

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt

and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of

flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

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

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

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

§ 1914.6 List of eligible communities.

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

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

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

Issued: March 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

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

[4210-01-M]

[Docket No. FI 5254]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insur-

ance Program (NFIP). The identification of such areas is to provide guidance to communities on the reduction of property losses, by the adoption of appropriate flood plain management, or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

ance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

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

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

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

Secretary of Housing and Urban Development

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

from the hazard identification date (the date in the eighth column of the table).

This 30 day period before the map action becomes effective does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map,

whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

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

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

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

State	County	Community name and No. of panels	Community No. and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Hazard Identification date(s)	Effective date of this map action	Local map repository
Florida	Lake	Town of Howey-In-The-Hills, 0001A.	120585	N-5	I	F	Mar. 2, 1979	Mar. 2, 1979	C. Fletcher Bishop, Jr., Mayor, P.O. Box 67, Howey-In-The-Hills, FL 32737, Phone: (904) 324-2290.
Illinois	Sangamon	City of Auburn, 0001A.	170944	N-5	I	F	Mar. 2, 1979	Mar. 2, 1979	Loren Boesdorfer, Mayor, 108 S. 5th Street, Auburn, IL 62615, Phone: (217) 438-6151.
	Edgar	Edgar County, ¹ 0001A-0006A.	170985	N-5	I	F	Mar. 2, 1979	Mar. 2, 1979	Max Carrington, Ch. Co. Bd., R.R. #5, Paris, IL 61944, Phone: (217) 465-5102.
	Marshall	Marshall County, ¹ 0001A-0006A.	170994	N-5	I	F	Mar. 2, 1979	Mar. 2, 1979	Joe Monier, Ch. Co. Bd., RFD, Sparland, IL 61565, Phone: (309) 469-4632.
	Macon	Village of Mount Zion, 0001A.	170962	N-5	I	F	Mar. 2, 1979	Mar. 2, 1979	J. A. Larson, V. Pres., 400 Main Street, Mount Zion, IL 62549, Phone: (217) 864-2211.
Michigan	Ottawa	Township of Holland, 0001B-0002B.	260492	E-11, 12, 14.	I	F	Aug. 12, 1977	Mar. 2, 1979	Donald Nicewater, Attorney, P.O. Box 454, Grand Haven, MI 49417, Phone: (616) 842-3030.
Minnesota	Todd	City of Hewitt, 0001B.	270478	E-11, 12, 14.	I	F	Aug. 9, 1974 July 16, 1976	Mar. 2, 1979	Ronald Hamann, City Hall, Hewitt, MN 56453, Phone: (218) 924-4617.
North Carolina	Pamlico	Town of Minnesott Beach, 0001A.	370418	N-5	I	F	Mar. 2, 1979	Mar. 2, 1979	Ottis H. Peele, Mayor, Town Hall, Arapahoe, NC 28510, Phone: (919) 249-0048.
Ohio	Richland	City of Mansfield, 0001B-0003B.	390477	E-8, 11, 12, 14.	I	F	May 17, 1974 Oct. 17, 1975	Mar. 2, 1979	Richard Porter, Mayor, 30 North Diamond, Mansfield, OH 44902, Phone: (419) 526-2800.
Wisconsin	Crawford	Village of Bell Center, 01.	550688B	E-11, 12, 14.	I	F	Jan. 9, 1974 Apr. 16, 1976	Mar. 2, 1979	Hallis Campbell, V. Pres., Village Hall, Bell Center, WI 54631, Phone: (608) 735-4796.
New Hampshire	Rockingham	Town of Kingston, 0001A-0002A.	330217A	N-11, 12...	I	F	Jan. 17, 1975	Mar. 6, 1979	Mr. Ralph Southwick, Selectman, Board of Selectmen, Town Office, Kingston, NH 03848, (603) 642-3112.
Oregon	Unincorporated area	Benton County, 0001B-0010B.	410008B	E-8, 11, 12.	I	F	Dec. 27, 1974 Apr. 8, 1977	Mar. 6, 1979	Mr. Dale D. Schrock, Commissioner, Board of Commissioners, Benton County Courthouse, Corvallis, OR 97330, (503) 757-6800.
South Dakota	Brown	Town of Westport, 0001A.	460011A	E-5	I	F	Mar. 6, 1979	Mar. 6, 1979	Mr. Archie Clifford, Town President, Office of Town President, Westport, SD 57481, (605) 225-0250 Ext. 483.
Wyoming	Carbon	Town of Elk Mountain, 0001A.	560093A	E-5	I	F	Mar. 6, 1979	Mar. 6, 1979	Honorable Norman Palm, Mayor, P.O. Box 17, Elk Mountain, WY 82324, (307) 348-7771.
Alabama	Montgomery	City of Montgomery, 01-19.	010174C	E-8, 11, 12, 14.	I	F	June 28, 1974 Jan. 9, 1976 May 13, 1977	Mar. 9, 1979	Emory Polmar, Mayor, P.O. Box 1111, Montgomery, AL 36102, Phone: (205) 262-4421.

