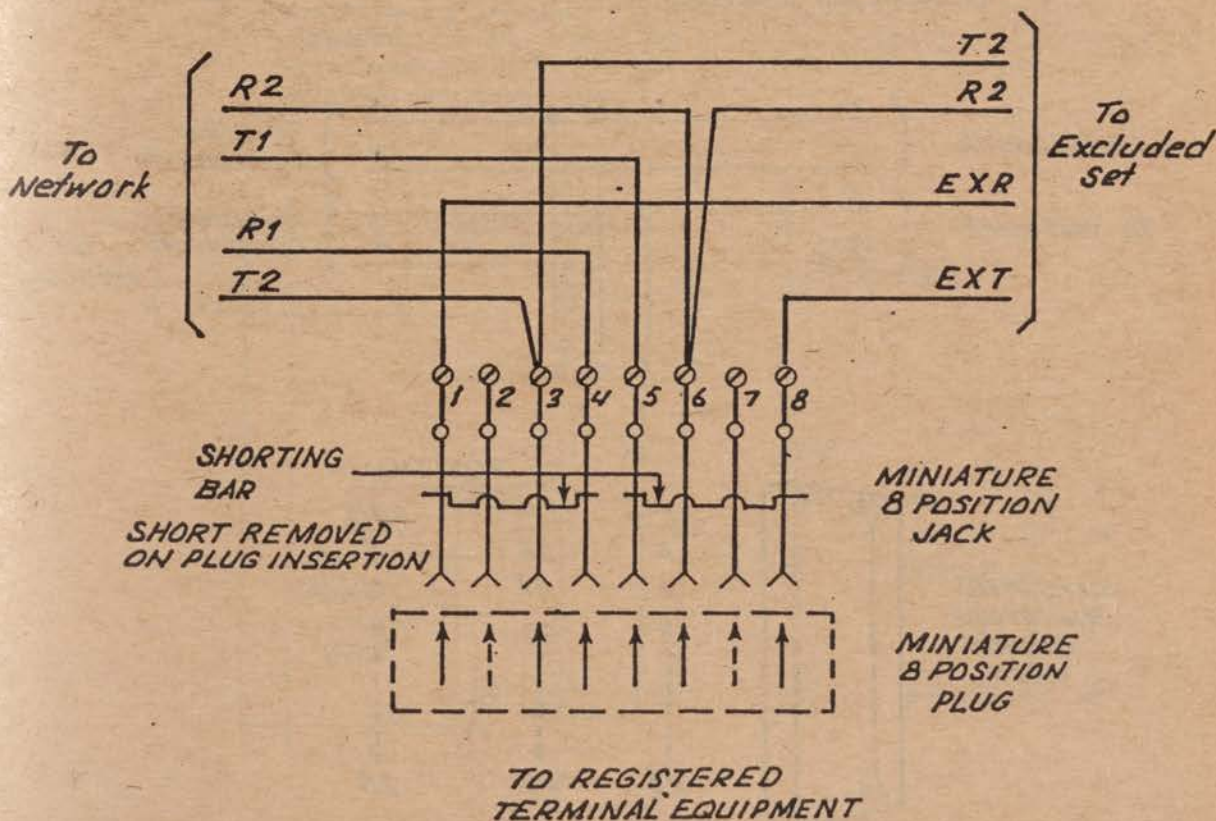
UNIVERSAL SERVICE ORDER CODE (USOC): RJ37X

MECHANICAL ARRANGEMENT: Miniature 8 position series jack

TYPICAL USAGE: Two line telephones with exclusion on one line.

WIRING DIAGRAM:

Note: The telephone company will wire the lines to the jack in the sequence designated by the customer.





(d) Multiple-line bridged configurations.

- (1)
- Up to 25 bridged T/R; 50 position jack.

ELECTRICAL NETWORK CONNECTION: Multiple line bridged tip and ring.

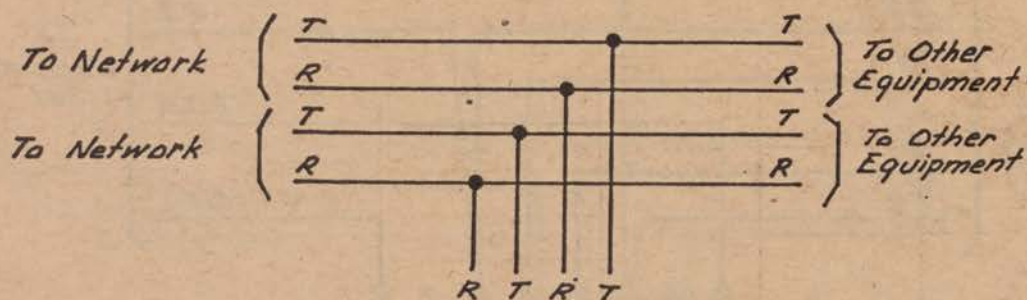
UNIVERSAL SERVICE ORDER CODE (USOC): RJ21X

MECHANICAL ARRANGEMENT: 50 position miniature ribbon jack.

TYPICAL USAGE: Traffic data recording equipment.

## WIRING DIAGRAM:

Note: At the time the jack is ordered the customer must specify the sequence in which the central office lines are to be connected to the jack. The telephone company will consecutively wire these lines to the jack as shown below without skipping any positions.

50 POSITION  
MINIATURE  
RIBBON  
JACK

	POSITION		
	LINE	TIP	RING
50	1	26	1
25	2	27	2
	3	28	3
	...	...	...
26	25	50	25
1			



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(2) Up to 12 bridged T/R ahead of the line circuit of a key telephone system with A/A1 connections; 50 position jack.

**ELECTRICAL NETWORK CONNECTION:** Multiple line bridged tip and ring ahead of the line circuit of a key system with A and A1 leads.

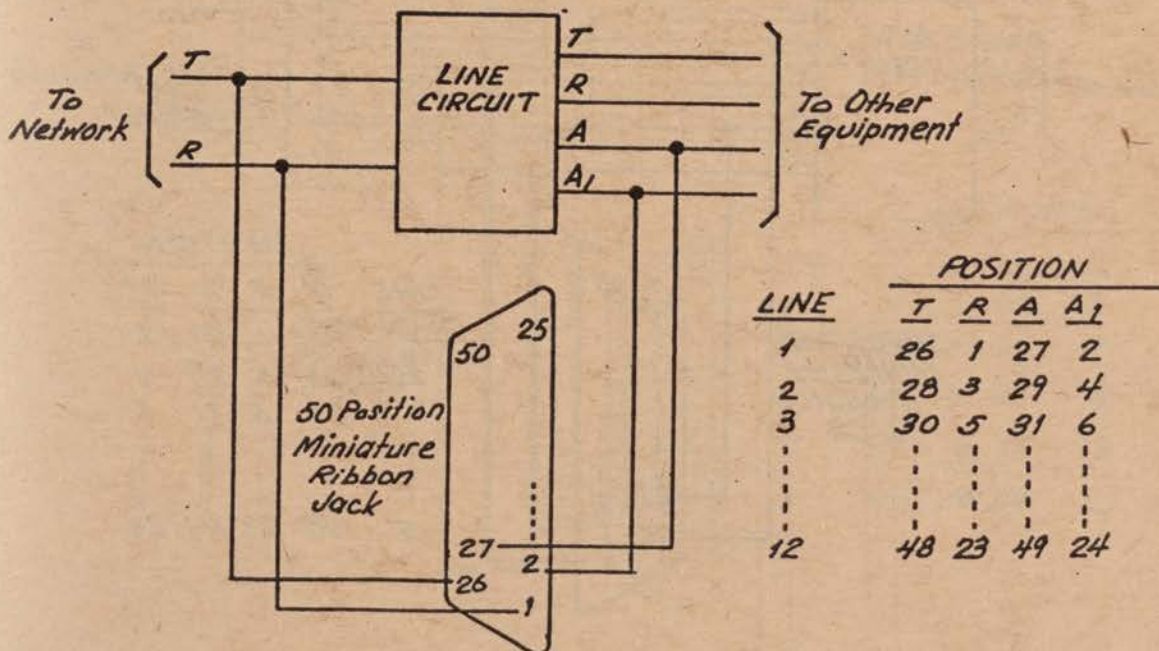
**UNIVERSAL SERVICE ORDER CODE (USOC):** RJ22X

**MECHANICAL ARRANGEMENT:** 50 position miniature ribbon jack.

**TYPICAL USAGE:** 2 to 12 ancillary devices connected to a key system at one location where registered terminal equipment is not compatible with electrical characteristics of tip and ring behind line circuit.

**WIRING DIAGRAM:**

**Note:** At the time the jack is ordered the customer must specify the sequence in which the central office lines are to be connected to the jack. The telephone company will consecutively wire these lines to the jack as shown below without skipping any positions.





(3) Up to 12 bridged T/R behind the line circuit of a key telephone system with A/A1 connections; 50 position jack.

**ELECTRICAL NETWORK CONNECTION:** Multiple line bridged tip, ring, A and A1 leads behind the line circuit of a key system.

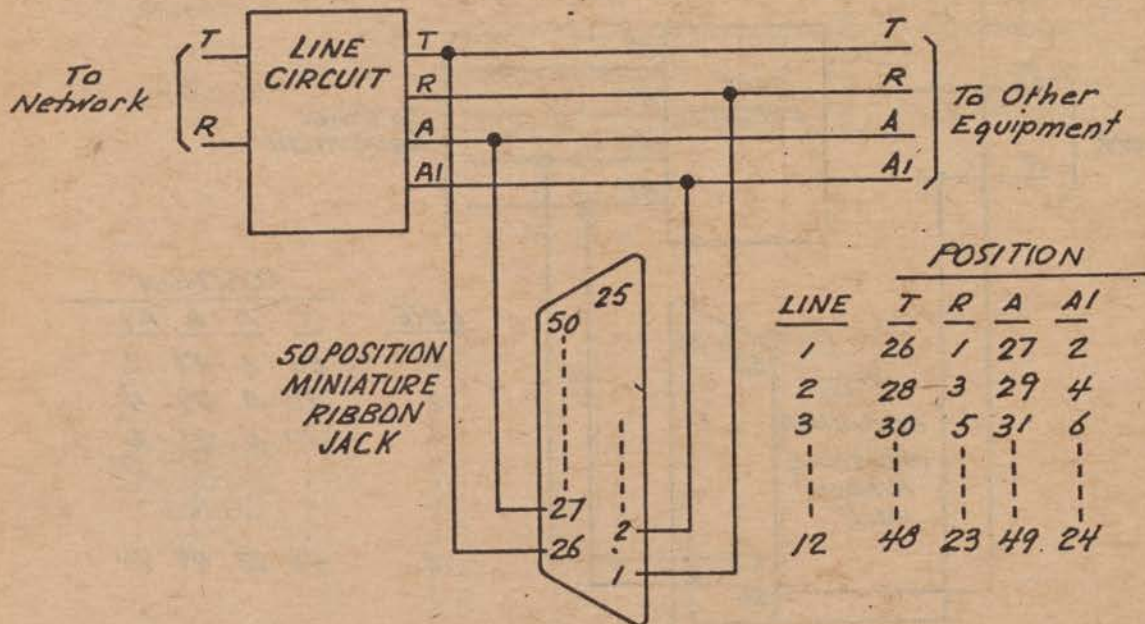
**UNIVERSAL SERVICE ORDER CODE (USOC):** RJ23X

**MECHANICAL ARRANGEMENT:** 50 position miniature ribbon jack.

**TYPICAL USAGE:** 2 to 12 ancillary devices connected to a key system at one location. This arrangement is preferred to the one shown in Figure 14.

**WIRING DIAGRAM:**

**Note:** At the time the jack is ordered the customer must specify the sequence in which the central office lines are to be connected to the jack. The telephone company will consecutively wire these lines to the jack as shown below without skipping any positions.





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(4) Up to 5 bridged T/R behind the line circuit of a key telephone system with A/A1 connections; 50 position jack.

**ELECTRICAL NETWORK CONNECTION:** Multiple line bridged tip, ring, A and A1 leads behind the line circuit of a key system. This arrangement has the same wiring arrangement as a standard 5 line key telephone set.

