

Dated: February 29, 1980.

Peter F. McNeish,
*Deputy Associate Administrator for Finance
and Investment.*

[FR Doc. 80-7232 Filed 3-6-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Memorandum of Agreement 2-80 on Occupational Health Standards for Workplaces Aboard Inspected Vessels

Note.—This document originally appeared in the *Federal Register* for Thursday, March 6, 1980. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Occupational Safety and Health Administration.

This memorandum of agreement is entered into by the United States Coast Guard (USCG), Department of Transportation, and the Occupational Safety and Health Administration (OSHA), Department of Labor (OSHA).

I. Purpose

The Purpose of this agreement is to set forth basic guidelines for cooperation between the two agencies in establishing health standards to protect worker health while eliminating possible interagency conflicts and duplication of effort.

II. USCG Authority

The Commandant of the U.S. Coast Guard has statutory authority, under the Marine Inspection Laws, to promulgate and enforce safety and health standards regarding working conditions of employees on vessels subject to Coast Guard inspection and certification.

III. OSHA Authority

OSHA has a general statutory authority to assure safe and healthful working conditions for working men and women under the Occupational Safety and Health Act of 1970 (29 USC 651, et seq.). Section 4(b)(1) of the Act defines the relationship between OSHA and the other Federal agencies whose exercise of statutory responsibilities may affect occupational health.

IV. Cooperative Health Standards Development

Because both USCG and OSHA have statutory authority relating to occupational health within the maritime

industry, cooperation between the agencies is essential in the area of health standards development.

The USCG and OSHA agree to cooperate with the express purpose of establishing health standards addressing significant health hazards not presently covered by existing standards, and having application to working conditions in the maritime industry.

The two agencies also agree to notify each other promptly when either agency is contemplating the issuance of a new health standard or modification of an existing health standard.

V. Long Term Objectives

The two agencies will within one year develop an MOU which will address more specifically the procedures for this cooperation including details for the development of consistent occupational health standards, types of liaison and review mechanisms, methods to communicate difficulties which may arise and provisions for how any future changes or amendments to the MOU will be handled.

VI. Savings Provision

Nothing in this memorandum shall be deemed to alter, amend, or affect in any way the statutory authority of OSHA or USCG.

This memorandum shall become effective on the date of the last signature.

Signed at Washington, D.C. this February 14, 1980.

J. B. Hayes,

*Commandant, United States Coast Guard,
Department of Transportation.*

Eula Bingham

*Assistant Secretary for Occupational Safety
and Health, Department of Labor.*

[FR Doc. 80-7007 Filed 3-5-80; 8:45 am]

BILLING CODE 4510-26-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 47

Friday, March 7, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Commodity Futures Trading Commission	1
Federal Maritime Commission	2
Federal Reserve System	3
National Credit Union Administration	4, 5
Nuclear Regulatory Commission	6
Postal Service	7
Securities and Exchange Commission	8, 9
Tennessee Valley Authority	10

1

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Wednesday, February 27, 1980—Vol. 45, No. 40—page 12945.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., March 7, 1980.

CHANGES IN THE MEETING: The meeting has been canceled.

[S-457-80 Filed 3-5-80; 1:59 pm]

BILLING CODE 8351-01-M

2

FEDERAL MARITIME COMMISSION.

TIME AND DATE: March 13, 1980, 10 a.m.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
2. Farrell Lines Incorporated, Pacific Islands Transport Line, Ltd., and Polynesia Line, Ltd.—General rate increases of ten percent with variance, applicable in the Pacific Coast and Hawaii/American Samoa Trade.
3. Docket No. 79-60: The Filing with the Commission of Cargo Statistics—Review of comments submitted in response to notice of proposed rulemaking.
4. Docket No. 79-1: Amendments to Part 531 of Title 46 CFR Governing the Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce (General Order No. 38).
5. North Atlantic Bridge Agreement—Dismissal of court proceeding.
6. Docket No. 79-51: Procedures for Environmental Policy Analysis Proposed Rulemaking—Proposed final rules.

7. Docket No. 76-11—IN RE: Agreements 150-DR-7 and 3103 DR-7—Petition for reconsideration of Commission decision.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-461-80 Filed 3-5-80; 3:51 pm]

BILLING CODE 6730-01-M

3

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 10 a.m., Wednesday, March 12, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed purchase of computer equipment by the Federal Reserve Bank of New York.

Discussion Agenda

1. Proposed amendments to the interagency policy statement concerning bank participation in financial futures, forward and standby contracts on U.S. government and agency securities. (Proposed earlier for public comment; Docket No. R-0261).

2. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204.

Date: March 5, 1980.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S-459-80 Filed 3-5-80; 3:00 pm]

BILLING CODE 6210-01-M

4

NATIONAL CREDIT UNION ADMINISTRATION.

Notice of previously held emergency meeting.

TIME AND DATE: 9:45 a.m., Friday, February 8, 1980.

PLACE: 1776 G St., NW., Washington, D.C., Room 6060.

STATUS: Closed.

MATTERS CONSIDERED:

1. Proposed legislation concerning language changes to proposed legislation.

Background

Since an immediate response to a congressional inquiry was required, the Board unanimously voted that the agency business required that a meeting be held with less than seven days advance notice.

The Board unanimously voted to close the meeting under exemption (9)(B). The General Counsel certified that the meeting could be closed under this exemption.

FOR MORE INFORMATION, CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-453-80 Filed 3-5-80; 11:08 am]

BILLING CODE 7535-01-M

5

NATIONAL CREDIT UNION ADMINISTRATION.

NOTICE OF PREVIOUSLY HELD EMERGENCY MEETING.

TIME AND DATE: 11:30 a.m., Wednesday, February 27, 1980.

PLACE: 1776 G Street NW., Washington, D.C. 7th Floor Board Room.

STATUS: Open.

MATTERS CONSIDERED: Request from Interagency Coordinating Committee that its member agencies consider amending their share certificate regulations because of the significant changes in the money markets. The two Board Members present, Chairman Lawrence Connell and Board Member Harold Alonza Black determined that seven days advance notice on this item was not possible and unanimously voted to consider it at that time.

FOR FURTHER INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, (202) 357-1100.

[S-454-80 Filed 3-5-80; 11:08 am]

BILLING CODE 7535-01-M

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Tuesday, March 11, 1980.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

10 a.m.

Briefing on Progress, Status and Plans of the Institute of Nuclear Power Operations (approximately 2 hours, public meeting).

2 p.m.

Briefing by Executive Branch on Non-Proliferation Matters (approximately 1½ hours, closed—exemption 1).

ADDITIONAL INFORMATION: The briefing for 2 p.m., Wednesday, March 5, Briefing on Interim Actions on Performance Testing for Personnel Dosimetry, was cancelled.

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee, (202) 634-1410.

Roger M. Tweed,

Office of the Secretary.

March 4, 1980.

[S-458-80 Filed 3-5-80; 1:59 pm]

BILLING CODE 7590-01-M

7

POSTAL SERVICE (Board of Governors).

Notice of Vote to Close Meeting.

On March 4, 1980, the Board of Governors of the United States Postal Service voted to close to public observation its next meeting, which it scheduled for 2 p.m. on March 31, 1980, (the afternoon before the Board's April meeting). Each of the members of the Board except Mr. Hardesty, who was absent when the vote was taken, voted in favor of closing this meeting, which is expected to be attended by the following persons: Governors Wright, Hardesty, Allen, Camp, Ching, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Conway; Senior Assistant Postmaster General Finch; and Secretary of the Board Cox.

The portion of the meeting to be closed will consist of a continuation of the discussion of the Postal Service's possible strategies concerning future postal ratemaking which was commenced at the Board's meeting of December 4, 1979, and continued at its meetings of January 7, February 6, and March 4, 1980.

The Board is of the opinion that public access to the planned discussion of future postal ratemaking strategies would be likely to disclose matters whose disclosure would be inconsistent with the public's interest in having the Board able to provide policy guidance to postal management on ratemaking issues on the basis of candid

exploration of those issues, without concern for unreasonably influencing particular litigation. A number of these issues are likely to be the subjects both of administrative litigation during the course of the Postal Service's next general rate proceeding before the Postal Rate Commission and of the appellate judicial litigation which will probably follow that proceeding.

Accordingly the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), in that it is likely to disclose information prepared for use in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and postal service), which is specifically exempted from disclosure by section 410 (c) (4) of title 39. The Board determined further that, pursuant to section 552b (c) (10) of title 5 and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding. Finally, the Board of Governors has determined that the public interest does not require that the Board's discussion of its possible ratemaking strategies and positions be open to the public.

In accordance with section 552b (f) (1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), and 552b(c)(10) of title 5 and section 410(c)(4) of title 39, United States Code, and section 7.3(c) and 7.3(j) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S-462-80 Filed 3-5-80; 4:01 pm]

BILLING CODE 7710-12-M

8

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of March 10, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, March 11, 1980, at 10 a.m. and immediately following the 2:30 p.m. open meeting. Open meetings will be held on Tuesday, March 11, 1980, at 2:30 p.m. and on Thursday, March 13, 1980, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis and Evans determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 11, 1980, at 10 a.m., will be:

- Formal orders of investigation.
- Amendment to institution of administrative proceeding of an enforcement nature.
- Dismissal of injunctive action.
- Access to investigative files by Federal, State, or Self-Regulatory Authorities.
- Freedom of Information Act appeal.
- Settlement of administrative proceeding of an enforcement nature.
- Application for reentry into employment in the securities industry.
- Institution of injunctive action.
- Settlement and report of investigation.
- Litigation matters.
- Freedom of Information Act and Privacy Act appeals.