State	County	Community name and No. of panels	Community No. and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Illinois	Kendall	Village of Oswego, 0001B.	170345	E-8, 11, 12, 14.	I	F	Nov. 23, 1973 Oct. 31, 1975	Mar. 9, 1979	Milton Penn, V. Pres., 113 Main Street, Oswego, IL 60543, Phone: (312) 554-3618.
Indiana	Grant	Town of Jonesboro, 0001B.	180076	E-8, 11, 12, 14.	I	F	Dec. 7, 1973 July 23, 1976	Mar. 9, 1979	Lester Lewis, Town Pres., 210 North Water Street, Jonesboro, IN 46938, Phone: (317) 874-2804.
	Washington	Town of New Pekin, 0001A.	180463	N-5	I	F	Mar. 9, 1979	Mar. 9, 1979	Lloyd Sullivan, Town Bd. Pres., Rt. 1, New Pekin, IN 47165, Phone: (812) 967-3457.
Minnesota	Wabasha	City of Hammond, 01.	270485B	E-11, 12, 14.	I	F	Aug. 2, 1974 Sept. 10, 1976	Mar. 9, 1979	Jerry Kuehn, Mayor, P.O. Box 543, Hammond, MN 55938, Phone: (507) 753-2360.
	Wabasha, Goodhue	City of Lake City, 0001B.	270486	E-8, 11, 12, 14.	I	F	Mar. 15, 1974 Apr. 9, 1976	Mar. 9, 1979	Donald Bush, Mayor, 205 West Center Street, Lake City, MN 55041, Phone: (612) 345-5383.
Ohio	Wyandot	Village of Carey, 01.	390590B	E-11, 12, 14.	I	F	May 31, 1974 Aug. 20, 1976	Mar. 9, 1979	Charles W. Mabey, V. Admn., 127 North Vance Street, Carey, OH 43316, Phone: (419) 396-7681.
Pennsylvania	Erie	Township of McKean, 0001A-0004A.	422623	E-5	I	F	Mar. 9, 1979	Mar. 9, 1979	Richard East, 4459 North Colonial Parkway, Erie, PA 16509, Phone: (814) 833-0038.
Arkansas	Nevada	Town of Willisville, 0001A.	050571A	N-5	I	F	Mar. 13, 1979	Mar. 13, 1979	Honorable James Pennington, Mayor, Town of Willisville, Office of Mayor, Willisville, AR 71864, (501) 234-4260, Ext. 267.
Montana	Unincorporated area	Sanders County, 0017B.	300072B	N-12	I	F	Dec. 27, 1977	Mar. 13, 1979	Mr. Neil B. Mann, Supervisor, Floodplain Management Section, Engineering Bureau, Department of Natural Resources and Conservation, 32 South Ewing, Helena, MT 59601, (406) 449-2864.
Oregon	Unincorporated area	Yamhill County, 0001B-0011B.	410249B	E-11, 12	I	F	Dec. 27, 1974 July 19, 1977	Mar. 13, 1979	Mr. Ted Lopuskynski, Chairman, Yamhill County, Board of County Commissioners, County Courthouse, McMinnville, OR 97128, (503) 472-9371.
South Dakota	Douglas	City of Armour, 01A-02A.	460234A	N-11, 12	I	F	Aug. 6, 1976	Mar. 13, 1979	Honorable Dennis Sparks, Mayor, City Hall, Main Street, Armour, SD 57313 (605) 724-2157.
Utah	Weber	City of Riverdale, 0001B.	490190B	E-8, 11, 12.	I	F	June 28, 1974 Nov. 28, 1975	Mar. 13, 1979	Honorable Leon Poulsen, Mayor, 4459 South 700 West, Ogden, UT 84403, (801) 394-0529.
Washington	Kittitas	City of Ellensburg, 0001B-0003B.	530234B	E-11, 12	I	F	Dec. 17, 1973 Apr. 16, 1976	Mar. 13, 1979	Honorable Darrel Curtis, Mayor, P.O. Box 1087, Ellensburg, WA 98926, (509) 962-9863.
Alabama	Sumter	Town of Cuba, 0001A.	010379	N-5	I	F	Mar. 16, 1979	Mar. 16, 1979	Charles I. Tate, Mayor, Town Hall, Cuba, AL 36907, Phone: (205) 392-5209.
	Walker	Town of Kansas, 01.	010390A	N-5	I	F	Mar. 16, 1979	Mar. 16, 1979	John Hinds, Mayor, P.O. Box 4206, Kansas, AL 35573, Phone: (205) 924-9561.
Illinois	McLean	City of Bloomington, 0001B-0002B.	170490	E-8, 11, 12, 14.	I	F	Sept. 24, 1976	Mar. 16, 1979	Richard Buchanan, Mayor, 109 East Olive Street, Bloomington, IL 61701, Phone: (309) 828-7361.
Indiana	Tippecanoe	Town of Battle Ground, 0001B.	180252	E-11, 12, 14.	I	F	May 24, 1974 June 25, 1976	Mar. 16, 1979	William D. Rogers, T. Pres., Town Hall, Battle Ground, IN 47920, Phone: (317) 567-2603.
	Madison	City of Elwood, 0001B.	180152B	E-8, 11, 12, 14.	I	F	Dec. 28, 1973 Oct. 24, 1975	Mar. 16, 1979	Lynn Chase, Mayor, 1601 Main Street, Elwood, IN 46036, Phone: (317) 552-5076.
	Tipton	Tipton County, ¹ 0001A-0004A.	180475	N-5	I	F	Mar. 16, 1979	Mar. 16, 1979	Genevieve Morris, Sec., Courthouse, Tipton, IN 46072, Phone: (317) 675-2794.