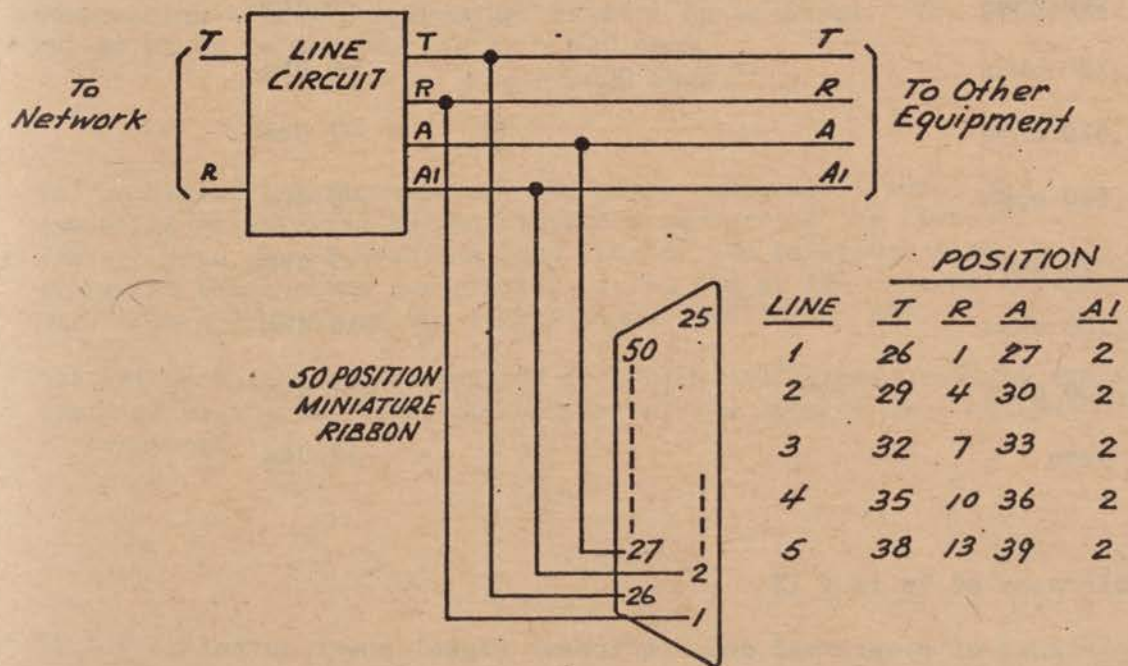
**UNIVERSAL SERVICE ORDER CODE (USOC):** RJ24X

**MECHANICAL ARRANGEMENT:** 50 position miniature ribbon jack.

**TYPICAL USAGE:** Ancillary devices connected to a key system such as 5 line conferencing device.

**WIRING DIAGRAM:**

**Note:** At the time the jack is ordered the customer must specify the sequence in which the central office lines are to be connected to the jack. The telephone company will consecutively wire these lines to the jack as shown below without skipping any positions.





(e) Data Configurations. There are two categories of data configurations, which may be implemented either on an 8 position keyed data jack, or on a 50 position unkeyed ribbon jack. These are: a "universal" configuration, which incorporates both a programming resistor (for programmed data signal power limiting) and an attenuator (for "fixed-loss loop" data signal power limiting), and a "programmed" configuration, which incorporates a programming resistor, but not an attenuator. The programming resistor is selected as follows:

The proper programming resistor ( $R_p$ ) shall be selected by the telephone company at the time of installation based upon the loop loss of the telephone line to arrive at the optimum signal power level of -12 dBm at the central office. The table shown below gives the required signal power output for the programmed data equipment for each value of the programming resistor.

<u>Programming Resistor (<math>R_p</math>)*</u>	<u>Programmed Data Equipment Signal Power Output**</u>
short	0 dbm
150 ohms	-1 dbm
336 ohms	-2 dbm
569 ohms	-3 dbm
866 ohms	-4 dbm
1,240 ohms	-5 dbm
1,780 ohms	-6 dbm
2,520 ohms	-7 dbm
3,610 ohms	-8 dbm
5,490 ohms	-9 dbm
9,200 ohms	-10 dbm
19,800 ohms	-11 dbm
open	-12 dbm

\* Tolerance of  $R_p$  is  $\pm 1\%$

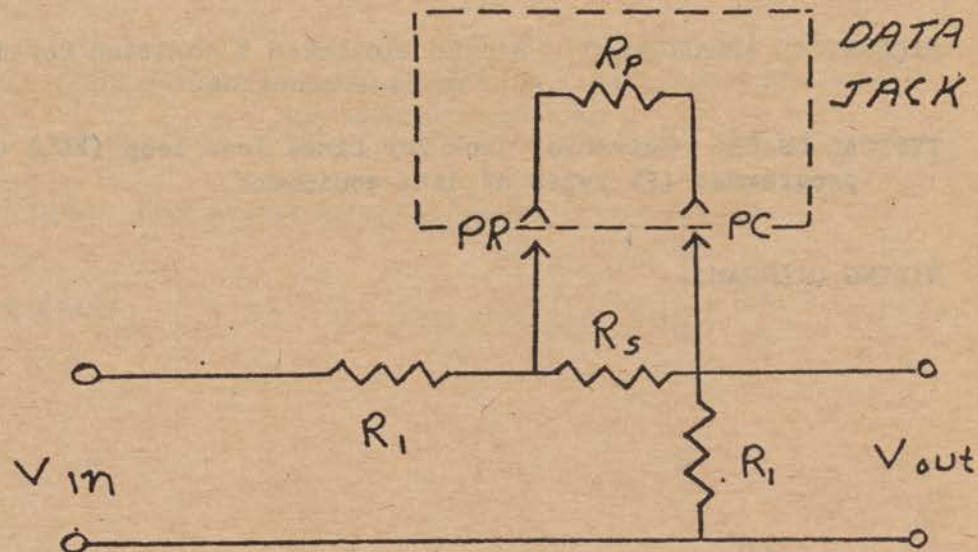
\*\* Tolerance of programmed data equipment signal power output is  $\pm 1$  dB



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The voltages impressed on resistor  $R_p$  by the data equipment shall be such as not to cause power dissipation in  $R_p$  in excess of 50 milliwatts.

The circuit shown below was used in calculating values of the programming resistors and may be useful in implementing the automatic control of signal power output in the programmed data equipment.



$R_1$  is the source impedance for the input signal  $V_{in}$ , and also the terminating impedance of the load.  $R_s$  is a series resistance, on which the computation of the programming resistor  $R_p$  is based. The table of values of  $R_p$  is derived for  $R_1 = 600$  ohms  
 $R_s = 3600$  ohms

In "universal" configurations, the proper attenuator shall be installed or adjusted by the telephone company at the time of installation, based upon the loop loss of the telephone line, to arrive at the optimum power level of -12 dBm at the central office, with a data device maximum signal power level of -4 dBm.

The switch which is incorporated in "universal" configurations shall be operated to the position appropriate for the type of data equipment which is connected.



(1) Bridged T/R; 8 position keyed data jack--Universal

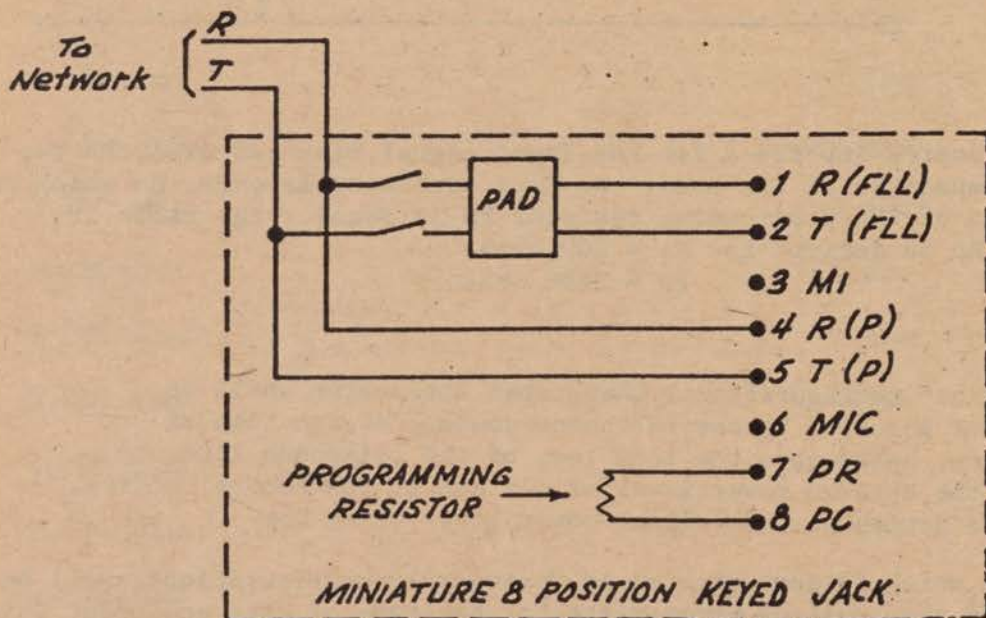
**ELECTRICAL NETWORK CONNECTION:** Single line bridged tip and ring.

**UNIVERSAL SERVICE ORDER CODE:** RJ41S

**MECHANICAL ARRANGEMENT:** Single miniature 8 position keyed jack for surface mounting.

**TYPICAL USAGE:** Universal jack for fixed loss loop (FLL) or programmed (P) types of data equipment.

**WIRING DIAGRAM:**



**Note:** This configuration may be used for the connection of data equipment with a key telephone system, with A and A1 respectively connected to pins 3 and 6 above, as a substitute for MI and MIC under the following UNIVERSAL SERVICE ORDER CODES:

RJ42S - T/R connected ahead of the line circuit

RJ43S - T/R connected behind the line circuit

For a description of "before" and "behind" the line circuit, refer to Sections 68.502(a)(2) and (a)(3).



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(2) Bridged T/R; 8 position keyed data jack--Programmed

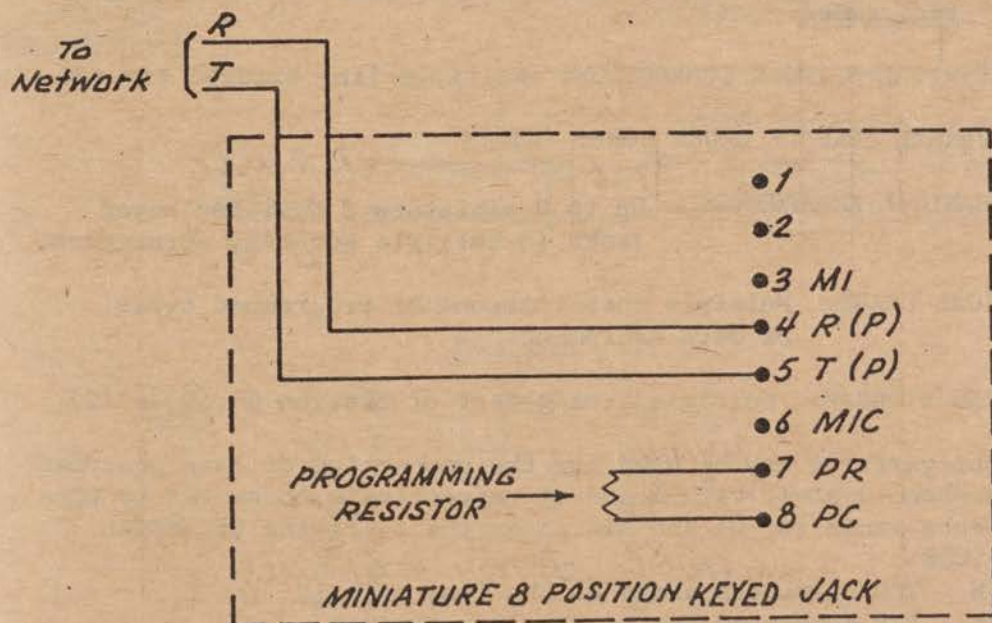
**ELECTRICAL NETWORK CONNECTION:** Single line bridged tip and ring.

**UNIVERSAL SERVICE ORDER CODE:** RJ45S

**MECHANICAL ARRANGEMENT:** Single miniature 8 position keyed jack for surface mounting

**TYPICAL USAGE:** Programmed data equipment.

**WIRING DIAGRAM:**



**Note:** This configuration may be used for the connection of data equipment with a key telephone system, with A and A1 respectively connected to pins 3 and 6 above as a substitute for MI and MIC under the following UNIVERSAL SERVICE ORDER CODES:

RJ46S - T/R connected ahead of the line circuit

RJ47S - T/R connected behind the line circuit

For a description of "before" and "behind" the line circuit, refer to Sections 68.502(a)(2) and (a)(3).



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(3) Multiple bridged T/R; 8 position keyed data jack--  
Universal

ELECTRICAL NETWORK CONNECTION: Multiple line bridged tip and ring.

UNIVERSAL SERVICE ORDER CODE: RJ41M

MECHANICAL ARRANGEMENT: Up to 8 miniature 8 position keyed jacks in multiple mounting arrangement.

TYPICAL USAGE: Multiple installations of fixed loss loop or programmed types of data equipment.

WIRING DIAGRAM: Multiple arrangement of Section 68.502(e)(1).