The subject matter of the closed meeting scheduled for Tuesday, March 11, 1980, immediately following the 2:30 p.m. open meeting, will be:

Post oral argument discussion.

The subject matter of the open meeting scheduled for Tuesday, March 11, 1980, at 2:30 p.m., will be:

Oral argument on petitions by Oppenheimer & Company, Inc., a registered broker-dealer, and by the Commission's Division of Enforcement for review of the initial decision of an administrative law judge. The law judge found that Oppenheimer violated the reporting requirements of the Securities Exchange Act when it failed to file a Schedule 13D statement within 10 days after acquiring more than 5% of the outstanding common stock of Medcom, Inc. on May 17, 1974. For further information, please contact R. Moshe Simon at (202) 272-2752.

The subject matter of the open meeting scheduled for Thursday, March 13, 1980, at 10 a.m., will be:

Consideration of whether to grant the request of Skadden, Arps, Slate, Meagher & Flom for a waiver of imputed disqualification pursuant to 17 CFR 200.735-8(e). For further information, please contact Myrna Siegel at (202) 272-2430.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2092.
March 4, 1980.

[S-455-80 Filed 3-5-80; 12:21 pm]
BILLING CODE 8010-01-M

9
SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published].
STATUS: Open Meeting/Closed Meeting.
PLACE: Room 825, 500 North Capitol Street, Washington, D.C.
DATE PREVIOUSLY ANNOUNCED: Wednesday, February 27, 1980
CHANGES IN THE MEETING: Additional items and rescheduling.

The following additional item will be considered at an open meeting scheduled for Wednesday, March 5, 1980, at 10 a.m.

Consideration of whether to grant the request of Alfred E. Osborne, Jr. for an exemption from Rule 2G of the Commission's Conduct Regulation. For further information, please contact Myrna Siegel at (202) 272-2430.

The following closed item scheduled for Tuesday, March 4, 1980, at 10 a.m., has been rescheduled for Wednesday, March 5, 1980, at 10 a.m.

Institution of injunctive action and administrative proceeding.

The following additional items will be considered at a closed meeting scheduled for Wednesday, March 5, 1980, immediately following the open meeting.

Formal order of investigation and regulatory matter bearing enforcement implications.

Institution of injunctive action.
Settlement of injunctive action.

Chairman Williams and Commissioners Loomis and Evans determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if

any, matters have been added, deleted or postponed, please contact: John Granda at (202) 272-2091.
March 4, 1980.

[S-456-80 Filed 3-5-80; 12:21 pm]
BILLING CODE 8010-01-M

10
TENNESSEE VALLEY AUTHORITY.
"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR Page 13864 (March 3, 1980).
PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, March 6, 1980.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.
ADDITIONAL MATTER: The following item is added to the previously announced agenda:

E. Real Property Transactions
Grant of a permanent easement to City of Kingston, Tennessee, for a new water treatment plant and appurtenances, affecting approximately 4.5 acres of Watts Bar Reservoir land in Roane County, Tennessee—Tract XTWRR-130WT.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-245-0101.

SUPPLEMENTARY INFORMATION:
TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting to be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Approved:
S. David Freeman.
Richard M. Freeman.
Robert N. Clement.
Disapproved: (None).
Dated: March 5, 1980.

[S-468-8 Filed 3-5-80; 3:00 pm]
BILLING CODE 8120-01-M

Registered Federal Reporter

Friday
March 7, 1980

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards
Administration, Wage and Hour
DivisionMinimum Wages for Federal and
Federally Assisted Construction;
General Wage Determination
Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register**

without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas
Decisions to General Wage
Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate

information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination
Decisions

None.

Modifications to General Wage
Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama:		
AL79-1142	.....	Nov. 23, 1979.
Arizona:		
AZ79-5100	.....	Feb. 9, 1979.
California:		
CA78-5122	.....	Aug. 11, 1978.
CA78-5123	.....	Aug. 18, 1978.
Florida:		
FL78-1051	.....	May 26, 1978.
FL80-1034	.....	Jan. 18, 1980.
FL80-1035	.....	Jan. 4, 1980.
FL80-1036	.....	Jan. 4, 1980.
FL80-1037	.....	Jan. 4, 1980.
FL80-1045	.....	Jan. 18, 1980.
FL79-1068	.....	Apr. 13, 1979.
Louisiana:		
LA80-4014	.....	Jan. 25, 1980.
Maine:		
ME80-2005	.....	Feb. 22, 1980.
Maryland:		
MD79-3026	.....	Aug. 31, 1979.
Minnesota:		
MN79-2021	.....	May 4, 1979.
MN79-2022	.....	May 4, 1979.
MN79-2023	.....	May 4, 1979.
MN79-2024	.....	May 4, 1979.
MN79-2025	.....	May 4, 1979.
Nebraska:		
NE80-4013	.....	Jan. 25, 1980.
Nevada:		
NV79-5102	.....	Mar. 9, 1979.
NV79-5107	.....	Mar. 9, 1979.
NV79-5131	.....	Aug. 31, 1979.
NV80-5100	.....	Feb. 1, 1980.
New Mexico:		
NM79-4103	.....	Nov. 2, 1979.
Ohio:		
OH78-2148	.....	Nov. 13, 1978.
OH79-2086	.....	Dec. 21, 1979.
Oklahoma:		
OK79-4098	.....	Nov. 23, 1979.
Pennsylvania:		
PA79-3012	.....	May 18, 1979.
Texas:		
TX79-4032	.....	Mar. 16, 1979.
TX79-4035	.....	Sept. 28, 1979.
TX79-4037	.....	June 1, 1979.
TX79-4039	.....	Mar. 16, 1979.
TX79-4041	.....	Sept. 28, 1979.
TX79-4043	.....	Sept. 28, 1979.
TX79-4051	.....	May 4, 1979.
TX80-4001	.....	Jan. 4, 1980.
TX80-4005	.....	Jan. 4, 1980.
TX80-4006	.....	Jan. 4, 1980.

Supersedeas Decisions to General Wage
Determination Decisions

The numbers of the decisions being superseded and their dates of

publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Massachusetts:
MA78-2086(MA80-2001)..... Sept. 22, 1978.
New Hampshire:
NH80-2046(NH80-2008)..... May 11, 1979.
New York:
NY79-3022(NY80-3006)..... July 20, 1979.
Ohio:
OH77-2089(OH80-2003)..... May 20, 1977.
Oregon:
OR78-5117(OR80-5108)..... July 21, 1978.
Washington:
WA79-5126(WA80-5107)..... July 20, 1979.

Cancellation of General Wage Determination Decisions

The general wage decisions listed below are cancelled. Agencies with residential construction projects contemplated in the Counties should utilize the project determination procedure by submitting Form SF 308 (See 29 CFR Part 1, Section 1.5). Contracts for which bids have been opened shall not be affected by this notice. Consistent with 29 CFR Part 1, Section 1.7(b)(2), inclusion of the decisions in contracts for which the bid opening is within ten (10) days of this notice need not be affected.

IN77-2020, Clay County, Indiana—
Residential Construction
IN77-2024, Greene County, Indiana—
Residential Construction

Signed at Washington, D.C., this 29th day
of February 1980.

Dorothy P. Come,
*Assistant Administrator, Wage and Hour
Division.*

BILLING CODE 4510-27-M

MODIFICATION PAGE 2

DECISION NO. AZ79-5100 - Mod. #9
(44 FR 8482-February 9, 1979)

Change:	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Statewide, Arizona	\$13.80	.96	38+.88		1/28	
Electricians:	16.35	.96	38+.88		1/28	
Flagstaff Area:						
Zone A	14.85	.96	38+.88		3/48	
Zone B	16.85	.96	38+.88		3/48	
Phoenix Area:	17.85	.96	38+.88		3/48	
Zone A	12.17	.90	.30		.01	
Zone B						
Zone C						
Glaziers						
Ironworkers:						
Central and Southern Areas	13.35	1.54	2.57		.11	
Northern Area	15.61	1.54	2.57		.11	
Line Construction:						
Zone 1:	11.09	1.00	38+2.00		1/28	
Groundmen						
Equipment Operator;	13.10	1.00	38+2.00		1/28	
Powdermen; Mechanics;						
Linemen; Technicians;	14.76	1.00	38+2.00		1/28	
Crane Operators	15.19	1.00	38+2.00		1/28	
Cable Splicers						
Zone 1-A:	12.00	1.00	38+2.00		1/28	
Groundmen						
Equipment Operator;	13.93	1.00	38+2.00		1/28	
Powdermen; Mechanics;						
Linemen; Technicians;	15.65	1.00	38+2.00		1/28	
Crane Operators	16.17	1.00	38+2.00		1/28	
Cable Splicers						
Zone 2:	12.85	1.00	38+2.00		1/28	
Groundmen						
Equipment Operator;	14.79	1.00	38+2.00		1/28	
Powdermen; Mechanics;						
Linemen; Technicians;	16.51	1.00	38+2.00		1/28	
Crane Operators	16.98	1.00	38+2.00		1/28	
Cable Splicers						
Painters:						
Tucson and Yuma Areas:						
Zone A:	10.29	.77	.45		.08	
Brush	10.79	.77	.45		.08	
Spray & Sandblasters	10.43	.77	.45		.08	
Paperhangers						

MODIFICATION PAGE 1

DECISION # AL79-1142 - MOD. #2
(44 FR 67305 - November 23, 1979)

Lawrence, Limestone and Morgan Counties, Alabama

CHANGE:

Carpenters:

- Carpenters & Soft Floor Layers
- Millwrights
- Piledrivermen

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$9.20	.55	.45		.05	
9.85	.55	.45		.05	
9.60	.55	.45		.05	