RULES AND REGULATIONS

State	County	Community name and No. of panels	Community No. and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Kentucky	Pike	City of Elkhorn City, 0001A.	210356	N-5	I	F	Mar. 16, 1979	Mar. 16, 1979	Charles Cantrell, Mayor, P.O. Box 681, Elkhorn City, KY 41522, Phone: (606) 754-5080.
Minnesota	Clearwater	City of Bagley, 0001A.	270087	E-8, 10, 11, 12, 14.	I	F	Mar. 29, 1974	Mar. 16, 1979	Earl Swenson, Mayor, Box 178, Bagley, MN 56621, Phone: (218) 694-2300.
	Winona	City of Goodview, 0001A.	270528	E-8, 11, 12, 14.	I	F	Mar. 19, 1979	Mar. 16, 1976	Daryl K. Zimmer, Box 212, Winona, MN 55987, Phone: (507) 452-1630.
Tennessee	Wayne	Wayne County, ¹ 0001A-0010A.	470199	N-5	I	F	Mar. 16, 1979	Mar. 16, 1979	James R. Martin, Judge, Courthouse, Waynesboro, TN 38485, Phone: (615) 722-5620.
Virginia	Page	Town of Shenandoah, 0001B.	510248	E-8, 11, 12, 14.	I	F	Nov. 1, 1974 May 28, 1976	Mar. 16, 1979	Barrett R. Bryant, Mayor, 416 First Street, Shenan- doah, VA 22849, Phone: (703) 652-3328.
	Sussex	Town of Stony Creek, 0001B.	510159	E-11, 12, 14.	I	F	Aug. 9, 1974 Apr. 30, 1976	Mar. 16, 1979	Thomas W. Baley, Jr., Mayor, P.O. Box 65, Stony Creek, VA 23882, Phone: (804) 246-6601.
Wisconsin	Barron	City of Rice Lake, 0001B.	550016	E-8, 11, 12, 14.	I	F	Dec. 7, 1973 July 30, 1976	Mar. 16, 1979	David Burner, Mayor, 111 East Marshall Street, Rice Lake, WI 54868, Phone: (715) 234-4611.
Arkansas	Clark	Town of Caddo Valley, 0001A.	050567A	N-5	I	F	Mar. 20, 1979	Mar. 20, 1979	Honorable Allyn Bert Cox, Mayor, Office of Mayor, Route 2, Box 447, Arkadel- phia, AR 71923, (501) 246- 5789.
Connecticut	Litchfield	Town of Colebrook, 0001A-0004A.	090180A	E-5, 15	I	F	Mar. 20, 1979	Mar. 20, 1979	Mr. Frederick I. Wilber, First Selectman, Board of Selectmen, Colebrook Center, Colebrook, CT 06021, (203) 379-2922.
Kansas	Anderson	City of Greeley, 0001A.	200006A	N-8, 11	I	F	Nov. 22, 1974	Mar. 20, 1979	Honorable Lee J. Clevenger, Sr., Mayor, City Hall, Greeley, KS 66033, (913) 867-2410.