Note: This configuration may be used for the connection of data equipment with a key telephone system, with A and A1 respectively connected to pins 3 and 6, as a substitute for MI and MIC under the following UNIVERSAL SERVICE ORDER CODES:

RJ42M - T/R connected ahead of the line circuit

RJ43M - T/R connected behind the line circuit.

For a description of "before" and "behind" the line circuit, refer to Sections 68.502(a)(2) and (a)(3).

(4) Multiple bridged T/R; 8-position keyed data jack--  
Programmed

ELECTRICAL NETWORK CONNECTION: Multiple line bridged tip and ring.

UNIVERSAL SERVICE ORDER CODE: RJ45M

MECHANICAL ARRANGEMENT: Up to 8 miniature 8 position keyed jacks in multiple mounting arrangement

TYPICAL USAGE: Multiple installations of programmed types of data equipment.

WIRING DIAGRAM: Multiple arrangement of Section 68.502(e)(2).

Note: This configuration may be used for the connection of data equipment with a key telephone system, with A and A1 respectively connected to pins 3 and 6, as a substitute for MI and MIC under the following UNIVERSAL SERVICE ORDER CODES:

RJ46M - T/R connected ahead of the line circuit

RJ47M - T/R connected behind the line circuit

For a description of "before" and "behind" the line circuit, refer to Sections 68.502(a)(2) and (a)(3)



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(5) Bridged T/R; 50 position ribbon jack--Universal

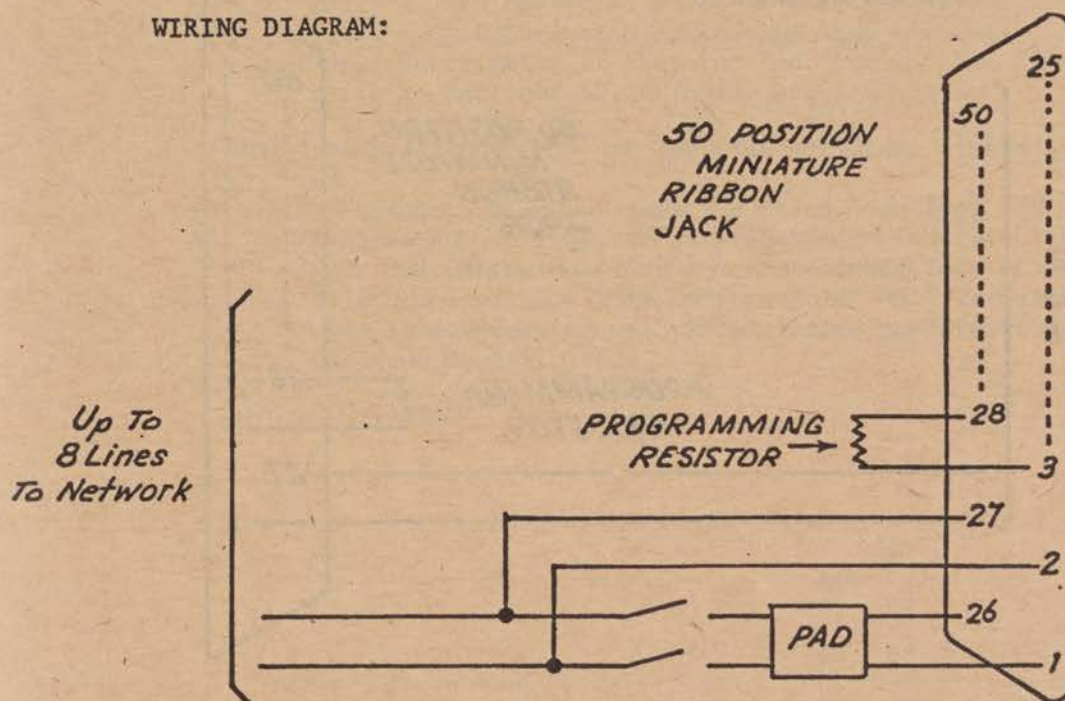
ELECTRICAL NETWORK CONNECTION: Single or multiple line bridged tip and ring.

UNIVERSAL SERVICE ORDER CODE: RJ26X

MECHANICAL ARRANGEMENT: 50 position miniature ribbon jack.

TYPICAL USAGE: Universal jack for fixed loss loop (FLL) or programmed (P) types of data equipment.

WIRING DIAGRAM:



Line	FLL		Position P		PR	PC
	T	R	T	R		
1	26	1	27	2	28	3
2	29	4	30	5	31	6
3	32	7	33	8	34	9
4	35	10	36	11	37	12
5	38	13	39	14	40	15
6	41	16	42	17	43	18
7	44	19	45	20	46	21
8	47	22	48	23	49	24

Note: At the time the jack is ordered, the customer shall specify the number of and sequence of central office lines to be connected to the jack. The telephone company will consecutively wire these lines to the jack in accordance with the table above, without skipping any positions.



(6) Bridged T/R; 50 position ribbon jack--Programmed

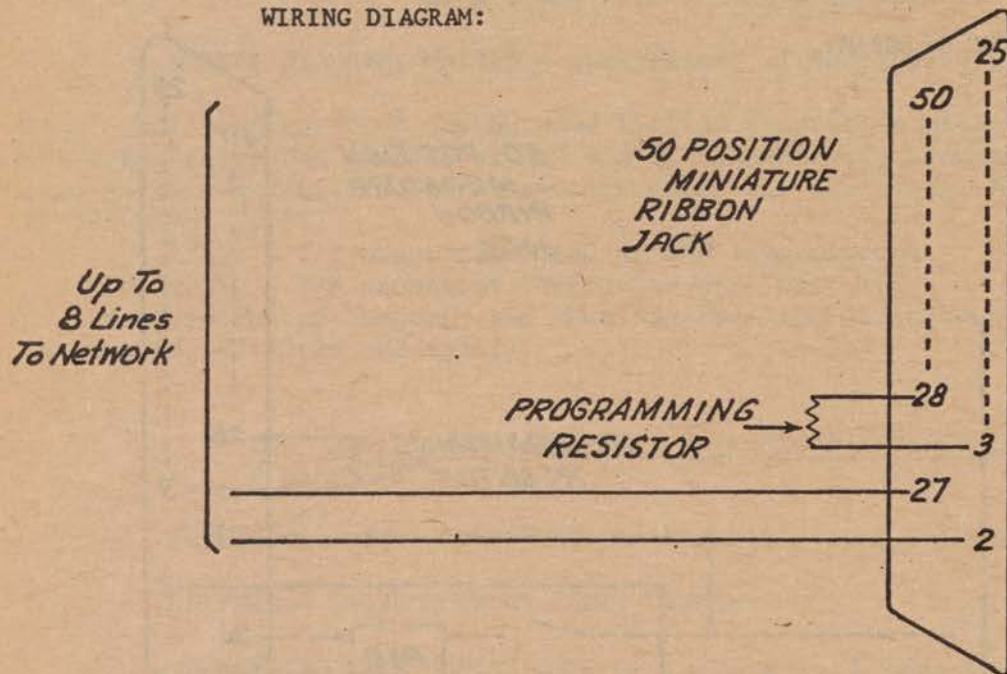
ELECTRICAL NETWORK CONNECTION: Single or multiple line bridged tip and ring.

UNIVERSAL SERVICE ORDER CODE: RJ27X

MECHANICAL ARRANGEMENT: 50 position miniature ribbon jack.

TYPICAL USAGE: Programmed jack for programmed (P) types of data equipment.

WIRING DIAGRAM:



Line	Position		PR	PC
	T	R		
1	27	2	28	3
2	30	5	31	6
3	33	8	34	9
4	36	11	37	12
5	39	14	40	15
6	42	17	43	18
7	45	20	46	21
8	48	23	49	24

**Note:** At the time the jack is ordered, the customer shall specify the number of and sequence of central office lines to be connected to the jack. The telephone company will consecutively wire these lines to the jack in accordance with the table above, without skipping any positions.



(7) Bridged T/R with A/AI and Mode Indication; 50 position ribbon jack--Universal

ELECTRICAL NETWORK CONNECTION: Single line bridged tip and ring, connected either before or behind the line circuit of a key telephone system (depending upon USOC selected) with A and AI leads and Mode Indication.

UNIVERSAL SERVICE ORDER CODES (USOC):

RJ51X -- T/R connected ahead of the line circuit

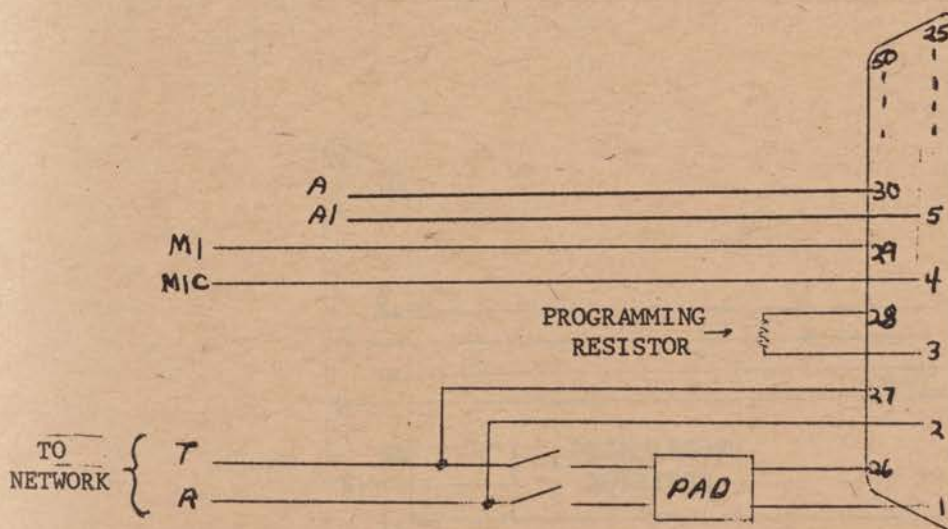
RJ52X -- T/R connected behind the line circuit

For a description of "before" and "behind" the line circuit, refer to Sections 68.502(a)(2) and (a)(3).

MECHANICAL ARRANGEMENT: 50 position miniature ribbon jack.

TYPICAL USAGE: Universal jack for fixed loss loop (FLL) or programmed (P) types of data equipment requiring both Mode Indication function and A/AI connections to a key telephone system. This configuration will normally be used in conjunction with RJ36X series configuration (Section 68.502(b)(6)).

WIRING DIAGRAM:





(8) Bridged T/R with A/A1 and Mode Indication; 50 position ribbon jack--Programmed

ELECTRICAL NETWORK CONNECTION: Single line bridged tip and ring, connected either before or behind the line circuit of a key telephone system (depending upon USOC selected) with A and A1 leads and Mode Indication.

UNIVERSAL SERVICE ORDER CODES (USOC):

RJ53X -- T/R connected ahead of the line circuit

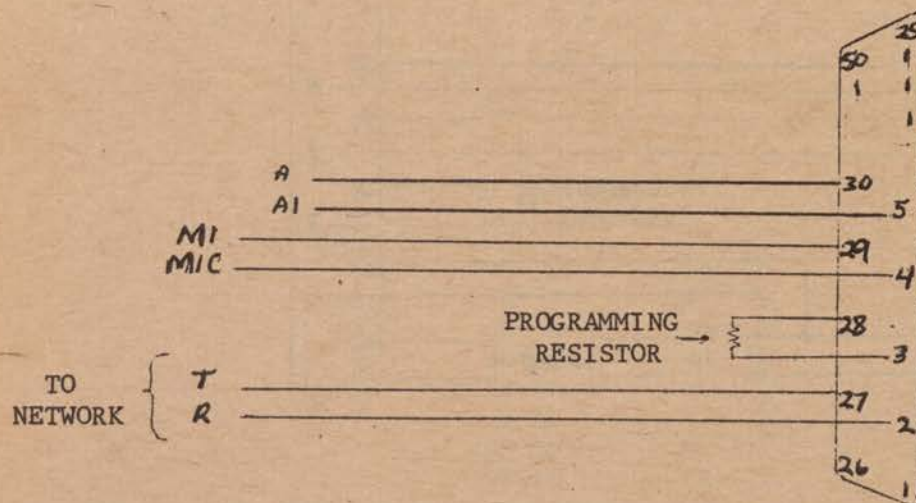
RJ54X -- T/R connected behind the line circuit

For a description of "before" and "behind" the line circuit refer to Sections 68.502(a)(2) and (a)(3).

MECHANICAL ARRANGEMENT: 50 position miniature ribbon jack.

TYPICAL USAGE: Programmed jack for programmed (P) types of data equipment requiring both Mode Indication function and A/A1 connections to a key telephone system. This configuration will normally be used in conjunction with RJ36X series configuration (Section 68.502(b)(6)).