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Zone D:					
Brush	\$12.29	.77	.45		.08
Spray	12.79	.77	.45		.08
Paperhangers	12.43	.77	.45		.08
Swing Stage, under 40 ft.:					
Brush	12.59	.77	.45		.08
Spray	13.09	.77	.45		.08
Swing Stage, over 40 ft.:					
Brush	13.04	.77	.45		.08
Spray	13.54	.77	.45		.08
Structural Steel and Tanks:					
Brush	13.29	.77	.45		.08
Spray	13.79	.77	.45		.08
Roofers:					
Phoenix Area:					
Roofers and Waterproofers	11.66	1.095	.45		.05
Tucson Area:					
Asbestos; Shinglers; Tile and Water-proofing:					
Zone A	10.77	1.095	.20		.03
Zone B	13.02	1.095	.20		.03
Sheet Metal Workers:					
Apache, Coconino, Gila, Graham County (north of 33rd Parallel), Greenlee County (north of 33rd Parallel), Maricopa, Mohave, Navajo, Pinal County (north of 33rd Parallel), Yavapai, Yuma Counties:					
Zone 1	13.865	1.00	1.515		.12
Zone 2	14.515	1.00	1.515		.12
Zone 3	16.365	1.00	1.515		.12
Sprinkler Fitters	14.48	.75	1.05		.08

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Swing Stage, under 40 ft.:					
Brush	\$10.59	.77	.45		.08
Spray	11.09	.77	.45		.08
Swing Stage, over 40 ft.:					
Brush	11.04	.77	.45		.08
Spray	11.54	.77	.45		.08
Structural Steel and Tanks:					
Brush	11.29	.77	.45		.08
Spray	11.79	.77	.45		.08
Zone B:					
Brush	11.04	.77	.45		.08
Spray and Sandblasters	11.54	.77	.45		.08
Paperhangers	11.18	.77	.45		.08
Swing Stage, under 40 ft.:					
Brush	11.34	.77	.45		.08
Spray	11.84	.77	.45		.08
Swing Stage, over 40 ft.:					
Brush	11.79	.77	.45		.08
Spray	12.29	.77	.45		.08
Structural Steel and Tanks:					
Brush	12.04	.77	.45		.08
Spray	12.54	.77	.45		.08
Zone C:					
Brush	11.79	.77	.45		.08
Spray	12.29	.77	.45		.08
Paperhangers	11.93	.77	.45		.08
Swing Stage, under 40 ft.:					
Brush	12.09	.77	.45		.08
Spray	12.59	.77	.45		.08
Swing Stage, over 40 ft.:					
Brush	12.54	.77	.45		.08
Spray	13.04	.77	.45		.08
Structural Steel and Tanks:					
Brush	12.79	.77	.45		.08
Spray	13.29	.77	.45		.08

DECISION NO. CA78-5122 - Mod. #7

(43 FR 35835-August 11, 1978)

Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

Change:

Carpenters;
Carpenters
Saw Filers
Table Power Saw Operators
Shinglers; Piledriver-men; Bridge or Dock Carpenters; Derrick Bargemen; Rock Slinger
Hardwood Floor Layers
Millwrights

Add:

Electricians;
Kern County:
Electricians;
Technicians
Cable Splicers

Omit:

Electricians;
Kern (China Lake Naval Ordnance Test Station Edwards AFB):
Electricians;
Technicians
Cable Splicers
Kern County (Remainder of County):
Electricians;
Technicians
Cable Splicers

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$11.57	1.63	\$2.16	\$1.00	.09
11.65	1.63	2.16	1.00	.09
11.67	1.63	2.16	1.00	.09
11.70	1.63	2.16	1.00	.09
11.77	1.63	2.16	1.00	.09
12.07	1.63	2.16	1.00	.09
16.00	1.10	38+1.95		.15
17.60	1.10	38+1.95		.15
16.75	1.00	38+1.75		.15
18.43	1.00	38+1.75		.15
13.75	1.00	38+1.75		.15
15.13	1.00	38+1.75		.15

DECISION NO. CA78-5123 - Mod. #9

(43 FR 36839-August 18, 1978)

Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

Change:

Carpenters;
Carpenters
Saw Filers
Table Power Saw Ops. Shinglers; Pile-drivermen; Bridge or Dock Carpenters; Derrick Bargemen;
Rock Slinger
Hardwood Floor Layers
Pneumatic Nailer
Millwrights

Add:

Electricians;
Kern County:
Electricians;
Technicians
Cable Splicers

Omit:

Electricians;
Kern (China Lake Naval Ordnance Test Station Edwards AFB):
Electricians,
Technicians
Cable Splicers
Kern County (Remainder of County):
Electricians;
Technicians
Cable Splicers

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$11.57	1.63	\$2.16	\$1.00	.09
11.65	1.63	2.16	1.00	.09
11.67	1.63	2.16	1.00	.09
11.70	1.63	2.16	1.00	.09
11.77	1.63	2.16	1.00	.09
11.82	1.63	2.16	1.00	.09
12.07	1.63	2.16	1.00	.09
16.00	1.10	38+1.95		.15
17.60	1.10	38+1.95		.15
16.75	1.00	38+1.75		.15
18.43	1.00	38+1.75		.15
13.75	1.00	38+1.75		.15
15.13	1.00	38+1.75		.15

MODIFICATION PAGE 8

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
<p>Decision #FL80-1035-Mod. #1 (45 FR-1343-January 4, 1980) Baker, Clay, Duval, Flagler, Nassau, and St. Johns Counties, Florida.</p> <p>Change: Description of Work to Read:</p> <p>Highway Construction Projects (excluding tunnels, building struc- tures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)</p>				
<p>Decision #FL80-1036-Mod. #1 (45 FR-1343-January 4, 1980) Bay, Escambia, Gulf, Okaloosa, Santa Rosa, and Walton Counties, Florida.</p> <p>Change: Description of Work to Read:</p> <p>Highway Construction Projects (excluding tunnels, building struc- tures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)</p>				

MODIFICATION PAGE 7

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
<p>Decision #FL78-1051-Mod. #1 (43 FR-22911-May 26, 1978) Broward & Palm Beach Counties, Florida</p> <p>Change: Description of Work to Read:</p> <p>Highway Construction Projects (excluding tunnels, building struc- tures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)</p>				
<p>Decision #FL80-1034-Mod. #1 (45 FR-3861-January 18, 1980) Charlottee, Collier, DeSoto, Glades, Hardee, Hendry, Highland, Lee, Monroe, and Okeechobee Counties, Florida</p> <p>Change: Description of Work to Read:</p> <p>Highway Construction Projects (excluding tunnels, building struc- tures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)</p>				

MODIFICATION PAGE 10

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
Decision #FL80-1045-Mod. #1 (45 FR-3862-January 18, 1980) Brevard and Volusia (ex- cluding Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center and Melabar Radar Site), Hillsborough, Indian River, Manatee, Martin, Orange, Osceola, Pinellas, Polk, St. Lucie, Sarasota, and Seminole Counties, Florida				
<p>Change: Description of Work to Read: Highway Construction Projects (excluding struc- tures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)</p>				

MODIFICATION PAGE 9

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
Decision #FL80-1037-Mod. #1 (45 FR-1342-January 4, 1980) Alachua, Bradford, Calhoun, Citrus, Columbia, Dixie, Franklin, Gadsden, Gil- crist, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lake, Lafayette, Leon, Levy, Liberty, Madison, Marion, Pasco, Putnam, Sumter, Suwannee, Taylor, Union, Wakulla, and Washington, Counties, Florida				
<p>Change: Description of Work to Read: Highway Construction Projects (excluding struc- tures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)</p>				

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
10.04	.50	3%+.83		.05
10.29	.50	3%+.83		.05
11.42	.50	3%+.83		.05
11.67	.50	3%+.83		.05
10.30	.55	.40		.05
9.70	.55	.40		.05
9.20	.55	.40		.05
8.80	.55	.40		.05
8.10	.55	.40		.05

Decision #FL79-1068 Mod. #8
(44 FR 22309 April 13, 1979)
Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center and Melabar Radar Site, Florida

Change:
Electricians:
Base Zone (within 40 miles of Daytona Beach):
Electricians
Cable splicers
Zone 1 (all work beyond 40 miles from Daytona Beach and not accessible by public roads & including power generation plants and industrial over \$3,000,000 total permit):
Electricians
Cable splicers
Power Equipment Operators:
Group I
Group II
Group III
Group IV
Group V

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$13.35	.70	3%		2/10%
13.60	.70	3%		2/10%
10.575	.745	.56	4%+a+b	.025
10.64	.895	.69	4%+a+b	.035
13.35	.70	3%		
13.60	.70	3%		
50%JR	.70	3%		
12.15	.60	.90		.10
4.56	.25	.30		.05
4.06	.25	.30		.05

DECISION NO. LA80-4014 -
MOD. #3
(45 FR 6294 - January 25, 1980)
Statewide Louisiana

CHANGE:
Electricians:
Zone 4 - Electricians
Cable splicers
Elevator constructors:
Zone 1 - Mechanics
Zone 2 - Mechanics
Line construction:
Zone 4:
Linemen, equipment ops.
Cable splicers
Groundmen
Plumbers & pipefitters:
Zone 1
Power equipment ops. (Highway Construction):
Group 10 - Zone 6
Zone 7