Montana	Unincorporated area	Garfield County, 0026A.	300150A	N-5	I	F	Mar. 20, 1979	Mar. 20, 1979	Mr. Kenneth A. Coulter, Chairman, County of Gar- field, Office of County Commissioners, County Courthouse, Jordan, MT 59337, (406) 557-2760.
North Dakota	Stutsman	City of Spiritwood Lake, 0001A.	380315A	E-5	I	F	Mar. 20, 1979	Mar. 20, 1979	Mr. Donald Wanner, City of Spiritwood Lake, Office of the Auditor, P.O. Box 642, Jamestown, ND 58401, (701) 252-7188.
Oregon	Multnomah	City of Troutdale, 0001B.	410184B	E-8, 11, 12.	I	F	Dec. 7, 1973 June 4, 1976	Mar. 20, 1979	Honorable Robert M. Sturges, Mayor, 104 Ki- ling Street, Troutdale, OR 97060, (503) 665-5175.
Illinois	Cumberland	Cumberland County, ¹ 0001A-0006A.	170987	N-5	I	F	Mar. 23, 1979	Mar. 23, 1979	Elwood Hawes, Clerk, Box 146, Toledo, IL 62468, Phone: (217) 849-2631.
	Calhoun	Village of Hardin, 0001B.	170738	E-8, 11, 12, 14.	I	F	June 28, 1974 Jan. 23, 1976	Mar. 23, 1979	William C. Harman, Village President, Village Hall, Hardin, IL 62407, Phone: (618) 576-2231.
	Jackson	Village of Makanda, 0001B.	170301	N-11, 12, 14.	I	F	Aug. 23, 1974 Dec. 26, 1975	Mar. 23, 1979	B. C. Ross, Village Pres., P.O. Box 1, Makanda, IL 62958, Phone: (618) 549- 6392.
	Carroll	Village of Thomson, 01.	170778A	N-12, 14	I	F	Oct. 17, 1975	Mar. 23, 1979	Pay D. Ashby, Village Pres., P.O. Box 134, Thomson, IL 61285, Phone: (815) 259- 3384.
Indiana	Wayne	City of Fountain City, 01.	180282C	N-8, 11, 12, 14.	I	F	May 10, 1974 Apr. 16, 1976 Apr. 15, 1977	Mar. 23, 1979	John Keller, City Pres., 312 W. Main St., Fountain City, IN 47341, Phone: (317) 847-2412.
	Sullivan	Sullivan County, ¹ 0001A-0006A.	180410	N-5	I	F	Mar. 23, 1979	Mar. 23, 1979	Dennis Southwood, Ch. Co. Bd., Courthouse, Sullivan, IN 47882, Phone: (812) 288-5677.
Tennessee	Jackson	Jackson County, ¹ 0001A-0006A.	470370	N-5	I	F	Mar. 23, 1979	Mar. 23, 1979	C. C. Norton, Judge, Court- house, Gamesboro, TN 38562, Phone: (615) 268- 9888.