WIRING DIAGRAM:





## APPENDIX A-63

(f) Multiple-line series configurations.

(1) Up to eight 8 position series jacks. Multiple series jacks in this category consist of multiple arrangements of configurations specified in sub-section (b) of this Section, in a multiple mounting arrangement. Such multiple arrangements may be ordered as a unit under the following UNIVERSAL SERVICE ORDER CODES:

RJ31M - multiple series T/R ahead of all station equipment (reference Section 68.502(b)(1)).

RJ32M - multiple series T/R at station (reference Section 68.502(b)(2)).

RJ33M - multiple series T/R ahead of the line circuits of a key telephone system, with A/A1 (reference Section 68.502(b)(3)).

RJ34M - multiple series T/R behind the line circuits of a key telephone system, with A/A1 (reference Section 68.502(b)(4)).

RJ35M - multiple series T/R behind the line circuits leading to one key telephone station instrument of a key telephone system, with A/A1.

Note: RJ34M and RJ35M differ in that RJ34M is installed before all instruments connected with a key telephone system, while RJ35M is installed before one instrument connected with a key telephone system.

(2) Reserved



Section 68.504 Adapters.

(a) Adapters between non-standard jacks and standard plugs. Certain non-standard jacks and plugs are in use in various telephone company service areas. To permit rapid connection of registered telephone equipment, which will be terminated in a standard plug, to these pre-existing non-standard jacks, without the necessity for a new installation of standard jacks, adapters may be interposed between the pre-existing jacks and registered telephone equipment. Such adapters may be provided either by the telephone company, or by the customer, at the customer's option.

(1) Adapter between non-standard square-array 4 pin jack and standard 6 position plug.

**ELECTRICAL NETWORK CONNECTION:** Single line bridged tip and ring (and A/A1 if the existing 4 pin jack has these leads terminated). This adapter will not be equipped with conductors 1 and 6. Conductors 2 and 5 are reserved for telephone company use except when providing A/A1 leads.

**UNIVERSAL SERVICE ORDER CODE:** RJAIX

**MECHANICAL ARRANGEMENT:** Miniature 6 position jack to 4 pin plug-adapter.

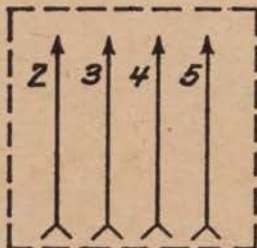
**TYPICAL USAGE:** Single line non-key telephone sets or ancillary devices where a working 4 pin jack exists and the registered terminal equipment is equipped with a miniature 6 position plug.

**WIRING DIAGRAM:**

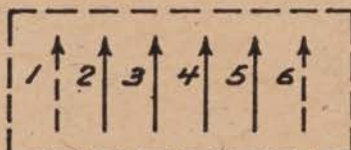
**EXISTING 4 PIN  
JACK**



**4 PRONG PLUG  
TO  
MINIATURE 6 POSITION JACK**



**MINIATURE 6 POSITION  
PLUG**



**TO REGISTERED TERMINAL  
EQUIPMENT**



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(2) Adapter between non-standard 12 pin jack and standard 6 position plug.

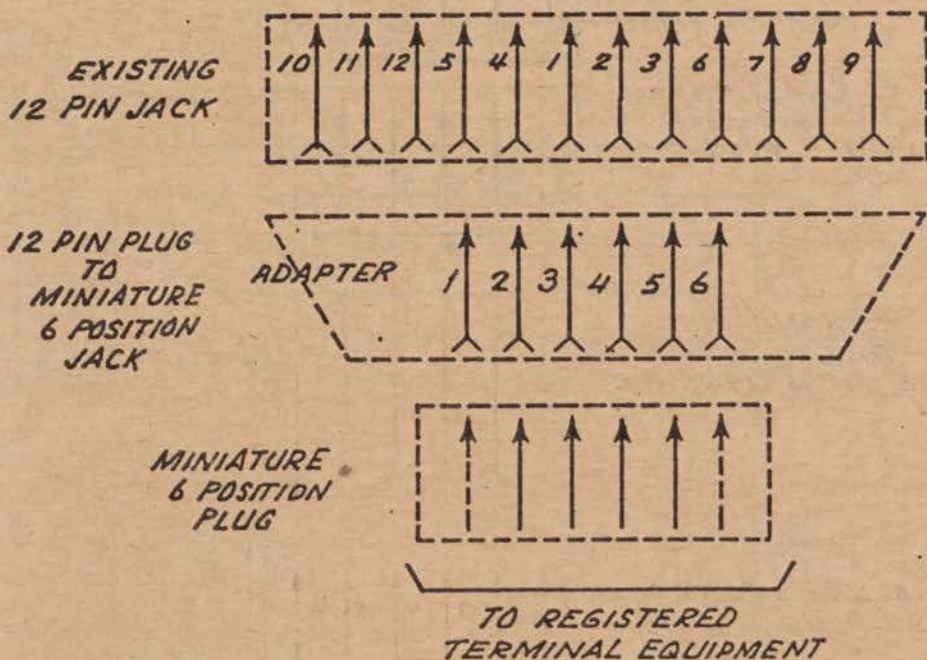
**ELECTRICAL NETWORK CONNECTION:** Single line bridged tip and ring (A and A1 if existing 12 pin jack has these leads terminated). Conductors 1, 2, 5 and 6 are reserved for telephone company use except when providing A and A1 leads.

**UNIVERSAL SERVICE ORDER CODE (USOC):** RJ3X

**MECHANICAL ARRANGEMENT:** Miniature 6 position jack to 12 pin jack-adapter.

**TYPICAL USAGE:** Single line non-key telephone set or ancillary devices where a working 12 pin jack exists and the registered terminal equipment is equipped with a miniature 6 position plug.

**WIRING DIAGRAM:**





## APPENDIX A-66

(3) Adapter between non-standard rectangular-array 6 pin jack and standard 6 position plug.

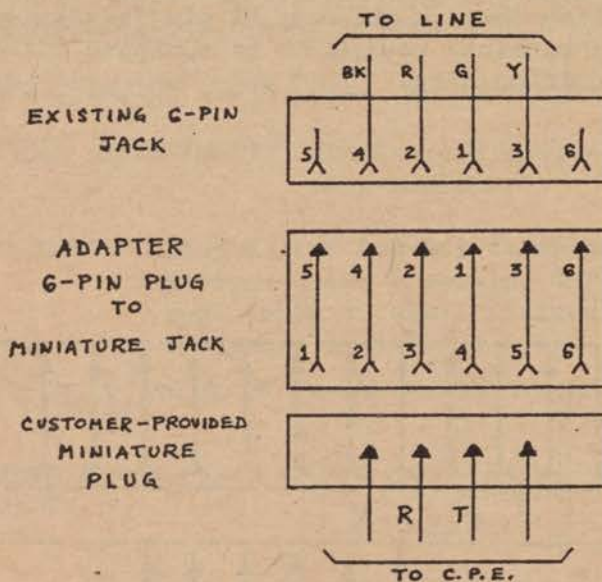
ELECTRICAL NETWORK CONNECTION: Single line bridged tip and ring (A and A1 if existing jack has these leads terminated). Conductors 2 and 5 are reserved for telephone company use except when providing A and A1 leads.

UNIVERSAL SERVICE ORDER CODE: RJA4X

MECHANICAL ARRANGEMENT: Miniature 6 position jack to 6-pin

TYPICAL USAGE: Single line non-key telephone sets or ancillary devices where a working rectangular-array jack exists and the registered terminal equipment is equipped with a miniature 6 position plug.

WIRING DIAGRAM:





APPENDIX A-67

(b) Adapters between one standard 6 position jack and two standard 6 position plugs ("cube tap" or "T" adapter). To permit rapid connection of registered telephone equipment to pre-existing standard jacks, without the necessity for new or additional installation of standard jacks, these adapters may be interposed between pre-existing jacks and registered equipment. Such adapters may be provided either by the telephone company, or by the customer, at the customer's option.

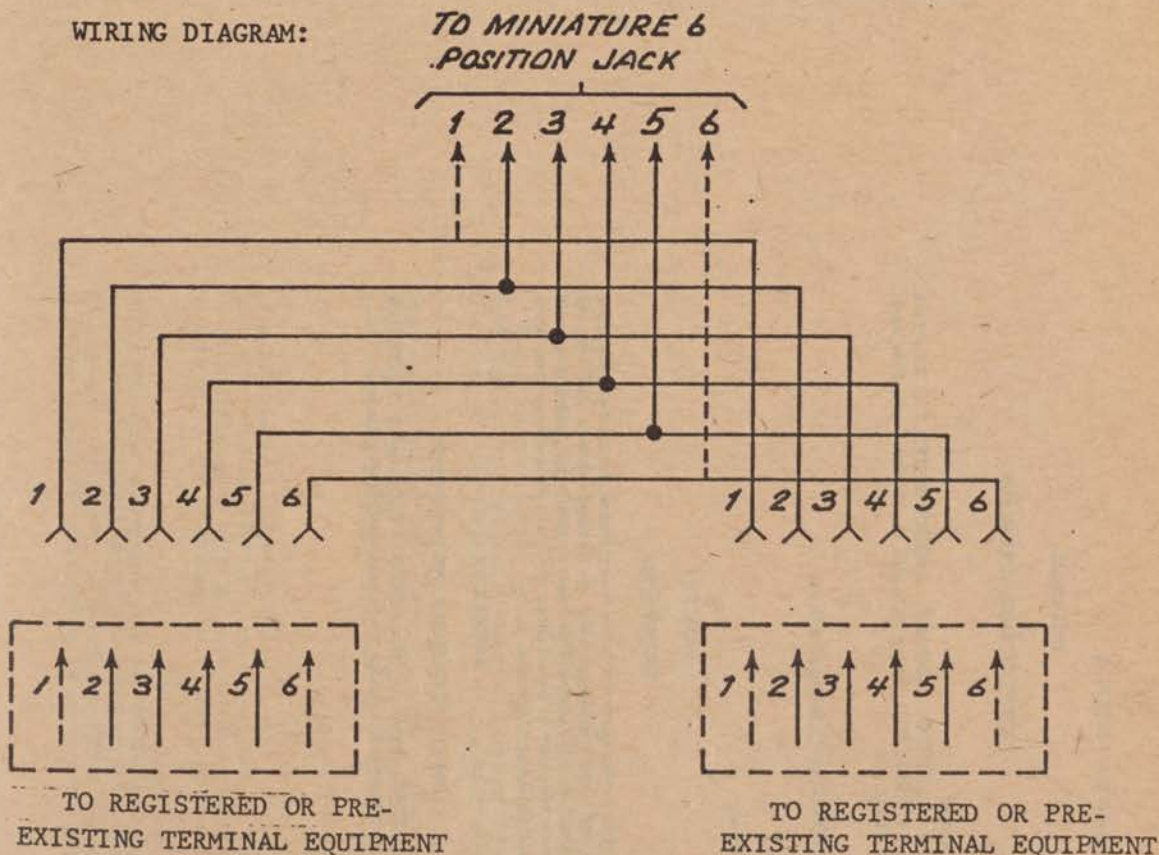
**ELECTRICAL NETWORK CONNECTION:** Single line bridged tip and ring (A and A1 if existing 6 position jack has these leads terminated). Conductors 2 and 5 are reserved for telephone company use except when providing A and A1 leads.

**UNIVERSAL SERVICE ORDER CODE:** RJA2X

**MECHANICAL ARRANGEMENT:** Miniature 6 position plug to duplex miniature 6 position jacks-adapter.

**TYPICAL USAGE:** Single line non-key telephone set or ancillary device where a working miniature 6 position jack exists.

**WIRING DIAGRAM:**





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#### UNILATERAL

#### PATENT LICENSE AGREEMENT

Effective as of  
WESTERN ELECTRIC COMPANY, INCORPORATED, a New York  
corporation ("WESTERN"), having an office at 222 Broadway, New York,  
New York 10038, and

("the CORPORATION"), having an office at

agree as follows:

#### ARTICLE I

##### DEFINITIONS

1.01 Terms in this agreement (other than technical terms, names of parties, companies and Article headings) which are in capital letters shall have the meanings specified in the General Definitions Appendix, and technical terms in this agreement which are in capital letters shall have the meanings specified in the Technical Definitions Appendix.

#### ARTICLE II

##### GRANTS OF LICENSES AND IMMUNITIES

2.01 WESTERN grants to the CORPORATION under WESTERN'S PATENTS nonexclusive licenses for products of the following kinds:

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hereof and, except as provided in Article V and notwithstanding the expiration of the FIVE YEAR PERIOD, shall continue for the entire term that the patents under which they are granted are in force or for that part of such terms for which WESTERN has the right to grant such licenses.