MODIFICATION PAGE 14

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
<p>DECISION #MN79-2021-Mod. #2 (44 FR-26463-May 4, 1979) Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington Counties, Minnesota</p>	.60	1.00			.14
<p>CHANGE: ASBESTOS WORKERS ELECTRICIANS: RESIDENTIAL Dakota, Ramsey, Washing- ton Counties and Remaind- er of Anoka Counties: Construction of all new family dwellings up to and including 4-plexes, townhouses of 4 or less contiguous units; and to all residential remodel- ing, rewiring and repair- ing, except that any single apartment project including a change of main service entrance shall not exceed 8 living units or 400 amps.</p>	9.25	.38	.78	3/4of18	
<p>PLASTERERS: Dakota, Ramsey & Washing- ton Counties Remaining Counties Sprinkler fitters</p>	11.10 11.55 12.83	.50 .45 1.05	.90		.01 .02 .02
<p>TRUCK DRIVERS: Building, Site Preparation Excavation & Incidental Paving Group 1 Group 2 Group 3 Group 4</p>	10.35 9.95 9.85 9.65	.65 .50 .50 .50			

MODIFICATION PAGE 13

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
<p>DECISION NO. ME80-2005 - MOD. # 1 (44 FR 12085 - February 22, 1980 Statewide, Maine</p>					
<p>Change: Under Power Equipment Operators: Omit: Asphalt Rakers: Add: Asphalt Pavers: Androscoggin & Cum- berland Aroostook Franklin Hancock, Penobscot & Washington Kennebec, Lincoln & Sagadahoc Knox Oxford Piscataquis Somerset Waldo York</p>	\$5.60 5.57 5.17 5.82 5.00 5.61 4.96 6.00 4.79 5.56 5.68				
<p>DECISION NO. MD79-3026 - MOD. #1 (44 FR 51479 - Aug. 31, 1979) Cecil County, Maryland</p>					
<p>Omit: Building Projects Con- struction from the Description of Work</p>					

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$12.81	.60	1.00		.14
11.75	.85	.80		.04
12.20	.50	.20		.02
13.26	.60	.66		.06
11.19	.75	1.05		.08
13.15				
10.30	.65	.50		
9.90	.65	.50		
9.80	.65	.50		
9.60	.65	.50		

Decision #MN79-2023-Mod. #2
(44 FR-26473-May 4, 1979)
Olmsted County, Minnesota

CHANGE:
Asbestos Workers
Cement Masons & Plasterers
Ironworkers
Plumbers & Steamfitters
Sheet Metal Workers
Sprinkler fitters
TRUCK DRIVERS:
SITE PREPARATION, EXCAVA-
TION & INCIDENTAL PAVING
Group 1
Group 2
Group 3
Group 4

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$12.81	.60	1.00		.14
11.51			.30	
13.26	.50	.20		.02
11.10	.65	.66		.06
11.19	.75	1.05		.08
13.15				
9.17	.65	.50		
8.77	.65	.50		
8.67	.65	.50		
8.47	.65	.50		
9.77	.65	.50		
9.37	.65	.50		
9.27	.65	.50		
9.07	.65	.50		
10.30	.65	.50		
9.90	.65	.50		
9.80	.65	.50		
9.60	.65	.50		

Decision # MN79-2022-Mod. #2
(44 FR-26468-May 4, 1979)
Blue Earth, Fairbault,
Freeborn & Mower Counties,
Minnesota

CHANGE:
ASBESTOS WORKERS
GLAZIERS:
Blue Earth County
PLUMBERS & STEAMFITTERS
Remainder of Counties
ROOFERS:
Remainder of Counties
Sheet Metal Workers
Sprinkler fitters
TRUCK DRIVERS:
SITE PREPARATION, EXCAVA-
TION & INCIDENTAL PAVING
FAIRBAULT COUNTY:
Group 1
Group 2
Group 3
Group 4
BLUE EARTH COUNTY:
Group 1
Group 2
Group 3
Group 4
FREEBORN & MOWER COUNTIES:
Group 1
Group 2
Group 3
Group 4

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
12.26	.50	.30		
12.175	.40	.30		
10.80	.40	.40	.50	
11.45	.40			.02
12.10	.40			
11.55	.50	.80	1.00	
11.53	.40	.30		
13.225	.75	.75		
12.00	.56	.92	1.15	.05

Decision #MN79-2025-Mod.#2
(44 FR-26484-May 4, 1979)
Carlton, Cook, Itasca, Koochiching, Lake and St. Louis Counties, Minnesota

CHANGE:
BRICKLAYERS:
BRICKLAYERS & STONEMASONS:
Cook, Lake, Carlton Cos; & all that part of St. Louis County South of line between township 54 & 55 to 2 miles north of cotton
Itasca County & the Northern half of St. Louis County

CARPENTERS:
CARLTON COUNTY:
Carpenters & Piledrivermen
CEMENT MASONS & PLASTERERS:
Itasca County and the Northern portion of St. Louis County North of the White Face River
Cement Masons
Plasterers
Ironworkers
MARBLE, TILE & TERRAZZO WORKERS
St. Louis County (City of Duluth) Marble & Tile Setters
PLUMBERS & STEAMFITTERS:
Koochiching County
Itasca County & Northern portion of St. Louis & Lake Counties

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$12.81	.60	1.00		.14
11.78	.50			
11.10	.70	.50	.90	.01
10.40	.7%	.6%	10.5%	3/4 of 1%
12.20	.85	.80		
9.25	.50	.40		.11
10.25	.50	.40		.11
9.65	.50	.40		.11
10.10	.30	.30	.50	
11.66	.52	.72		.08
13.15	.75	1.05		.08
10.35	.65	.50		
9.95	.65	.50		
9.85	.65	.50		
9.65	.65	.50		
9.17	.65	.50		
8.77	.65	.50		
8.67	.65	.50		
8.47	.65	.50		

Decision #MN79-2024-Mod.# 2
(44 FR-26476-May 4, 1979)
Benton, Sherburne & Stearns Counties, Minnesota

CHANGE:
Asbestos Workers
CARPENTERS:
Stearns Co; Remainder of Benton & Sherburne Cos;
Carpenters, Millwrights and Piledrivermen
CEMENT MASONS:
BUILDING CONSTRUCTION
Sherburne County
Plasterers
ELECTRICIANS:
Benton & Stearns Counties, Twps. of Haven, Palmer, Santiago, Becker & Clear Lake in Sherburne County;
Jobs Under \$50,000
IRONWORKERS
PAINTERS
Benton & Stearns Counties and the remainder of Sherburne County:
Brush & Roller
Structural Steel & Spray Tapers
ROOFERS
SHEET METAL WORKERS
SPRINKLER FITTERS
TRUCK DRIVERS:
SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING
SHERBURNE COUNTY:
Group 1
Group 2
Group 3
Group 4
BENTON & STEARNS COUNTIES
Group 1
Group 2
Group 3
Group 4

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
DECISION #NE80-4013 - Mod.#1 (45 FR 6309 - January 25, 1980) Cass, Douglas, Sarpy, Washington, & that portion of Saunders County East of Highway #109, Nebraska	\$11.71	.82	.70		.05
Change: Carpenters	8.31	.65	.82		
Power Equipment Operator:	8.40	.65	.82		
Group 1	8.87	.65	.82		
Group 2	9.31	.65	.82		
Group 3	10.35	.65	.82		
Group 4	10.60	.65	.82		
Group 5	10.80	.65	.82		
Group 6	10.80	.65	.82		
Group 7	10.99	.65	.82		
Group 8					

Decision No. MN79-2025 - Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ROOFERS: Cook, Lake & Carlton Cos; & Southern & of St. Louis County:					
Roofers	11.43	.40	.35	1.25	
2nd Roofers	11.18	.40	.35	1.25	
Kettlemen	10.98	.40	.35	1.25	
Itasca & Koochiching Cos; & the Northern & of St. Louis County:					
1st Roofer	11.42	.52	.96		
2ns Roofers	11.09	.52	.96		
SHEET METAL WORKERS: Itasca & Koochiching Counties & the Northern & of St. Louis County	12.59	.52	.96		.06
TRUCK DRIVERS: BUILDING SITE PREFABRICATION EXCAVATION & INCIDENTAL PAVING					
Cook, Lake, Carlton & St. Louis Counties					
Group 1	10.35	.65	.50		
Group 2	9.95	.65	.50		
Group 3	9.85	.65	.50		
Group 4	9.65	.65	.50		
SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING Itasca & Koochiching Cos.					
Group 1	9.17	.65	.50		
Group 2	8.77	.65	.50		
Group 3	8.67	.65	.50		
Group 4	8.47	.65	.50		

DECISION NO. NV79-5131 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Lake Tahoe Area: Electricians; Technicians Cable Splicers Painters: Brush and Roller Brush, swing stage, up to 40 ft.; Brush, steel; Sandblaster Spray; Paper; Paper- hangers Spray, swing stage, up to 40 ft.; Spray, steel Plaster Hod Carriers: Plaster Hod Carriers serving Plasterers Plaster Hod Carriers working on any type of gun Plumbers; Steamfitters Sheet Metal Workers: All other residential construction Soft Floor Layers Sprinkler Fitters Power Equipment Operators: Piledriving: Group 1 Group 1-A Group 1-B Group 2-A Group 2-B Group 3 Group 3-A Group 4 Group 5 Group 6	\$17.43 19.07 15.18 15.45 15.70 15.95 12.20 12.80 14.14 12.22 13.74 16.97 10.68 11.09 11.34 11.34 12.25 12.61 13.12 13.78 13.99 15.36	.99 .99 .70 .70 .70 .70 .95 .95 1.13 1.14 .70 .75 2.14 2.14 2.14 2.14 2.14 2.14 2.14 2.14 2.14 2.14 2.14	3%+1.37 3%+1.37 .75 .75 .75 .75 1.20 1.20 1.00 2.13 .20 1.05 2.50 2.50 2.50 2.50 2.50 2.50 2.50 2.50 2.50 2.50 2.50		.08 .08 .02 .02 .02 .02 .20 .10 .06 .08 .10 1.87 1.87 1.87 1.87 1.87 1.87 1.87 1.87 1.87 1.87 1.87 1.87