State	County	Community name and No. of panels	Community No. and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Wisconsin.....	Clark, Marathon.....	City of Colby, 01	550049B.....	E-8, 11, 12, 14.	I	F	May 31, 1974 Mar. 19, 1976	Mar. 23, 1979	Lloyd Scidmore, Mayor, 503 W. Adam St., Colby, WI 54421. Phone: (715) 223-2000.
Colorado.....	Fremont.....	City of Canon City, 0001C.	080068C.....	E-8, 11, 12.	I	F	May 24, 1974 Feb. 28, 1975 Mar. 21, 1978	Mar. 27, 1979	Honorable Charles Fry, Mayor, P.O. Box 711, Canon City, CO 81212, (303) 275-2366.
Louisiana.....	Beauregard Parish.....	City of De Ridder, 0001B.	220027B.....	E-8, 11.....	I	F	Feb. 1, 1974 July 16, 1976	Mar. 27, 1979	Honorable Creighton Pugh, Mayor, P.O. Box 392, De Ridder, LA 70634, (318) 462-2461.
Montana.....	Yellowstone.....	City of Laurel, 01B-02B.	300086B.....	E-8, 11, 12.	I	F	Mar. 29, 1974 Dec. 19, 1975	Mar. 27, 1979	Mr. Murr S. Isaacs, City Engineer Technician, P.O. Box 6, Laurel, MT 59044, (406) 698-8791.
New Mexico.....	Unincorporated area	Taos County, 0001B-0015B; 0017B-0023B; 0025B-0026B.	350078B.....	E-11, 12.....	I	F	Aug. 30, 1974 May 31, 1977	Mar. 27, 1979	Mr. Allen Vigil, Planner, Taos County, P.O. Box 1914, Taos, NM 87571 (505) 758-8334.
Illinois.....	Jasper.....	Village of Sainte Marie, 01.	170820A.....	N-8, 11, 12, 14.	I	F	Mar. 21, 1975	Mar. 30, 1979	Ed Stone, Pres. of Bd., Village Hall, Sainte Marie, IL 62459, Phone: (618) 455-3092.
Indiana.....	Wayne.....	Town of Spring Grove, 01.	180286B.....	E-8.....	I	F	Dec. 13, 1974 Nov. 3, 1978	Mar. 30, 1979	Dr. John H. Mader, Pres. of Bd., 1528 Chester Blvd., Richmond, IN 47374, Phone: (317) 966-7724 office, (317) 966-1831 home.
Minnesota.....	Sherburne.....	City of Becker, 0001A-0002A.	270710.....	N-5.....	I	F	Mar. 30, 1979	Mar. 30, 1979	Peter Hendrick, Mayor, P.O. Box 155, Becker, MN 55308, Phone: (612) 261-4661.
	Chisago.....	City of Harris, 0001B-0002B.	2700071.....	N-11, 12, 14.	I	F	Sept. 20, 1974 Oct. 24, 1975	Mar. 30, 1979	Edward H. Nelson, Sr., Rt. 2, Box 166, Harris, MN 55032, Phone: (612) 674-4914.