2.03 WESTERN grants under all patents issued in countries other than the United States and owned or controlled by AMERICAN TELEPHONE AND TELEGRAPH COMPANY, a New York corporation ("AT&T"), WESTERN or their SUBSIDIARIES, royalty-free immunity relating to the sale, lease or use in, or the importation into, such other countries of LICENSED PRODUCTS, and maintenance parts therefor, manufactured under the licenses granted under WESTERN'S PATENTS; provided, however, that nothing in this Section 2.03 shall relieve the CORPORATION of its obligation to pay any royalty which may be predicated upon such manufacture of any such LICENSED PRODUCT or part, whether or not the first sale, lease or use thereof occurs outside of the United States.

2.04 The licenses granted for LICENSED PRODUCTS are licenses to make, have made, use, lease and sell such LICENSED PRODUCTS. Such licenses include the rights to maintain LICENSED PRODUCTS, to practice methods and processes involved in the use of LICENSED PRODUCTS and to make and have made, to use and have used, and to maintain machines, tools, materials and other instrumentalities, and to use and have used methods and processes, insofar as such machines, tools, materials, other instrumentalities, methods and processes are involved in or incidental to the development, manufacture, installation, testing or repair of LICENSED PRODUCTS.

2.05 The grant of each license to the CORPORATION includes the right to grant sublicenses within the scope of such license to its SUBSIDIARIES. Such right may be exercised at any time prior to termination or cancellation of the corresponding license under the provisions of Article V. Any such sublicenses granted to any present SUBSIDIARY may be made effective, retroactively, as of the effective date hereof, and any such sublicenses granted to any future SUBSIDIARY may be made effective, retroactively, as of the date such company became a SUBSIDIARY.

2.06 It is recognized that WESTERN or any of its ASSOCIATED COMPANIES may have entered into or may hereafter enter into a contract with a national government to do development work financed by such government and may be required under such contract (either unconditionally or by reason of any action or inaction thereunder) to assign to such government its rights to grant, or may now or hereafter be restrained by such government from granting, licenses or immunities to others than its ASSOCIATED COMPANIES under patents for inventions arising out of such work or covered by such contract. The resulting inability of WESTERN to grant the licenses or immunities purported to be granted by it under patents for such inventions shall not be considered to be a breach of this agreement, if

2.02 All licenses herein granted shall commence on the effective date



APPENDIX B-2

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ARTICLE III  
ROYALTY

3.01 The CORPORATION shall pay to WESTERN royalty, at the applicable rate hereinafter specified, on each LICENSED PRODUCT, and maintenance part therefor, which is a ROYALTY-BEARING PRODUCT, and

(i) which is sold, leased or put into use by the CORPORATION or any of its SUBSIDIARIES while any license acquired hereunder by the CORPORATION with respect to such ROYALTY-BEARING PRODUCT shall remain in force, or

(ii) which is made by or for the CORPORATION or any of its SUBSIDIARIES while any such license shall remain in force and is thereafter sold, leased or put into use by the CORPORATION or any of its SUBSIDIARIES,

whether or not such SUBSIDIARIES are sublicensed pursuant to Section 2.05, such royalty rate to be applied, except as provided in Section 3.05, to the NET SELLING PRICE of such ROYALTY-BEARING PRODUCT if sold for a separate consideration payable wholly in money and in all other cases to the FAIR MARKET VALUE thereof. The royalty rates applicable to LICENSED PRODUCTS of the kinds specified in Section 2.01, and maintenance parts therefor, are as follows:

(iii)

3.02 If a LICENSED PRODUCT is a ROYALTY-BEARING PRODUCT solely on account of one or a limited number of WESTERN'S PATENTS, the

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(i) such contract is for the benefit of such government's military or national defense establishment or the Energy Research and Development Administration of the United States Government or the National Aeronautics and Space Administration of the United States Government, or

(ii) in cases other than (i), such contract is with the United States Government or any agency of and within such Government, and any such requirement or restraint is pursuant to a statute or officially promulgated regulation of such Government or agency applicable to such contract;

provided, however, that

(iii) WESTERN (or, if an ASSOCIATED COMPANY thereof has entered into such contract, such ASSOCIATED COMPANY) shall exert its best efforts to enable WESTERN to grant the licenses or immunities herein purported to be granted by it under such patents; and

(iv) within ninety (90) days after the filing of any application for any such patent, WESTERN shall give written notice to the other party identifying such application by country, number and date of filing.

For the purposes of this Section 2.06, AT&T, WESTERN and their ASSOCIATED COMPANIES shall all be deemed to be ASSOCIATED COMPANIES of one another.



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## ARTICLE IV

## REPORTS AND PAYMENTS

4.01 The CORPORATION shall keep full, clear and accurate records with respect to ROYALTY-BEARING PRODUCTS. WESTERN shall have the right through its accredited auditing representatives to make an examination and audit, during normal business hours, not more frequently than annually, of all such records and such other records and accounts as may under recognized accounting practices contain information bearing upon the amount of royalty payable to it under this agreement. Prompt adjustment shall be made by the proper party to compensate for any errors or omissions disclosed by such examination or audit. Neither such right to examine and audit nor the right to receive such adjustment shall be affected by any statement to the contrary, appearing on checks or otherwise, unless such statement appears in a letter, signed by the party having such right and delivered to the other party, expressly waiving such right. \*/

4.02 (a) Within sixty (60) days after the end of each semiannual period ending on June 30th or December 31st, commencing with the semiannual period during which this agreement first becomes effective, the CORPORATION shall furnish to WESTERN a statement, in form acceptable to WESTERN, certified by a responsible official of the CORPORATION:

(i) showing all ROYALTY-BEARING PRODUCTS, by kinds of LICENSED PRODUCTS, which were sold, leased or put into use during such semiannual period, the NET SELLING PRICES of such ROYALTY-BEARING PRODUCTS or (where royalty is based on FAIR MARKET VALUES) the FAIR MARKET VALUES thereof and the amount of royalty payable thereon (or if no such ROYALTY-BEARING PRODUCT has been so sold, leased or put into use, showing that fact);

(ii) identifying, if royalty is reduced under provisions of Section 3.02, each LICENSED PRODUCT by its type and the patent or patents involved in such royalty reduction;

(iii) showing, by purchasers and kinds of LICENSED PRODUCTS, the monetary totals of the sales, to each purchaser exercising its own "to have made" license or licenses, of LICENSED PRODUCTS and maintenance parts in transactions of the character described in Section 3.03; and

(iv) identifying all transactions of the character described in Section 3.05.

(b) Within such sixty (60) days the CORPORATION shall, irrespective of its own business and accounting methods, pay to WESTERN the royalties payable for such semiannual period.

(c) Notwithstanding the provisions of Section 6.03(a) (v), the CORPORATION shall furnish whatever additional information WESTERN may

\*/ If licensee insists on a non-Western auditor, third line, insert, after "representatives", -or, at the election of the CORPORATION, through a firm of certified public accountants proposed by WESTERN and accepted by the CORPORATION.

CORPORATION may elect to reduce the amount of royalty otherwise payable hereunder on said LICENSED PRODUCT by a royalty reduction percentage, and as of an effective date, established by WESTERN. Upon written request from the CORPORATION identifying the LICENSED PRODUCT and each relevant patent, WESTERN will inform the CORPORATION of the royalty reduction percentage applicable in respect of said LICENSED PRODUCT and patent or patents and the effective date thereof.

3.03 A LICENSED PRODUCT, or maintenance part thereof, which is made and sold by the CORPORATION or any of its SUBSIDIARIES and which is a ROYALTY-BEARING PRODUCT hereunder on account of one or more of WESTERN'S PATENTS, may be treated by the CORPORATION as not licensed and not subject to royalty hereunder if all of the following conditions are met:

(i) the purchaser is licensed under the same patent or patents, pursuant to another agreement, to have said LICENSED PRODUCT or part made;

(ii) the purchaser expressly advises the CORPORATION or its SUBSIDIARY, whichever effects the making and sale, in writing at or prior to (but in no event later than) the time of such sale that, in purchasing said LICENSED PRODUCT or part, it is exercising its own license or licenses under said patent or patents to have said LICENSED PRODUCT or part made; and

(iii) the CORPORATION retains such written advice and makes it available to WESTERN at the latter's request.

3.04 Only one royalty shall be payable hereunder in respect of any ROYALTY-BEARING PRODUCT. Royalty shall accrue hereunder on any LICENSED PRODUCT, or maintenance part thereof, upon its first becoming a ROYALTY-BEARING PRODUCT, and the royalty thereon shall become payable in accordance with the provisions of this Article III upon the first sale, lease or putting into use thereof.

3.05 If any sale of a ROYALTY-BEARING PRODUCT shall be made by the CORPORATION or a SUBSIDIARY thereof to

(i) any company of which the CORPORATION is a SUBSIDIARY at the time of such sale, or

(ii) the CORPORATION or a SUBSIDIARY thereof or any other SUBSIDIARY of a company of which the CORPORATION is a SUBSIDIARY at the time of such sale,

royalty payable hereunder shall be computed on the FAIR MARKET VALUE of such ROYALTY-BEARING PRODUCT.



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# ARTICLE V

## TERMINATION, CANCELLATION AND SURRENDER

5.01 (a) If the CORPORATION shall fail to fulfill one or more of its obligations under ARTICLES III or IV, WESTERN may, upon election and in addition to any other remedies that it may have, at any time terminate all licenses and rights granted to the CORPORATION hereunder, by not less than six (6) months' written notice to the CORPORATION specifying any such breach, unless within the period of such notice all breaches specified therein shall have been remedied.

(b) Termination by WESTERN of licenses and rights granted to the CORPORATION shall terminate the obligations of the CORPORATION under the provisions of Articles III and IV relating to such terminated licenses and rights, except such obligations as to ROYALTY-BEARING PRODUCTS made, sold, leased or put into use prior to such termination.

5.02 By written notice to WESTERN, the CORPORATION may cancel the licenses for any specified products granted hereunder to it under WESTERN'S PATENTS. Such cancellation shall be effective as of the date of giving said notice but shall not relieve the CORPORATION of its obligation to pay accrued royalties with respect to such specified products.

5.03 By written notice to WESTERN, specifying any of WESTERN'S PATENTS by number and date of issuance, the CORPORATION may surrender and terminate all licenses and rights granted to it under such specified patent or patents or under any specified invention or inventions thereof. Such surrender and termination shall be effective as of a date specified in said notice which shall not be more than six (6) months prior to the date of giving said notice. As of said effective date, such specified patent or patents or invention or inventions shall cease to be among, or among the inventions of, WESTERN'S PATENTS for the purposes of this agreement without affecting obligations in respect of royalties accrued prior to said effective date.

5.04 (a) Every sublicense granted by the CORPORATION shall terminate with termination or cancellation of its corresponding license.

(b) Any sublicenses granted shall terminate if and when the grantee thereof ceases to be a SUBSIDIARY of the CORPORATION. Each LICENSED PRODUCT and each maintenance part, made by or for a SUBSIDIARY of the CORPORATION, and on which royalty has accrued but which remains not sold, leased or put into use at the time such SUBSIDIARY ceases to be a SUBSIDIARY of the CORPORATION, shall be deemed to have been put into use by such SUBSIDIARY immediately prior to such time at the place said LICENSED PRODUCT or part is then located.

5.05 Licenses, immunities and rights with respect to each LICENSED PRODUCT, and each maintenance part, made, sold, leased or put into use prior to any termination or cancellation under the provisions of this Article V shall survive such termination or cancellation.

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reasonably prescribe from time to time to enable WESTERN to ascertain which LICENSED PRODUCTS (and maintenance parts thereof) sold, leased or put into use by the CORPORATION or any of its SUBSIDIARIES are subject to the payment of royalty to WESTERN, and the amount of royalty payable thereon.

4.03 Royalty payments provided for in this agreement shall, when overdue, bear interest at an annual rate of one percent (1%) over the prime rate or successive prime rates in effect in New York City during delinquency.

4.04 Payment to WESTERN shall be made in United States dollars to WESTERN'S Treasury Organization at 222 Broadway, New York, New York 10038, or at such changed address as WESTERN shall have specified by written notice. If any royalty for any semiannual period referred to in Section 4.02 is computed in other currency, conversion to United States dollars shall be at the prevailing rate for bank cable transfers on New York City as quoted for the last day of such semiannual period by leading banks dealing in the New York City foreign exchange market.



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CORPORATION any license or other right under any patent, except the licenses and rights expressly granted to the CORPORATION; or

(viii) an obligation upon WESTERN to make any determination as to the applicability of any patent to any product of the CORPORATION or any of its SUBSIDIARIES; or

(ix) a release for any infringement prior to the effective date hereof.