DECISION NO. NV79-5102 - Mod. #4
(44 FR 13221 - March 9, 1979)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Clark County (does not include the Nevada Test Site), Nevada Change: Electricians; Technicians Cable Splicers Glaziers Mason Tenders Plasterers Tenders Soft Floor Layers	\$16.16 16.49 10.68 11.62 13.12 14.87	.98 .98 .75 .66 .81 .90	3%+2.05 3%+2.05 .40 1.35 1.35		.08 .08 .08 .11 .25
DECISION #NV79-5107-Mod. #5 (44 FR 13225-March 9, 1979) Nevada Test Site including Tonopah Test Range in Clark, Lincoln and Nye Counties, Nevada Change: Asbestos Workers Boilemakers Elevator Constructors Sprinkler Fitters	15.27 15.21 15.41 16.97	1.35 1.175 1.045 .75	1.30 1.25 .82 1.05	1.00 a	.04 .035 .08
DECISION #NV79-5131-Mod. #1 (44 FR 51501-August 31, 1979) Washoe County, Nevada Change: Boilemakers Bricklayers; Stonemasons Electricians; Washoe County, does not include Lake Tahoe Area: Electricians; Technicians Cable Splicers	15.21 13.85 16.43 18.07	1.175 .95 .99 .99	1.25 .75 3%+1.37 3%+1.37	1.00	.04 .01 .08 .08

DECISION #NV80-5100-Mod. #1
(45 FR 7451-February 1, 1980)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway Construction in Douglas County), Nevada	\$13.11	.77	\$1.37		
Change: Asbestos Workers: Elko, Eureka, White Pine Counties Bricklayers; Stonemasons; Remaining Counties and Nye County (North of Highway #6) Electricians: Clark, Lincoln, Nye County (south of Mt. Diablo Base Line): Electricians; Technicians Cable Splicers Nye County (north of Mt. Diablo Base Line) and Remaining Counties excluding Lake Tahoe Area: Electricians; Technicians Cable Splicers Lake Tahoe Area: Electricians; Technicians Cable Splicers Line Construction Workers: Lake Tahoe Area: Groundman Line Equipment Operators Linemen Cable Splicers Remaining Counties (excluding Lake Tahoe Area): Groundman	13.85	.95	.75		.01
	16.16	.98	38+2.05		.08
	16.49	.98	38+2.05		.08
	16.43	.99	38+1.37		.08
	18.07	.99	38+1.37		.08
	17.43	.99	38+1.37		.08
	19.07	.99	38+1.37		.08
	13.32	.99	38+1.37		.08
	15.78	.99	38+1.37		.08
	17.43	.99	38+1.37		.08
	19.07	.99	38+1.37		.08
	12.32	.99	38+1.37		.08

DECISION NO. NV79-5131 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Power Equipment Operators (Cont'd): Steel Erection					
Group 1	11.25	2.14	2.50	1.87	.10
Group 2	11.70	2.14	2.50	1.87	.10
Group 3	12.93	2.14	2.50	1.87	.10
Group 4	13.10	2.14	2.50	1.87	.10
Group 4-A	13.47	2.14	2.50	1.87	.10
Group 5	14.07	2.14	2.50	1.87	.10
Group 6	14.59	2.14	2.50	1.87	.10
Group 6-A	15.30	2.14	2.50	1.87	.10
Group 7	16.56	2.14	2.50	1.87	.10
Except piledriving & steel Erection: (Area 1)					
Group 1-A	10.19	2.14	2.50	1.87	.10
Group 2	10.63	2.14	2.50	1.87	.10
Group 3	10.86	2.14	2.50	1.87	.10
Group 4	11.48	2.14	2.50	1.87	.10
Group 5	11.73	2.14	2.50	1.87	.10
Group 6	11.87	2.14	2.50	1.87	.10
Group 7	12.08	2.14	2.50	1.87	.10
Group 8	12.57	2.14	2.50	1.87	.10
Group 9	12.84	2.14	2.50	1.87	.10
Group 10	13.14	2.14	2.50	1.87	.10
Group 10-A	13.29	2.14	2.50	1.87	.10
Group 11	13.50	2.14	2.50	1.87	.10
Group 11-A	14.86	2.14	2.50	1.87	.10
Except piledriving steel Erection: (Area 2)					
Group 1-A	11.34	2.14	2.50	1.87	.10
Group 2	11.78	2.14	2.50	1.87	.10
Group 3	12.01	2.14	2.50	1.87	.10
Group 4	12.63	2.14	2.50	1.87	.10
Group 5	12.88	2.14	2.50	1.87	.10
Group 6	13.02	2.14	2.50	1.87	.10
Group 7	13.23	2.14	2.50	1.87	.10
Group 8	13.72	2.14	2.50	1.87	.10
Group 9	13.99	2.14	2.50	1.87	.10
Group 10	14.29	2.14	2.50	1.87	.10
Group 10-A	14.44	2.14	2.50	1.87	.10
Group 11	14.65	2.14	2.50	1.87	.10
Group 11-A	16.01	2.14	2.50	1.87	.10

DECISION #NM79-4103 - Mod. #1
44 FR 63443-November 2, 1979
Statewide, New Mexico

CHANGE:
ELECTRICIANS - Zone I:
1-A
1-B
1-C
1-D
ELECTRICIANS - Zone II
ELECTRICIANS - Zone III:
3-A
3-B
ELEVATOR CONSTRUCTORS:
Bernalillo, Catron, Colfax,
Curry, DeBaca, Guadalupe,
Harding, Lincoln, Los
Alamos, McKinley, Mora,
Quay, Rio Arriba, Roose-
velt, Sandoval, San Juan,
San Miguel, Santa Fe, Taos,
Socorro, Torrance, Union
and Valencia Counties
Chaves, Hidalgo, Dona Ana,
Eddy, Grant, Lea, Luna.
Otero and Sierra Counties
CABLE SPLICERS - ZONE I:
1-A
1-B
1-C
1-D
CABLE SPLICERS - ZONE II
CABLE SPLICERS - ZONE III:
3-A
3-B
ELECTRICIANS - ZONE IV:
4-A
4-B
4-C
4-D
CABLE SPLICERS - ZONE III:
4-A
4-B
4-C
4-D

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
	\$12.55	.60	3%+.70		1/2%
	13.43	.60	3%+.70		1/2%
	14.18	.60	3%+.70		1/2%
	15.06	.60	3%+.70		1/2%
	14.18	.60	3%+.70		1/2%
	10.15	.45	3%		1/10%
	11.60	.45	3%		1/10%
	12.16	.545	.35	4%+b+c	.02
	8.88	.895	.69	4%+b+c	.035
	13.81	.60	3%+.70		1/2%
	14.69	.60	3%+.70		1/2%
	15.44	.60	3%+.70		1/2%
	16.32	.60	3%+.70		1/2%
	15.44	.60	3%+.70		1/2%
	10.40	.45	3%		1/10%
	11.85	.45	3%		1/10%
	12.20	.60	3%		.01
	12.55	.60	3%		.01
	12.70	.60	3%		.01
	12.95	.60	3%		.01
	12.55	.60	3%		.01
	12.90	.60	3%		.01
	13.05	.60	3%		.01
	13.30	.60	3%		.01

DECISION NO. NV80-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Line Equipment Operators	\$14.78	.99	3%+1.37		.08
Linemen	16.43	.99	3%+1.37		.08
Cable Splicers	18.07	.99	3%+1.37		.08
Painters: Remaining Counties in- cluding Lake Tahoe Area:					
Brush and Roller	15.18	.70	.75		.02
Spray; Taper; Paper- hangers	15.70	.70	.75		.02
Spray - Swing Stage, up to 40 ft.; Spray- Steel	15.95	.70	.75		.02
Brush - Swing Stage, up to 40 ft.; Brush- Steel; Sandblaster	15.45	.70	.75		.02
Plaster Hod Carriers: Statewide excluding Clark, Esmeralda, Lincoln, Nye County (south half): Plaster Hod Carriers serving Plasterers Plaster Hod Carriers working on any type of gun	12.20	.95	1.20		
Plumbers; Steamfitters: Remaining Counties and Nye County (north half)	12.80	.95	1.20		
Plumbers (Utility): Statewide except Clark, Esmeralda, Lincoln, Nye County (south half)	14.14	1.13	1.00	1.95	.20
Soft Floor Layers: Clark, Esmeralda, Lincoln, Nye Cos.	14.14	1.13	1.00	1.95	.20
	14.87	.90			.25

DECISION #NM79-4103 - Mod. #1

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CHANGE: (CONT'D) SHEET METAL WORKERS- Zone 2	10.72	3%+.51	.485		.06
SHEET METAL WORKERS DEFINITION ZONE 2 TO READ "Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties, including Holloman Air Force Base, White Sands and McGregor Ranges.					
OMIT: SHEET METAL WORKERS: Zone 3	8.35	.20			.05
SHEET METAL WORKERS ZONE 3 DEFINITIONS.					