Ohio.....	Logan.....	City of Bellefontaine, 0001B.	390340.....	E-8, 11, 12, 14.	I	F	June 7, 1974 May 21, 1978	Mar. 30, 1979	William S. Meyer, Mayor, City Building, 135 North Detroit St., Bellefontaine, OH 43311, Phone: (513) 599-3015.
	Tuscarawas.....	Village of Dennison, 0001B.	390542.....	E-8, 11, 12, 14.	I	F	Mar. 15, 1974 May 28, 1976	Mar. 30, 1979	Eugene Hart, Mayor, Box 47, Dennison, OH 44621, Phone: (614) 922-3047.
	Stark, Carroll.....	Village of Minerva, 01.	390518A.....	E-8, 11, 12, 14.	I	F	July 23, 1976	Mar. 30, 1979	Wayne Ellis, Mayor, 209 North Market St., Minerva, OH 44657, Phone: (216) 868-5420.
	Muskingum.....	Village of Philo, 01.	390851A.....	N-5.....	I	F	Mar. 30, 1979	Mar. 30, 1979	James B. Brannon, Mayor, Front Street, Philo, OH 43771, Phone: (614) 674-6816.
Tennessee.....	Clay.....	Clay County, ¹ 0001A-0006A.	470382.....	N-5.....	I	F	Mar. 30, 1979	Mar. 30, 1979	Frank Halsell, Judge, Courthouse, Celina, TN 38551, Phone: (615) 243-2161.
	Johnson.....	Johnson County, ¹ 0001A-0006A.	470230.....	E-5.....	I	F	Mar. 30, 1979	Mar. 30, 1979	W. D. Hill, Co. Chrmn., Courthouse, Mountain City, TN 37683, Phone: (615) 727-9633.
Wisconsin.....	Polk.....	City of Amery, 0001B.	550332.....	E-8, 11, 12, 14.	I	F	Dec. 28, 1973 Apr. 18, 1976	Mar. 30, 1979	Melvin Hayes, Mayor, 118 Center Street, Amery, WI 54001, Phone: (715) 268-7486.
	Clark.....	City of Greenwood, 0001B.	550051.....	E-8, 11, 12, 14.	I	F	Jan. 9, 1974 Apr. 23, 1976	Mar. 30, 1979	Art Christie, Mayor, City Hall, Greenwood, WI 54437, Phone: (715) 267-6205.
	Washington.....	Village of Jackson, 0001B.	550530.....	E-8, 11.....	I	F	Dec. 28, 1973 May 21, 1976	Mar. 30, 1979	Clem Mayer, V. Pres., North 166 West Parkway Dr., Jackson, WI 53037, Phone: (414) 677-3377.
	Columbia.....	Village of Poynette, 0001B.	550064.....	E-8, 11, 12, 14.	I	F	May 3, 1974 May 28, 1976	Mar. 30, 1979	Carl Hildinberg, Mayor, P.O. Box 95, Poynette, WI 53955, Phone: (608) 635-2122.