(b) Neither WESTERN nor AT&T makes any representations, extends any warranties of any kind or assumes any responsibility whatever with respect to the manufacture, sale, lease, use or importation of any LICENSED PRODUCT, or part thereof, by the CORPORATION, any of its SUBSIDIARIES, or any direct or indirect supplier or vendee or other transferee of any such company, other than the licenses, immunities and rights expressly herein granted.

6.04 Neither this agreement nor any licenses or rights hereunder, in whole or in part, shall be assignable or otherwise transferable.

6.05 Any notice, request or information shall be deemed to be sufficiently given when sent by registered mail addressed to the addressee at its office above specified (and when addressed to WESTERN, to the attention of its Patent Licensing Organization) and any royalty statement shall be deemed to be sufficiently furnished when sent by registered mail addressed to WESTERN'S Treasury Organization at 222 Broadway, New York, New York 10038, or at such changed address as the addressee shall have specified by written notice.

6.06 This agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof and merges all prior discussions between them, and neither of the parties shall be bound by any conditions, definitions, warranties, understandings or representations with respect to such subject matter other than as expressly provided herein, or in any prior existing written agreement between the parties, or as duly set forth on or subsequent to the effective date hereof in writing and signed by a proper and duly authorized representative of the party to be bound thereby.

6.07 The construction and performance of this agreement shall be governed by the law of the State of New York.

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## ARTICLE VI

## MISCELLANEOUS PROVISIONS

6.01 (a) WESTERN shall, upon written request from the CORPORATION sufficiently identifying any patent by country, number and date of issuance, inform the CORPORATION as to the extent to which any such patent is subject to the licenses, immunities and rights granted to the CORPORATION.

(b) If such licenses, immunities or rights under any such patent are restricted in scope, copies of all pertinent provisions of any contract (other than provisions of a contract with a government to the extent that disclosure thereof is prohibited under that government's laws or regulations) creating such restrictions shall, upon request, be furnished to the CORPORATION.

6.02 Upon written request from the CORPORATION, WESTERN shall inform the CORPORATION which of WESTERN'S PATENTS cover inventions under which the United States Government holds a royalty-free license.

6.03 (a) Nothing contained in this agreement shall be construed as

(i) requiring the filing of any patent application, the securing of any patent or the maintaining of any patent in force; or

(ii) a warranty or representation by WESTERN as to the validity or scope of any patent; or

(iii) a warranty or representation that any manufacture, sale, lease, use or importation will be free from infringement of patents other than those under which and to the extent to which licenses or immunities are in force hereunder; or

(iv) an agreement to bring or prosecute actions or suits against third parties for infringement; or

(v) an obligation to furnish any manufacturing or technical information or assistance; or

(vi) conferring any right to use, in advertising, publicity or otherwise, any name, trade name or trademark, or any contraction, abbreviation or simulation thereof; or

(vii) conferring by implication, estoppel or otherwise upon the



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GENERAL DEFINITIONS APPENDIX

**FAIR MARKET VALUE** means the NET SELLING PRICE which the CORPORATION or any of its SUBSIDIARIES, whichever effects the sale, lease or use of the product or maintenance part, would realize from an unaffiliated buyer in an arm's length sale of an identical product or maintenance part in the same quantity and at the same time and place as such sale, lease or use.

**FIVE YEAR PERIOD** means the period commencing on the effective date of this agreement and having a duration of five years.

**LICENSED PRODUCT** means

- (i) any product as such, or
- (ii) any product which is any specified combination, of the kinds listed in Section 2.01 of this agreement. Although the term does not mean, and although licenses are not granted for, any other combination, a LICENSED PRODUCT

(iii) shall not lose its status as such on account of, and

(iv) shall not cause an unlicensed combination to infringe WESTERN'S PATENTS solely on account of,

such LICENSED PRODUCT being made, sold, leased or put into use as part of an unlicensed combination.

**NET SELLING PRICE** means the gross selling price of the ROYALTY-BEARING PRODUCT in the form in which it is sold, whether or not assembled (and without excluding therefrom any components or subassemblies thereof, whatever their origin and whether or not patent impacted), less the following items but only insofar as they pertain to the sale of such ROYALTY-BEARING PRODUCT by the CORPORATION or any of its SUBSIDIARIES and are included in such gross selling price:

- (i) usual trade discounts actually allowed (other than cash discounts, advertising allowances, or fees or commissions to any employees of the CORPORATION, a SUBSIDIARY of the CORPORATION, a company of which the CORPORATION is a SUBSIDIARY at the time of the sale, or any other SUBSIDIARY of a company of which the CORPORATION is a SUBSIDIARY at the time of such sale);
- (ii) packing costs;
- (iii) import, export, excise and sales taxes, and customs duties;
- (iv) costs of insurance and transportation from the place of manufacture

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IN WITNESS WHEREOF, each of the parties has caused this agreement to be executed in duplicate originals by its duly authorized representatives on the respective dates entered below.

WESTERN ELECTRIC COMPANY, INCORPORATED

By .....  
Director of Patent Licensing

Date .....

Attest: ..... [SEAL]

.....  
Secretary

By .....  
Title .....  
Date .....

Attest: ..... [SEAL]

.....  
Secretary



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to the customer's premises or point of installation;

(v) costs of installation at the place of use; and

(vi) costs of special engineering services not incident to the design or manufacture of the ROYALTY-BEARING PRODUCT.

ROYALTY-BEARING PRODUCT means any LICENSED PRODUCT, and any maintenance part therefor,

(i) which upon manufacture includes, or the manufacture of which employs, any invention of any of WESTERN'S PATENTS in force at the time and place of such manufacture, or

(ii) which includes when sold, leased or put into use, or the use of which employs, any invention of any of WESTERN'S PATENTS in force at the time and place of such sale, lease or use,

other than

(iii) inventions under which the United States Government holds a royalty-free license if such LICENSED PRODUCT or part is contracted for, directly or indirectly, by the United States Government, or by another national government with funds derived through the Military Assistance Program or otherwise through the United States Government, and

(iv) inventions employed in the manufacture of, or included in, such LICENSED PRODUCT or any original part thereof, or such maintenance part therefor or any original part thereof, by a direct or indirect supplier of the CORPORATION or any of its SUBSIDIARIES, but only to the extent such supplier has exercised its own licenses granted by WESTERN under patents for such inventions to so employ or include said inventions.

SUBSIDIARY means a company the majority of whose stock entitled to vote for election of directors is now or hereafter controlled by the parent company either directly or indirectly, but any such company shall be deemed to be a SUBSIDIARY only so long as such control exists.

WESTERN'S PATENTS means all patents issued at any time in the United States for

(i) inventions made prior to the termination of the FIVE YEAR PERIOD and owned or controlled at any time during the FIVE YEAR PERIOD by AT&T, WESTERN or any of their SUBSIDIARIES,

(ii) inventions made during the FIVE YEAR PERIOD, solely or jointly

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with anyone, and in the course of their employment by employees of any such company who are employed to do research, development or other inventive work, and

(iii) any other inventions made prior to the termination of the FIVE YEAR PERIOD, with respect to which and to the extent to which any such company shall at any time during the FIVE YEAR PERIOD have the right to grant the licenses and rights which are herein granted by WESTERN;

provided, however, that said patents do not include those issued for inventions made by employees of any SUBSIDIARY of WESTERN or AT&T exclusively engaged in the performance of contracts with the Energy Research and Development Administration of the United States.



APPENDIX B-8

Unilat.-Corp.-US pat.-020173-14

TECHNICAL DEFINITIONS APPENDIX



Bilat.-Corp.-US pats.-020173-2

TELEPHONE AND TELEGRAPH COMPANY, a New York corporation ("AT&T"), severally, under the CORPORATION'S PATENTS nonexclusive royalty-free licenses for products of the following kinds:

2.03 All licenses herein granted shall commence on the effective date hereof and, except as provided in Article VI and notwithstanding the expiration of the FIVE YEAR PERIOD, shall continue for the entire term that the patents under which they are granted are in force or for that part of such term for which the grantor has the right to grant such licenses.

2.04 (a) WESTERN grants under all patents issued in countries other than the United States and owned or controlled by AT&T, WESTERN or their SUBSIDIARIES, royalty-free immunity relating to the sale, lease or use in, or the importation into, such other countries of LICENSED PRODUCTS, and maintenance parts therefor, manufactured under the licenses granted under WESTERN'S PATENTS; provided, however, that nothing in this Section 2.04(a) shall relieve the CORPORATION of its obligation to pay any royalty which may be predicated upon such manufacture of any such LICENSED PRODUCT or part, whether or not the first sale, lease or use thereof occurs outside of the United States.

(b) The CORPORATION grants under all patents issued in countries other than the United States and owned or controlled by it or its ASSOCIATED COMPANIES, royalty-free immunity relating to the sale, lease or use in, or the importation into, such other countries of LICENSED PRODUCTS, and maintenance parts therefor, manufactured under the licenses granted under the CORPORATION'S PATENTS.

2.05 The licenses granted for LICENSED PRODUCTS are licenses to make, have made, use, lease and sell such LICENSED PRODUCTS. Such licenses include the rights to maintain LICENSED PRODUCTS, to practice methods and processes involved in the use of LICENSED PRODUCTS and to make and have made, to use and have used, and to maintain machines, tools, materials

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#### BILATERAL

#### PATENT LICENSE AGREEMENT

Effective as of  
WESTERN ELECTRIC COMPANY, INCORPORATED, a New York corporation ("WESTERN"), having an office at 222 Broadway, New York, New York 10038, and

("the CORPORATION"), having an office at

agree as follows:

#### ARTICLE I

##### DEFINITIONS

1.01 Terms in this agreement (other than technical terms, names of parties, companies and Article headings) which are in capital letters shall have the meanings specified in the General Definitions Appendix, and technical terms in this agreement which are in capital letters shall have the meanings specified in the Technical Definitions Appendix.

#### ARTICLE II

##### GRANTS OF LICENSES AND IMMUNITIES

2.01 WESTERN grants to the CORPORATION under WESTERN'S PATENTS nonexclusive licenses for products of the following kinds:

2.02 The CORPORATION grants to WESTERN and to AMERICAN



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ARTICLE III  
ACQUISITION AND WARRANTY

3.01 WESTERN and the CORPORATION shall each acquire rights to inventions made during the FIVE YEAR PERIOD which relate to the subject matter of licenses granted and are made, in the course of their employment, either solely or jointly with anyone, by its or its ASSOCIATED COMPANIES, employees (and in the case of WESTERN'S obligation, by employees of AT&T or its SUBSIDIARIES) who are employed to do research, development or other inventive work, such that each grantee shall, by virtue of this agreement, receive in respect of patents issued for such inventions, licenses and rights of the scope and upon the terms herein provided to be granted to such grantee.

3.02 WESTERN and, except as may be stated in a letter from the CORPORATION to WESTERN referring to this agreement and delivered before or concurrently with the execution hereof by WESTERN, the CORPORATION each warrants that there are no commitments or restrictions which will limit the licenses and rights granted by it under patents issued at any time for inventions owned at any time during the FIVE YEAR PERIOD by it or any of its ASSOCIATED COMPANIES (and in the case of WESTERN'S warranty, by AT&T or any of its SUBSIDIARIES).

3.03 It is recognized that either party or any of its ASSOCIATED COMPANIES may have entered into or may hereafter enter into a contract with a national government to do development work financed by such government and may be required under such contract (either unconditionally or by reason of any action or inaction thereunder) to assign to such government its rights to grant, or may now or hereafter be restrained by such government from granting, licenses or immunities to others than its ASSOCIATED COMPANIES under patents for inventions arising out of such work or covered by such contract. The resulting inability of such party to grant the licenses or immunities purported to be granted by it under patents for such inventions shall not be considered to be a breach of this agreement, if

(i) such contract is for the benefit of such government's military or national defense establishment or the Energy Research and Development Administration of the United States Government or the National Aeronautics and Space Administration of the United States Government, or

(ii) in cases other than (i), such contract is with the United States Government or any agency of and within such Government, and any such requirement or restraint is pursuant to a statute or officially promulgated regulation of such Government or agency applicable to such contract;

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and other instrumentalities, and to use and have used methods and processes, insofar as such machines, tools, materials, other instrumentalities, methods and processes are involved in or incidental to the development, manufacture, installation, testing or repair of LICENSED PRODUCTS.