DECISION NO. OH78-2148 -
MOD. #3
(43 FR 52658 - November 13, 1978)
Mahoning & Trumbull Counties, Ohio

Change:
Bricklayers:
Mahoning Co.
Trumbull Co.
Carpenters:
Commercial Building
Residential
Electricians:
Mahoning (Milton Twp.)
& Trumbull (Excluding Hubbard & Liberty Twp.) Cos.
Mahoning (Austintown, Beaver, Berlin, Broadman, Canfield, Ellsworth, Coitsville, Goshen, Green, Jackson, Poland, Springfield, & Youngstown Twp.) & Trumbull (Hubbard & Liberty Twp.) Cos.
Mahoning (Smith Twp.) Co.:
Residential (4 units only)
Elevator Constructors
Glaziers
Line Construction:
Mahoning (excluding Smith Twp.), & Trumbull Cos.:
Linemen; Cable Splicer; Operator - Pole digging Equipment
Marble Setters; Terrazzo Workers; Tile Setters:
Mahoning Co.
Millwrights; Piledriver-men

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
	\$12.595	.75	1.00		.02
	13.09	.75	.50		.02
	11.72	1.29	1.20		.05
	10.55	1.29	1.20		.05
	14.29	.75	7%		.7%
	13.73	.75	9%		.5%
	9.40	.55	3%+.50		.3%
	11.99	.745	.56	a+b	.035
	12.61	.75	1.00		
	14.90	.70	3%		½%
	14.005	1.29	1.20		.05
	12.51	1.29	1.20		.05

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
13.08	1.20	.50		
11.68	.99	1.00		.03
11.68	.99	1.00		.03
13.30	.55	3%+1.00		1/8
13.85	.55	3%+1.00		1/8
14.50	7%	14%	10%	1/8
14.50	.85	3%+.75		.3%

DECISION NO. OH79-2086 -
 MOD. #1
 (44 FR 75895 - December 21, 1979)
 Statewide, Ohio

Change:
 Bricklayers & Stonemasons:
 Defiance, Fulton (except Tps. of Amboy, Fulton, & Swan Creek), Henry (except Tps. of Barlow, Damascus, Liberty, Marion, Monroe, Richfield, Washington & that part of Harrison outside City Limits of Napoleon), Paulding, Putnam, & Williams Cos.
 Carpenters & Piledrivermen:
 Belmont & Monroe Cos.
 Carpenters
 Columbiana, Harrison & Jefferson Cos.
 Carpenters
 Electricians:
 Butler Co. & Warren Co. excluding Clear Creek, Franklin & Wayne Tps.;
 West of Interstate 75
 East of Interstate 75
 Carroll (S. of Fox, Harrison, Rose & Washington Tps.), Harrison, & Jefferson Cos.
 Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams & Wood Cos.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
12.45	.75	1.00		
12.95	.75	1.00		
12.60	.75	1.00		
12.66	.75	1.00		
13.44	1.07	.80		.05
13.60	1.07	.99		.03
8.35	.50	.30		.03
11.18	1.29	1.20		.05
10.06	1.29	1.20		.05
14.02	.75	1.05		.08

DECISION NO. OH78-2148 -
 Cont'd

Painters:
 Brush; Dipping; Hydro jet cleaning; Paperhangers; Roller; Steam cleaning; Wall Washing and Waterproofing
 Spray; Epoxy-mastic (Brush & Roller)
 Dry Wall Taping
 Open Structural Steel
 Plumbers; Steamfitters:
 Commercial Building:
 Mahoning & Trumbull (Hubbard & Liberty Tps.) Cos.
 Trumbull Co.
 Residential
 Soft Floor Layers:
 Commercial Building
 Residential
 Sprinkler Fitters

DECISION NO. OH79-2086 -
Cont'd

Basic Hourly Rates	Fringe Benefits Payments			Education end/or Appr. Tr.
	H & W	Pensions	Vacation	
13.30	.55	38+1.00		1/8
13.80	.55	38+1.00		1/8
9.31	.55	38+1.00		1/8
13.85	.55	38+1.00		1/8
14.35	.55	38+1.00		1/8
9.86	.55	38+1.00		1/8
14.50	7%	14%	10%	1/8
15.00	7%	14%	10%	1/8
9.43	7%	14%	10%	1/8
14.98	.85	38+.70		1/8
9.74	.85	38+.70		1/8

Butler, Warren (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Twps.) Cos.:
Zone I: West of Interstate #75:
Linemen
Cable Splicers
Groundmen
Zone II: East of Interstate # 75:
Linemen
Cable Splicers
Groundmen
Carroll (S. of Fox, Harrison, Rose & Washington Twps.), Harrison, & Jefferson Cos.:
Linemen; Line Equipment Ops.; Truck Drivers
Cable Splicers
Groundmen
Geauga (Excl. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twps.), & Lake Cos.:
Cable Splicers; Equipment Op.; Linemen
Truck Drivers (Winch) Groundman; Groundman

DECISION NO. OH79-2086 -
Cont'd

Basic Hourly Rates	Fringe Benefits Payments			Education end/or Appr. Tr.
	H & W	Pensions	Vacation	
14.98	.85	38+.70		.2%
11.95	1.00	1.45		.03
11.70			d	
12.00			d	
13.78	1.045	1.60		.08
14.90	.70	3%		1/8
11.92	.70	3%		1/8

Geauga (except Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell, & Troy Twps.), & Lake Cos.
Ironworkers:
Athens, Meigs, Morgan, Noble & Washington Cos.
Painters:
Gallia, Lawrence, Meigs, & Vinton Cos.
Brush; Roller
Sandblasting; Spray; & Waterblasting
Plumbers and Steamfitters
Brown, Clermont, Hamilton & Warren Cos. (N. of Rte. #63 excluding Lebanon and S. Lebanon)
Steamfitters; Pipefitters
Line Construction:
Ashtabula (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor), Columbiana (Twps. of Butler, Fairfield, Perry, Salem, Unity, Geauga (Twps. of Auburn, Middlefield, Parkman, Burton, & Troy), Mahoning (excl. Smith Twp.), Portage, Charleston, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris, Windom Twps.), & Trumbull Cos.
Cable Splicers; Linemen; Operator - Pole digging Equipment Groundmen

DECISION NO. PA79-3012 MOD. NO. 4 (44 FR 29253 - May 18, 1979) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CHANGE: LINE CONSTRUCTION: Berks & Lehigh Cos. Lineman	\$12.61	.45	3%		3/8%
Winch truck operator	8.83	.45	3%		3/8%
Truck Driver	8.20	.45	3%		3/8%
Groundman	7.57	.45	3%		3/8%
Easton, Northampton County Lineman	13.86	.45	3%		3/8%
Winch truck operator	9.70	.45	3%		3/8%
Truck Driver	9.01	.45	3%		3/8%
Groundman	8.32	.45	3%		3/8%
Bradford, Carbon, Columbia, Lackawanna, Luzerne, Lycoming, Monroe, Montour, Northumberland, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming Cos. Lineman	12.37	.55	3%		3/8%
Winch truck operator	8.63	.55	3%		3/8%
Truck Driver	8.50	.55	3%		3/8%
Groundman	8.30	.55	3%		3/8%

DECISION #OK79-4098 - Mod. #2
44FR67324-November 23, 1979
Muskogee, Adair, Cherokee,
and Okmulgee Counties,
Oklahoma

CHANGE: CARPENTERS (AREA II) MILLRIGHTS & PILEDRIVERWEN (AREA II) ELEVATOR CONSTRUCTORS	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
	\$9.00	.55	.80		.05
	10.35	.55	.80		.05
	11.49	.545	.35	4s+a+b	.02

DECISION NO. TX79-4041 - MOD. #3 (44 FR 56108 - September 28, 1979) Taylor County, Texas CHANGE: Electricians-Electricians Cable splicer Line construction: Lineman Cable splicers Groundman Equipment operator Flat bed truck driver	Fringe Benefits Payments				Basic Hourly Rates	Education and/or Appr. Tr.
	H & W	Pensions	Vacation			
	.60	3%			10.90	1/4%
	.60	3%			11.15	1/4%
	.60	3%			10.90	1/4%
	.60	3%			11.15	1/4%
	.60	3%			8.18	1/4%
	.60	3%			8.94	1/4%
	.60	3%			6.54	1/4%
DECISION NO. TX79-4043 - MOD. #4 (44 FR 56109 - September 28, 1979) Smith County, Texas CHANGE: Electricians-Electricians Cable splicer Plasterers					10.65	1/4%
	.60	3%			11.05	1/4%
	.60	3%			11.325	
DECISION NO. TX79-4051 - MOD. #8 (44 FR 26535 - May 4, 1979) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas CHANGE: Carpenters: Zone 1 - Carpenters Millwrights Piledrivermen					11.205	.005
	.60	.45			11.605	.005
	.60	.45			11.705	.005

DECISION NO. TX79-4032 - MOD. #7 (44 FR 16325 - March 16, 1979) Harrison County, Texas CHANGE: Bricklayers & stonemasons	Fringe Benefits Payments				Basic Hourly Rates	Education and/or Appr. Tr.
	H & W	Pensions	Vacation			
	.60	.50			11.75	
DECISION NO. TX79-4035 - MOD. #3 (44 FR 56108 - September 28, 1979) Gregg County, Texas CHANGE: Electricians-Electricians Cable splicer	.60	3%			11.00	1/4%
	.60	3%			11.35	1/4%
DECISION NO. TX79-4037 - MOD. #7 (44 FR 31856 - June 1, 1979) Lubbock County, Texas CHANGE: Bricklayers & stonemasons	.57	.30			10.35	.03
DECISION NO. TX79-4039 - MOD. #7 (44 FR 16329 - March 16, 1979) Ector & Midland Cos., Texas CHANGE: Bricklayers & stonemasons: Ector County Midland County	.57	.30			10.35	.03
	.57	.30			10.35	.03

SUPERSEDES DECISION

STATE: Massachusetts COUNTY: Middlesex
 DECISION NO. MA80-2001 DATE: Date of Publication
 Supersedes Decision No. MA78-2086, dated September 22, 1978 in
 42 FR 43189

DESCRIPTION OF WORK: Building Construction (including Residential),
 Heavy, and Highway Construction and Marine Construction.