¹Unincorporated areas.

FINAL LIST CODES

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

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

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

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

Issued: March 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

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

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7602]

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

Investment Credit; Public Utility Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

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

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

FOR FURTHER INFORMATION
CONTACT:

Geoffrey B. Lanning of the Legislation and Regulations Division, Office

of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3909) not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

amendments, those amendments are adopted as revised by this Treasury decision.

EXPLANATION OF REVISIONS TO PROPOSED REGULATIONS

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

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

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

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

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

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

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

AMENDMENTS NOT COVERED BY THIS DOCUMENT

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

DRAFTING INFORMATION

The principal author of this regulation was Geoffrey B. Lanning of the Legislation and Regulations Divisions of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 1 is amended as follows:

PARAGRAPH 1. Section 1.46 is deleted.

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

§ 1.46-3 Qualified investment.

* * * * *

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

(ii) *Amount of qualified investment.* A taxpayer's qualified investment in section 38 property that is public utility property is $\frac{1}{2}$ of the amount otherwise determined under this section.

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

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

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

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

(iv) *Nonregulated communication property.* "Nonregulated communication property" is property that is clearly the same type of property (and is used by the taxpayer predominantly for the same type of communication purposes) as communication property, but it is used by the taxpayer predominantly in a trade or business that is not a public utility activity. For purposes of this subdivision (iv), communication property is property ordinarily

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

(3) *Leased property.* * * *

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

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

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

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

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

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

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

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

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

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

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

(1) *Section 46(f) property.* "Section

46(f) property" is property described in section 50 that is—

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

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

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

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

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

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

(ii) In determining whether, or to what extent, a credit has been used to reduce rate base, reference shall be made to any accounting treatment that affects rate base. In addition, in those cases in which the rate of return is based on the taxpayer's cost of capital, reference shall be made to any ac-

counting treatment that affects the permitted return on investment by treating the credit in any way other than as though it were capital supplied by common shareholders to which a "cost of capital" rate is assigned that is not less than the taxpayer's overall cost of capital rate (determined without regard to the credit). What is the overall cost of capital rate depends upon the practice of the regulatory body. Thus, for example, an overall cost of capital rate may be a rate determined on the basis of an average, or weighted average, of the costs of capital provided by common shareholders, preferred shareholders and creditors.

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

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

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

(A) The record of the proceeding,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) *Disallowance postponed.* There is no disallowance of a credit before the

first final inconsistent determination is put into effect for the taxpayer's section 46(f) property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The date it becomes operative.

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

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

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

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

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

(2) *Regulated depreciation expense.* What is "ratable" is determined by considering the period of time actually used in computing the taxpayer's regulated depreciation expense for the property for which a credit is allowed. "Regulated depreciation expense" is the depreciation expense for the property used by a regulatory body for purposes of establishing the taxpayer's cost of service for ratemaking purposes. Such period of time shall be expressed in units of years (or shorter periods), units of production, or machine hours and shall be determined in accordance with the individual useful life system or composite (or other group asset) account system actually used in computing the taxpayer's regulated depreciation expense. A method of restoring, or reducing, is ratable if the amount to be restored to rate base, or to reduce cost of service (as the case may be), is allocated ratably in proportion to the number of such units. Thus, for example, assume that the regulated depreciation expense is computed under the straight line method by applying a composite annual percentage rate to "original cost" (as defined for purposes of computing regulated depreciation expense). If, with respect to an item of section 46(f) property, the amount to be restored annually to rate base is computed by applying a composite annual percentage rate to the amount

by which the rate base was reduced, then the restoration is ratable. Similarly, if cost of service is reduced annually by an amount computed by applying a composite annual percentage rate to the amount of the credit, cost of service is reduced by a ratable portion. If such composite annual percentage rate were revised for purposes of computing regulated depreciation expense beginning with a particular accounting period, the computation of ratable restoration or ratable portion (as the case may be) must also be revised beginning with such period. A composite annual percentage rate is determined solely by reference to the period of time actually used by the taxpayer in computing its regulated depreciation expense without reduction for salvage or other items such as over and under accruals. A composite annual percentage rate determined by taking into account salvage value or other items shall be considered to be ratable in the case of a determination (whether or not final) issued before March 22, 1979, and any rate order (whether or not final) that is entered into before June 20, 1979, in response to a rate case filed before April 23, 1979. For this purpose, the term "rate order" does not include an order by a regulatory body that perfunctorily adopts rates as filed if such rates are suspended or subject to rebate.

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

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

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

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

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

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

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

(i) [Reserved]

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

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

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

(2) [Reserved]

JEROME KURTZ,
Commissioner of Internal Revenue.
Approved: March 15, 1979.

DONALD C. LUBICK,
Assistant Secretary
of the Treasury.

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

[4510-23-M]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 40—FARM LABOR CONTRACTOR REGISTRATION

Farm Labor Contractor Registration Act

Exemption of Additional Categories From Coverage

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

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

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION
CONTACT:

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

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

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

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

cessary and this amendment is effective on March 23, 1979.

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

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

§ 40.2 Definitions.

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

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

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

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

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

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

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