2.06 The grant of each license to the CORPORATION includes the right to grant sublicenses within the scope of such license to its SUBSIDIARIES. The grant of each license to WESTERN or AT&T includes the right to grant sublicenses within the scope of such license to its ASSOCIATED COMPANIES. Such right of either party or AT&T may be exercised at any time prior to termination or cancellation of the corresponding license under the provisions of Article VI. Any such sublicenses granted to any present SUBSIDIARY or any present ASSOCIATED COMPANY may be made effective, retroactively, as of the effective date hereof, and any such sublicenses granted to any future SUBSIDIARY or any future ASSOCIATED COMPANY may be made effective, retroactively, as of the date such company became a SUBSIDIARY or an ASSOCIATED COMPANY.



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provided, however, that

- (iii) such party (or, if an ASSOCIATED COMPANY thereof has entered into such contract, such ASSOCIATED COMPANY) shall exert its best efforts to enable such party to grant the licenses or immunities herein purported to be granted by it under such patents; and
- (iv) within ninety (90) days after the filing of any application for any such patent, such party shall give written notice to the other party identifying such application by country, number and date of filing.

For the purposes of this Section 3.03, AT&T, WESTERN and their ASSOCIATED COMPANIES shall all be deemed to be ASSOCIATED COMPANIES of one another, and the CORPORATION and its ASSOCIATED COMPANIES shall be deemed to be ASSOCIATED COMPANIES of one another.

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#### ARTICLE IV

##### ROYALTY

4.01 The CORPORATION shall pay to WESTERN royalty, at the applicable rate hereinafter specified, on each LICENSED PRODUCT, and maintenance part thereof, which is a ROYALTY-BEARING PRODUCT, and

- (i) which is sold, leased or put into use by the CORPORATION or any of its SUBSIDIARIES while any license acquired hereunder by the CORPORATION with respect to such ROYALTY-BEARING PRODUCT shall remain in force, or
- (ii) which is made by or for the CORPORATION or any of its SUBSIDIARIES while any such license shall remain in force and is thereafter sold, leased or put into use by the CORPORATION or any of its SUBSIDIARIES,

whether or not such SUBSIDIARIES are sublicensed pursuant to Section 2.06, such royalty rate to be applied, except as provided in Section 4.05, to the NET SELLING PRICE of such ROYALTY-BEARING PRODUCT if sold for a separate consideration payable wholly in money and in all other cases to the FAIR MARKET VALUE thereof. The royalty rates applicable to LICENSED PRODUCTS of the kinds specified in Section 2.01, and maintenance parts thereof, are as follows:

(iii)

4.02 If a LICENSED PRODUCT is a ROYALTY-BEARING PRODUCT solely on account of one or a limited number of WESTERN'S PATENTS, the



CORPORATION may elect to reduce the amount of royalty otherwise payable hereunder on said LICENSED PRODUCT by a royalty reduction percentage, and as of an effective date, established by WESTERN. Upon written request from the CORPORATION identifying the LICENSED PRODUCT and each relevant patent, WESTERN will inform the CORPORATION of the royalty reduction percentage applicable in respect of said LICENSED PRODUCT and patent or patents and the effective date thereof.

4.03 A LICENSED PRODUCT, or maintenance part therefor, which is made and sold by the CORPORATION or any of its SUBSIDIARIES and which is a ROYALTY-BEARING PRODUCT hereunder on account of one or more of WESTERN'S PATENTS, may be treated by the CORPORATION as not licensed and not subject to royalty hereunder if all of the following conditions are met:

- (i) the purchaser is licensed under the same patent or patents, pursuant to another agreement, to have said LICENSED PRODUCT or part made;
- (ii) the purchaser expressly advises the CORPORATION or its SUBSIDIARY, whichever effects the making and sale, in writing at or prior to (but in no event later than) the time of such sale that, in purchasing said LICENSED PRODUCT or part, it is exercising its own license or licenses under said patent or patents to have said LICENSED PRODUCT or part made; and
- (iii) the CORPORATION retains such written advice and makes it available to WESTERN at the latter's request.

4.04 Only one royalty shall be payable hereunder in respect of any ROYALTY-BEARING PRODUCT. Royalty shall accrue hereunder on any LICENSED PRODUCT, or maintenance part therefor, upon its first becoming a ROYALTY-BEARING PRODUCT, and the royalty thereon shall become payable in accordance with the provisions of this Article IV upon the first sale, lease or putting into use thereof.

4.05 If any sale of a ROYALTY-BEARING PRODUCT shall be made by the CORPORATION or a SUBSIDIARY thereof to

- (i) any company of which the CORPORATION is a SUBSIDIARY at the time of such sale, or
- (ii) the CORPORATION or a SUBSIDIARY thereof or any other SUBSIDIARY of a company of which the CORPORATION is a SUBSIDIARY at the time of such sale,

royalty payable hereunder shall be computed on the FAIR MARKET VALUE of such ROYALTY-BEARING PRODUCT.

## ARTICLE V

### REPORTS AND PAYMENTS

5.01 The CORPORATION shall keep full, clear and accurate records with respect to ROYALTY-BEARING PRODUCTS. WESTERN shall have the right through its accredited auditing representatives to make an examination and audit, during normal business hours, not more frequently than annually, of all such records and such other records and accounts as may under recognized accounting practices contain information bearing upon the amount of royalty payable to it under this agreement. Prompt adjustment shall be made by the proper party to compensate for any errors or omissions disclosed by such examination or audit. Neither such right to examine and audit nor the right to receive such adjustment shall be affected by any statement and audit nor the right, appearing on checks or otherwise, unless such statement appears in a letter, signed by the party having such right and delivered to the other party, expressly waiving such right. \*

5.02 (a) Within sixty (60) days after the end of each semiannual period ending on June 30th or December 31st, commencing with the semiannual period during which this agreement first becomes effective, the CORPORATION shall furnish to WESTERN a statement, in form acceptable to WESTERN, certified by a responsible official of the CORPORATION:

- (i) showing all ROYALTY-BEARING PRODUCTS, by kinds of LICENSED PRODUCTS, which were sold, leased or put into use during such semiannual period, the NET SELLING PRICES of such ROYALTY-BEARING PRODUCTS or (where royalty is based on FAIR MARKET VALUES) the FAIR MARKET VALUES thereof and the amount of royalty payable thereon (or if no such ROYALTY-BEARING PRODUCT has been so sold, leased or put into use, showing that fact);
- (ii) identifying, if royalty is reduced under provisions of Section 4.02, each LICENSED PRODUCT by its type and the patent or patents involved in such royalty reduction;
- (iii) showing, by purchasers and kinds of LICENSED PRODUCTS, the monetary totals of the sales, to each purchaser exercising its own "to have made" license or licenses, of LICENSED PRODUCTS and maintenance parts in transactions of the character described in Section 4.03; and
- (iv) identifying all transactions of the character described in Section 4.05.

(b) Within such sixty (60) days the CORPORATION shall, irrespective of its own business and accounting methods, pay to WESTERN the royalties payable for such semiannual period.

(c) Notwithstanding the provisions of Section 7.04(a) (v), the CORPORATION shall furnish whatever additional information WESTERN may

\*/ If licensee insists on a non-Western auditor, third line, insert, after "representatives", -or, at the election of the CORPORATION, through a firm of certified public accountants proposed by WESTERN and accepted by the CORPORATION.



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reasonably prescribe from time to time to enable WESTERN to ascertain which LICENSED PRODUCTS (and maintenance parts thereof) sold, leased or put into use by the CORPORATION or any of its SUBSIDIARIES are subject to the payment of royalty to WESTERN, and the amount of royalty payable thereon.

5.03 Royalty payments provided for in this agreement shall, when overdue, bear interest at an annual rate of one percent (1%) over the prime rate or successive prime rates in effect in New York City during delinquency.

5.04 Payment to WESTERN shall be made in United States dollars to WESTERN'S Treasury Organization at 222 Broadway, New York, New York 10038, or at such changed address as WESTERN shall have specified by written notice. If any royalty for any semiannual period referred to in Section 5.02 is computed in other currency, conversion to United States dollars shall be at the prevailing rate for bank cable transfers on New York City as quoted for the last day of such semiannual period by leading banks dealing in the New York City foreign exchange market.

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#### ARTICLE VI

##### TERMINATION, CANCELLATION AND SURRENDER

6.01 Any termination under the provisions of this Article VI by one party of licenses and rights of the other party shall not affect the licenses and rights of the terminating party and its sublicensees (or of AT&T and its sublicensees if WESTERN is the terminating party), nor the obligations of the CORPORATION under the provisions of Articles IV and V if it is the terminating party.

6.02 If WESTERN shall fail to fulfill one or more of its obligations under this agreement, the CORPORATION may, upon election and in addition to any other remedies that it may have, at any time terminate all licenses and rights granted to WESTERN and AT&T hereunder, by not less than six (6) months' written notice to WESTERN specifying any such breach, unless within the period of such notice all breaches specified therein shall have been remedied.

6.03 (a) If the CORPORATION shall fail to fulfill one or more of

(i) its obligations under Articles IV or V, or

(ii) its obligations under this agreement whereby WESTERN or AT&T fails to receive licenses or rights which it is entitled hereunder to receive under patents issued in the United States,

WESTERN may, upon election and in addition to any other remedies that it may have, at any time terminate all licenses and rights granted to the CORPORATION hereunder, by not less than six (6) months' written notice to the CORPORATION specifying any such breach, unless within the period of such notice all breaches specified therein shall have been remedied.

(b) Termination by WESTERN of licenses and rights granted to the CORPORATION shall terminate the obligations of the CORPORATION under the provisions of Articles IV and V relating to such terminated licenses and rights, except such obligations as to ROYALTY-BEARING PRODUCTS made, sold, leased or put into use prior to such termination.

6.04 (a) By written notice to WESTERN, the CORPORATION may cancel the licenses for any specified products granted hereunder to it under WESTERN'S PATENTS. Such cancellation shall be effective as of the date of giving said notice but shall not relieve the CORPORATION of its obligation to pay accrued royalties with respect to such specified products.

(b) By written notice to the CORPORATION, WESTERN or AT&T may cancel the licenses for any specified products granted hereunder to it under the CORPORATION'S PATENTS, such cancellation to be effective as of the date of giving said notice.

6.05 By written notice to WESTERN, specifying any of WESTERN'S PATENTS by number and date of issuance, the CORPORATION may



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surrender and terminate all licenses and rights granted to it under such specified patent or patents or under any specified invention or inventions thereof. Such surrender and termination shall be effective as of a date specified in said notice which shall not be more than six (6) months prior to the date of giving said notice. As of said effective date, such specified patent or patents or invention or inventions shall cease to be among, or among the inventions of, WESTERN'S PATENTS for the purposes of this agreement without affecting obligations in respect of royalties accrued prior to said effective date.

6.06 (a) Every sublicense granted by a party or AT&T shall terminate with termination or cancellation of its corresponding license.

(b) Any sublicenses granted shall terminate if and when the grantee thereof ceases to be an ASSOCIATED COMPANY of WESTERN or AT&T or a SUBSIDIARY of the CORPORATION. Each LICENSED PRODUCT and each maintenance part, made by or for a SUBSIDIARY of the CORPORATION, and on which royalty has accrued but which remains not sold, leased or put into use at the time such SUBSIDIARY ceases to be a SUBSIDIARY of the CORPORATION, shall be deemed to have been put into use by such SUBSIDIARY immediately prior to such time at the place said LICENSED PRODUCT or part is then located.

(c) If an ASSOCIATED COMPANY'S relationship to a party or AT&T changes so that such ASSOCIATED COMPANY is no longer an ASSOCIATED COMPANY of such party or AT&T, licenses and rights acquired under the patents and patent rights of such ASSOCIATED COMPANY for inventions made prior to the date such relationship changed shall not be affected by such change.

6.07 Licenses, immunities and rights with respect to each LICENSED PRODUCT, and each maintenance part, made, sold, leased or put into use prior to any termination or cancellation under the provisions of this Article VI shall survive such termination or cancellation.

# ARTICLE VII

## MISCELLANEOUS PROVISIONS

7.01 With respect to patents or inventions owned jointly by the CORPORATION, or any of its ASSOCIATED COMPANIES, with any other person or persons who has or have granted, or who shall hereafter grant, to WESTERN or AT&T, licenses or other rights thereunder, the CORPORATION, to the extent that the licenses and rights so granted do not exceed the scope of the licenses and rights herein granted by the CORPORATION, consents to the grant of licenses and rights to WESTERN and AT&T under such patents and inventions by such other person or persons.

7.02 (a) Each party shall, upon written request from the other party sufficiently identifying any patent by country, number and date of issuance, inform the other party as to the extent to which any such patent is subject to the licenses, immunities and rights granted to such other party.

(b) If such licenses, immunities or rights under any such patent are restricted in scope, copies of all pertinent provisions of any contract (other than provisions of a contract with a government to the extent that disclosure thereof is prohibited under that government's laws or regulations) creating such restrictions shall, upon request, be furnished to the party making such request.