BUILDING, HEAVY AND
 HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ASBESTOS WORKERS	\$12.81	1.20	1.10		.01
BOILERMAKERS	13.50	1.175	1.08		.03
BRICKLAYERS, STONEMASONS: Ashland, Framingham, Hollis- ston, Hopkington, Hudson, Sherborn, and Stow	11.10	1.20	1.00		.09
Residential	8.88	1.20	1.00		.09
Veneer Plasterers	8.88	1.20	1.00		.11
Reading, North Reading and Wakefield	11.35	.70	1.25		.09
Residential	9.08	.70	1.25		.09
Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carl- isle, Chelmsford, Dracut, Dunstable, Ft. Devens, Groton, Littleton, Lowell, North Acton, Pepperell, Shirley, South Acton, Tewksbury, Townsend, Tyn- sboro, West Acton, West- ford, and Willimington	11.70	.90	.70		.09
Residential	9.36	.90	.70		.09
Veneer Plasterers	9.30	.90	.70		.11
All work, including demoli- tion, repair and altera- tion of any existing structure which is intend- ed for predominantly resi- dential use: Acton, Ashby, Ayer, Bed- ford, Billerica, Box- boro, Carlisle, Chelms- ford, Dracut, Dunstable, Ft. Devens, Groton, Littleton, Lowell, North Acton, Pepperell, Shir- ley, South Acton, Tyns- bury, Townsend, Tyngs- boro, West Acton, West- ford and Willimington Newton	9.36	.90	.70		.09
Veneer Plasterers	11.25	.65	1.40		.12
	8.60	.65	1.40		.12

MODIFICATION PAGE 37

DECISION NO. TX80-4001 - MOD. #1 (45 FR 1376 - January 4, 1980) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Don- ley, Gray, Hansford, Hart- ley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CHANGE: Cement masons	\$10.80				
DECISION NO. TX80-4005 - MOD. #3 (45 FR 1385 - January 4, 1980) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
CHANGE: Building Construction: Glaziers	7.50				
DECISION NO. TX80-4006 - MOD. #1 (45 FR 1388 - January 4, 1980) Travis County, Texas					
CHANGE: Marble, tile & terrazzo workers	9.80	.60			.05

DECISION NO. MA80-2001

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
Bedford, Concord, Dover, Lincoln, Natick, Newton, Sudbury, Waltham, Watertown, Wayland, Weston, Acton, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford,	.95	1.00		.07
CEMENT MASONS: Bedford, Burlington, Lowell, Billerica, Tyngsboro, Westford, Tewksbury, Acton, Littleton, Dracut, Wilmington, Dunstable, Chelmsford and Carlisle	.90	.70		.02
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Winchester and Woburn	1.15 .70	.60 .75		.20
Reading and North Reading Ashby, Ayer, Boxboro, Groton, North Acton, Pepperell, Shirley, South Acton, Townsend and West Acton	.90	.70		.09
Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborne, and Stow Newton	1.20 1.20	1.00 1.00		.09 .09
Belmont, Concord, Lexington, Sudbury, Waltham, Watertown, Wayland & Weston	.75	1.00		.09
ELECTRICIANS: Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford and Willmington	1.15	3.8	1.05	.02

DECISION NO. MA80-2001

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
Belmont, Burlington, Concord, Lexington, Lincoln, Stoneham, Sudbury, Waltham, Watertown, Wayland, Weston, Winchester, and Woburn Residential Veneer Plasterers All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:	.75 .75 .75	1.00 1.00 1.00		.09 .09 .09
Bricklayers: Belmont, Burlington, Concord, Lexington, Lincoln, Stoneham, Sudbury, Waltham, Wayland, Weston, Winchester and Woburn	.75	1.00		.09
Arlington, Cambridge, Everett, Malden, Melford, Melrose and Somerville Veneer Plasterers Residential Construction	.85 .85 .85	1.40 1.40 1.40		.12 .12 .12
CARPENTERS & SOFT FLOOR LAYERS: Remainder of County Ashby, Ayer, & entire boundaries of Ft. Devens which are the town of Lunenburg, Shirley, Lancaster, & Howard; Groton, Pepperell, Shirley Center; entire boundaries of Shirley Industrial School, Townsend, W. Groton, & W. Townsend	.95	1.00		.07
All work, including demolition, repair and alteration of any existing structure which is intended from predominantly residential use:	.70	1.00		.07

DECISION NO. MA80-2001

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Air Track Operators; Block Pavers; Rammers; Curb Setters; Blasters; Powdermen Open Air Caisson, Cylindrical work and bring crew; Laborer and Top Man Driller	9.70 9.95	.70 .70	1.00 1.00		
LATHERS: Hudson and Marlboro Remainder of County	8.95 9.82	.70 .70	1.00 1.00		.01 .03
LINE CONSTRUCTION: Linemen Equipment Operator Driver Groundman Groundman	10.12 11.30	1.42 1.00	.25 .55		
MARBLE SETTER & TERRAZZO WORKERS MILLWRIGHTS PAINTERS: Arlington, Belmont, Cambridge, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Winchester, Woburn, Reading, North Reading: New Construction: Brush, Taper Sandblasting, Spray Steel Repaint, Alterations, Residential	12.50 11.17 8.93 8.18	.70 .70 .70 .70	38+.50 38+.50 38+.50 38+.50	d d d d	3/8of18 3/8of18 3/8of18 3/8of18
WORKERS MILLWRIGHTS PAINTERS: Arlington, Belmont, Cambridge, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Winchester, Woburn, Reading, North Reading: New Construction: Brush, Taper Sandblasting, Spray Steel Repaint, Alterations, Residential	10.40 11.70	.85 .95	1.50 1.00		.10
ASHBY, AYER, GROTON, PEPPERELL, SHIRLEY AND TOWNSEND Brush Sandblasting, Spray Steel Repaint	11.91 12.91 13.63	.82 .82 .82	1.40 1.40 1.40		.04 .04 .04
ASHBY, AYER, GROTON, PEPPERELL, SHIRLEY AND TOWNSEND Brush Sandblasting, Spray Steel Repaint	10.16	.82	1.40		.04
ASHBY, AYER, GROTON, PEPPERELL, SHIRLEY AND TOWNSEND Brush Sandblasting, Spray Steel Repaint	10.86 11.86 12.98 9.16	.82 .82 .82 .82	1.30 1.30 1.30 1.30		.04 .04 .04 .04

DECISION NO. MA80-2001

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use: Electricians; Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford and Willimington	9.31	.85	38+.30		.02
Ashby, Ayer, Ft. Devens, Groton, Pepperell, Shirley, and Townsend: Commercial Residential	11.20 6.40	.45 .45	38+.70 38+.35		.02 .02
Ashland, Hopkinton, Hudson, Marlboro and Stow North Reading Remainder of County	12.07 11.22 13.23	.88 .75 .75	58+.30 38+.40 38+.55		.01 .02 .07
ELEVATOR CONSTRUCTORS	12.815	1.045	.82	a+b	.035
GLAZIERS	11.85	.77	.69		.03
IRONWORKERS LABORERS (Building): Laborers; Carpenters' Tenders; Wrecking Laborers Jackhammer Operator; Pavement Breaker; Asphalt Rakers; Carbide Core Drilling Machine; Chain Saw Operators; Pipelayers; Barco Type Jumping Tampers; Laser Beam Operators; Concrete Pump Operators; Mason Tenders; Mortar Mixers, Rid-Or Motorized Duggy; Fence and Beam Rail Erectors	11.64 8.95	1.00 .70	1.50 1.00		.06
LABORERS (Building): Laborers; Carpenters' Tenders; Wrecking Laborers Jackhammer Operator; Pavement Breaker; Asphalt Rakers; Carbide Core Drilling Machine; Chain Saw Operators; Pipelayers; Barco Type Jumping Tampers; Laser Beam Operators; Concrete Pump Operators; Mason Tenders; Mortar Mixers, Rid-Or Motorized Duggy; Fence and Beam Rail Erectors	9.20	.70	1.00		

DECISION NO. MA80-2001

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
11.55	.75	1.00		.09
11.70	.90	.70		.09
9.36	.90	.70		.09

Belmont, Concord, Lexington, Lincoln, Sudbury, Waltham, Watertown, Wayland and Weston Bedford, Burlington, Lowell, Tyngsboro and Westford
 All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use: Bedford, Burlington, Lowell, Tyngsboro and Westford

PLUMBERS:
 Acton, Ayer (except portion west of the Greenville Branch of the Boston and Main RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Graniteville, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westboro and Wilmington
 Ashby, Ayer (Portion lying west of the Greenville Branch of the Boston and Maine RR), Ft. Devens, Groton, Shirley and Townsend

DECISION NO. IL80-2001

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
10.10	1.18	.80		.04
11.15	1.18	.80		.04
8.59	1.18	.80		.04
8.59	1.18	.80		.04
9.00	.85	.70		.06
8.45	.85	.70		.06
8.50	.65	.55		.06
11.80	.85	1.00		.06
10.50	.45	1.30		.02
10.15	.45	.30		.02
11.10	1.20	1.00		.09
11.70	1.10	.60		.02
11.25	.65	1.40		.12

Bedford, Billerica, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford and Wilmington:
 Brush, Taping, Paperhangers
 Steel
 Repaint
 Residential 1 & 2 Family Houses
 Remainder of County:
 Brush, New; Paperhanger; Taper
 Repaint
 All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use
 PILEDRIVERS
 PLASTERERS:
 Arlington, Cambridge, Everett, Malden, Medford, Somerville, Stoneham, Wakefield, Winchester & Woburn
 Veneer Plasterers
 Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborn, and Stow
 Acton, Ashby, Ayer, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Groton, Littleton, North Acton, Pepperell, Shirley, South Acton, Tewksbury, Townsend, and West Acton
 Newton