7.03 Upon written request from one party, the other party shall inform the requesting party which of said other party's patents cover inventions under which the United States Government holds a royalty-free license.

7.04 (a) Nothing contained in this agreement shall be construed as

(i) requiring the filing of any patent application, the securing of any patent or the maintaining of any patent in force; or

(ii) a warranty or representation by any grantor as to the validity or scope of any patent; or

(iii) a warranty or representation that any manufacture, sale, lease, use or importation will be free from infringement of patents other than those under which and to the extent to which licenses or immunities are in force hereunder; or

(iv) an agreement to bring or prosecute actions or suits against third parties for infringement; or

(v) an obligation to furnish any manufacturing or technical information or assistance; or

(vi) conferring any right to use, in advertising, publicity or otherwise, any



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name, trade name or trademark, or any contraction, abbreviation or simulation thereof; or

(vii) conferring by implication, estoppel or otherwise upon any grantee any license or other right under any patent, except the licenses and rights expressly granted to such grantee; or

(viii) an obligation upon any grantor to make any determination as to the applicability of any patent to any product of any grantee or any of its ASSOCIATED COMPANIES; or

(ix) a release for any infringement prior to the effective date hereof.

(b) Neither party nor AT&T makes any representations, extends any warranties of any kind or assumes any responsibility whatever with respect to the manufacture, sale, lease, use or importation of any LICENSED PRODUCT, or part thereof, by any grantee, any of its ASSOCIATED COMPANIES, or any direct or indirect supplier or vendee or other transferee of any such company, other than the licenses, immunities, rights and warranties expressly herein granted.

7.05 Neither this agreement nor any licenses or rights hereunder, in whole or in part, shall be assignable or otherwise transferable.

7.06 Any notice, request or information shall be deemed to be sufficiently given when sent by registered mail addressed to the addressee at its office above specified (and when addressed to WESTERN, to the attention of its Patent Licensing Organization) and any royalty statement shall be deemed to be sufficiently furnished when sent by registered mail addressed to WESTERN'S Treasury Organization at 222 Broadway, New York, New York 10038, or at such changed address as the addressee shall have specified by written notice.

7.07 This agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof and merges all prior discussions between them, and neither of the parties shall be bound by any conditions, definitions, warranties, understandings or representations with respect to such subject matter other than as expressly provided herein, or in any prior existing written agreement between the parties, or as duly set forth on or subsequent to the effective date hereof in writing and signed by a proper and duly authorized representative of the party to be bound thereby.

7.08 The construction and performance of this agreement shall be governed by the law of the State of New York.

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IN WITNESS WHEREOF, each of the parties has caused this agreement to be executed in duplicate originals by its duly authorized representatives on the respective dates entered below.

WESTERN ELECTRIC COMPANY, INCORPORATED

By .....  
Director of Patent Licensing

Date .....

Attest: .....  
Secretary  
.....  
[SEAL]

By .....  
Title .....  
Date .....

Attest: .....  
Secretary  
.....  
[SEAL]



APPENDIX B-16

Bilat-Corp-US pats.-020173-100173-15

GENERAL DEFINITIONS APPENDIX

ASSOCIATED COMPANIES of AT&T are The Southern New England Telephone Company, a Connecticut corporation, and its SUBSIDIARIES, Cincinnati Bell Inc., an Ohio corporation, and its SUBSIDIARIES, and SUBSIDIARIES of AT&T other than WESTERN and its SUBSIDIARIES.

ASSOCIATED COMPANIES of the CORPORATION are SUBSIDIARIES of the CORPORATION, companies presently having the CORPORATION as a SUBSIDIARY and other SUBSIDIARIES of such companies.

ASSOCIATED COMPANIES of WESTERN are SUBSIDIARIES of WESTERN.

The CORPORATION'S PATENTS means all patents issued at any time in the United States for

- (i) inventions made prior to the termination of the FIVE YEAR PERIOD and owned or controlled at any time during the FIVE YEAR PERIOD by the CORPORATION or any of its ASSOCIATED COMPANIES,
- (ii) inventions made during the FIVE YEAR PERIOD, solely or jointly with anyone, and in the course of their employment by employees of any such company who are employed to do research, development or other inventive work, and
- (iii) any other inventions made prior to the termination of the FIVE YEAR PERIOD, with respect to which and to the extent to which any such company shall at any time during the FIVE YEAR PERIOD have the right to grant the licenses and rights which are herein granted by the CORPORATION.

FAIR MARKET VALUE means the NET SELLING PRICE which the CORPORATION or any of its SUBSIDIARIES, whichever effects the sale, lease or use of the product or maintenance part, would realize from an unaffiliated buyer in an arm's length sale of an identical product or maintenance part in the same quantity and at the same time and place as such sale, lease or use.

FIVE YEAR PERIOD means the period commencing on the effective date of this agreement and having a duration of five years.

LICENSED PRODUCT means, as to any respective grantee,

- (i) any product as such, or
- (ii) any product which is any specified combination.

of the kinds listed in Section 2.01 or 2.02 of this agreement. Although the term

does not mean, and although licenses are not granted for, any other combination, a LICENSED PRODUCT

- (iii) shall not lose its status as such on account of, and
- (iv) shall not cause an unlicensed combination to infringe the grantor's patents (i.e., WESTERN'S PATENTS or the CORPORATION'S PATENTS, as the case may be) solely on account of,

such LICENSED PRODUCT being made, sold, leased or put into use as part of an unlicensed combination.

NET SELLING PRICE means the gross selling price of the ROYALTY-BEARING PRODUCT in the form in which it is sold, whether or not assembled (and without excluding therefrom any components or subassemblies thereof, whatever their origin and whether or not patent impacted), less the following items but only insofar as they pertain to the sale of such ROYALTY-BEARING PRODUCT by the CORPORATION or any of its SUBSIDIARIES and are included in such gross selling price:

- (i) usual trade discounts actually allowed (other than cash discounts, advertising allowances, or fees or commissions to any employees of the CORPORATION, a SUBSIDIARY of the CORPORATION, a company of which the CORPORATION is a SUBSIDIARY at the time of the sale, or any other SUBSIDIARY of a company of which the CORPORATION is a SUBSIDIARY at the time of such sale);
- (ii) packing costs;
- (iii) import, export, excise and sales taxes, and customs duties;
- (iv) costs of insurance and transportation from the place of manufacture to the customer's premises or point of installation;
- (v) costs of installation at the place of use; and
- (vi) costs of special engineering services not incident to the design or manufacture of the ROYALTY-BEARING PRODUCT.

ROYALTY-BEARING PRODUCT means any LICENSED PRODUCT of the kinds specified in Section 2.01 of this agreement (other than any LICENSED PRODUCT for which all the licenses granted in this agreement are at a royalty rate of zero percent (0%)), and any maintenance part thereof,

- (i) which upon manufacture includes, or the manufacture of which employs, any invention of any of WESTERN'S PATENTS in force at the time and place of such manufacture, or
- (ii) which includes when sold, leased or put into use, or the use of which employs, any invention of any of WESTERN'S PATENTS in force at



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the time and place of such sale, lease or use,

other than

(iii) inventions under which the United States Government holds a royalty-free license if such LICENSED PRODUCT or part is contracted for, directly or indirectly, by the United States Government, or by another national government with funds derived through the Military Assistance Program or otherwise through the United States Government, and

(iv) inventions employed in the manufacture of, or included in, such LICENSED PRODUCT or any original part thereof, or such maintenance part thereof or any original part thereof, by a direct or indirect supplier of the CORPORATION or any of its SUBSIDIARIES, but only to the extent such supplier has exercised its own licenses granted by WESTERN under patents for such inventions to so employ or include said inventions.

SUBSIDIARY means a company the majority of whose stock entitled to vote for election of directors is now or hereafter controlled by the parent company either directly or indirectly, but any such company shall be deemed to be a SUBSIDIARY only so long as such control exists.

WESTERN'S PATENTS means all patents issued at any time in the United States for

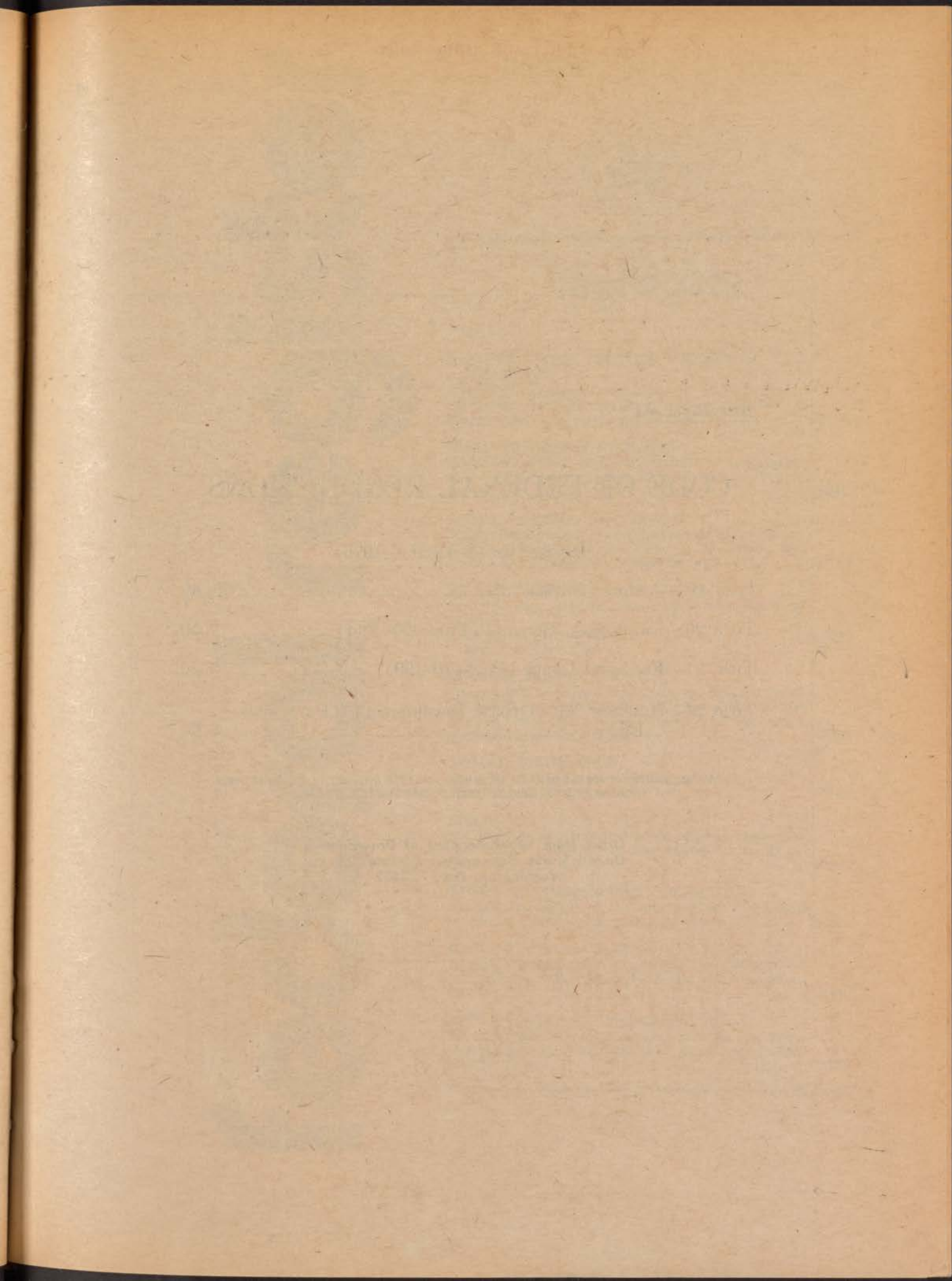
(i) inventions made prior to the termination of the FIVE YEAR PERIOD and owned or controlled at any time during the FIVE YEAR PERIOD by AT&T, WESTERN or any of their SUBSIDIARIES,

(ii) inventions made during the FIVE YEAR PERIOD, solely or jointly with anyone, and in the course of their employment by employees of any such company who are employed to do research, development or other inventive work, and

(iii) any other inventions made prior to the termination of the FIVE YEAR PERIOD, with respect to which and to the extent to which any such company shall at any time during the FIVE YEAR PERIOD have the right to grant the licenses and rights which are herein granted by WESTERN;

provided, however, that said patents do not include those issued for inventions made by employees of any SUBSIDIARY of WESTERN or AT&T exclusively engaged in the performance of contracts with the Energy Research and Development Administration of the United States.







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(Revised as of April 1, 1976)

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*[A Cumulative checklist of CFR issuances for 1976 appears in the first issue of the Federal Register each month under Title 1]*

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