DECISION NO. MA80-2001

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
12.07	1.10	1.10		.02
10.90	.80	.65	.48	.05
10.60		1.10		.05
10.30	.85	1.10		
11.70	.90	.70		.09

Ayer (except that portion lying west of the Greenville Branch of the Boston and Main RR), Bedford, Billerica, Boxboro, Burlington, Carboro, Chelmsford, Dracut, Dunstable, Graniteville, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tynsboro, Westford and Wilmington
 Ashby, Ayger (portion lying west of the Greenville Branch of the Boston and Main RR), Ft. Devens, Shirley and Townsend
 TERRAZZO WORKERS' HELPERS
 TILE SETTERS:
 (except Cities & Towns of Acton, Ashby, Ayer, Boxboro, Dunstable, East Pepperell, Ft. Devens, Groton, Littleton, North Acton, North Pepperell, Pepperell, Shirley, South Acton, Townsend and West Acton)
 TILE SETTERS:
 (Acton, Ashby, Ayer, Boxboro, Dunstable, East Pepperell, Ft. Devens, Groton, Littleton, North Acton, North Pepperell, Pepperell, Shirley, South Acton, Townsend and West Acton)

DECISION NO. MA80-2001

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
12.82	1.23	.85		.05
13.30	1.02	1.48		.05
10.20	.70	1.55		.05
9.65	.70	1.55		.05
11.20	.70	1.55		.05
12.58	1.16	1.55		.10
13.31	.75	1.05		.08
13.36	.94	1.45		.07

Ashland, Belmont, Concord, Framingham, Holliston, Hopkington, Lexington, Lincoln, Marlboro, Maynard, Natick, Sherborn, Stow, Sudbury, Waltham, Wayland and Weston
 Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, North Reading, reading, Somerville, Stoneham, Wakefield, Watertown, Winchester and Woburn
 ROOFERS:
 Journeyman Roofers
 Re-roofing and repairs
 Pitch Work
 SHEET METAL WORKERS
 SPRINKLER FITTERS
 STEAMFITTERS:
 Acton, Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, North Reading, Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester and Woburn

DECISION NO. MA80-2001

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay credit.
- b. Holidays: A through F
- c. Holidays: A through F, and Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.
- d. Employer pays \$.50 per day extra above the brush rate.

DECISION NO. MA80-2001

HEAVY & HIGHWAY CONSTRUCTION

LABORERS:

- CLASS I
- CLASS II
- CLASS III
- CLASS IV

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
8.95	.70	1.00			.10
9.20	.70	1.00			.10
9.70	.70	1.00			.10
9.95	.70	1.00			.10

CLASS I: Carpenter Tenders; Cement Finisher Tenders; Laborers; Wrecking Laborers

CLASS II: Asphalt Rakers; Fence and Guard Rail Erectors; Laser Beam Operator; Mason tender; Pipelayer; Pneumatic Drill Operator; Pneumatic Tool Operators; Wagon Drill Operator

CLASS III: Air Track Operator; Block Pavers; Rammers; Curb setters

CLASS IV: Blasterers, Powdermen

DECISION NO. MA80-2001

HEAVY & HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
12.71	1.18	1.15	a	.03
12.59	1.18	1.15	a	.03
10.62	1.18	1.15	a	.03
11.58	1.18	1.15	a	.03
9.39	1.18	1.15	a	.03
9.97	1.18	1.15	a	.03

Hourly Premium for Boom Lengths including jib
 Over 150 feet + \$.50
 Over 185 feet + .90
 Over 210 feet + 1.25
 Over 250 feet + 1.90
 Over 295 feet + 2.65

GROUP 1 - Power Shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills post hole hammers, port hole diggers, asphalt plant on job site, concrete batching an/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 - Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machines, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders, asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 - Pump (1-3 grouped), compressors, welding machines (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

DECISION NO. MA80-2001

BUILDING CONSTRUCTION:

POWER EQUIPMENT OPERATORS:

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
12.71	1.18	1.15	a	.03
12.59	1.18	1.15	a	.03
10.62	1.18	1.15	a	.03
11.58	1.18	1.15	a	.03
9.39	1.18	1.15	a	.03
9.97	1.18	1.15	a	.03

CLASS I - Cranes, Shovels, Truck Cranes, Cherry Pickers, Draglines, Trench Hoes, Backhoes, Three Drum Machines, Derricks, Pile Drivers, Elevator Towers, Hoists, Gradalls, Shovel Dozers, Front End Loaders, Fork Lifts, Augers, Boring Machine, Rotary Drills, Post Hole Hammers, Post Hole Diggers, Pumperete Machines, Asphalt Plant (on site), concrete Batching and/or Mixing Plant (on site), Crusher Plant (on site), Paving Concrete Mixers, Timber Jacks, Boom over 150, Including Jib additional \$.50 per hour; Boom over 185, Including Jib-Additional \$.90 per hour; Boom 210' Including Jib - Additional \$1.25 Per Hour; Boom over 250' Including Jib - Additional \$1.90 Per Hour Boom over 295' Including Jib - additional \$2.65 per Hour

CLASS II - Sonic Vibratory Hammers, Graders, Tandem Scrapers, Concrete Pumps, Bulldozers, Tractors, York rakes, Mulching Machines, Portable Steam Boiler, Portable Steam Generators, Rollers, Spreaders, Tampers (Self Propelled or Tractor Drawn), Asphalt Pavers, Mechanics Maintenance, Paving screed Machines, Stationary Steam boilers, Paving Concrete Finishing Machines, Cal Trucks, Ballast Regulators, Switch Tampers, rail Anchor Machinery, Tire Trucks (when Operated by the Employer on the Job site)

CLASS III - Pumps (1-3 Grouped), compressors, Welding Machines (1-3 Grouped), Generators, Concrete Vibrators, Lighting Plants, Heaters (Power Driven 1-5), Well-point Systems (Operating and Installing), Syphons-Pulsometers, Concrete Mixers, Values Controlling permanent Plant Air or Steam, Conveyors, Jackson Type Tampers, Single Diaphragm Pump, Lighting Plants

CLASS IV - Assistant Engineers (Firemen)

CLASS V - Oilers (other than truck cranes and gradalls)

CLASS VI - Oilers on Truck Cranes and Gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA80-2001

MARINE CONSTRUCTION

POWER EQUIPMENT OPERATORS

- GROUP I
- GROUP II
- GROUP III
- GROUP IV
- GROUP V
- GROUP VI
- GROUP VII
- GROUP VIII

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appt. Tr.
	H & W	Pensions	Vacation		
12.71	1.18	1.15	a	.03	
13.89	1.18	1.15	a	.03	
12.66	1.18	1.15	a	.03	
12.59	1.18	1.15	a	.03	
10.62	1.18	1.15	a	.03	
11.58	1.18	1.15	a	.03	
9.39	1.18	1.15	a	.03	
9.97	1.18	1.15	a	.03	

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanic hoists, pavement breakers, cement concrete pavers, dragline, hoisting engines, pump-crete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional \$.50 per hour - booms over 185' including jib - additional \$.90 per hour; Booms over 210' including jib - additional \$1.25 per hour; Booms over 250' including jib - additional \$1.90 per hour; booms over 295' including jib additional \$2.65 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, grader, scraper, tandem scraper, concrete pumps, bulldozers, tractors, rakes, mulching machines, rollers, spreaders, tamper self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point system, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-plusometers, concrete mixers, conveyors

DECISION NO. MA80-2001

POWER EQUIPMENT OPERATORS (CONT'D)
HEAVY & HIGHWAY CONSTRUCTION

- GROUP 4 - Assistant Engineers (Firemen)
- GROUP 5 - Oilers (other than truck cranes & gradalls)
- GROUP 6 - Oilers (on truck cranes & gradalls)

FOOTNOTES:

- a. Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Veterans Day and Patriots Day

DECISION NO. MA80-2001

POWER EQUIPMENT OPERATORS (CONT'D)

MARINE CONSTRUCTION

GROUP VI - Assistant Engineers (Firemen)

GROUP VII - Oiler (other than truck cranes and gradalls)

GROUP VIII - Oilers on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day;

E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

DECISION NO. MA80-2001

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS I	8.515	.75	.80	a+b	
CLASS II	8.633	.75	.80	a+b	
CLASS III	8.715	.75	.80	a+b	
CLASS IV	8.815	.75	.80	a+b	
CLASS V	8.915	.75	.80	a+b	
CLASS VI	9.165	.75	.80	a+b	
CLASS VII	9.415	.75	.80	a+b	

CLASS I - station wagons, Paneli trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer, warehousemen, Forklift operators

CLASS - Three axle equipment and Tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than conventional type trucks, lowbed, backhaul, mechanics, paving restoration equipment, mechanics

CLASS VI - Specialized earthmoving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' day provided an employee works two days of the calendar week in which the holiday falls.

STATE: New Hampshire
 DECISION NUMBER: NH80-2008
 Supersedes Decision No.: NH80-2046 dated May 11, 1979 in 44 FR-27886
 DESCRIPTION OF WORK: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)

COUNTIES: Statewide
 DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
BRICKLAYERS: Cheshire	7.09	.45	.30		.01
CARPENTERS: Belknap, Cheshire and Grafton Counties	7.45	.55	.50		.01
Carrroll County	8.05	.55	.50		.01
Hillsboro County	8.62	.65	.50		.01
Merrimack County	7.95	.65	.50		.01
Rockingham County	6.78				
CEMENT MASONS: Belknap County	8.49	.75	.50		.01
Carrroll County	8.79	.55	.40		.01
Grafton County	8.19	.55	.40		.01
Merrimack County	8.89	.80	.60		.02
ELECTRICIANS: Rockingham County	10.85	.75	38+.25		.02
IRONWORKERS: Belknap, Cheshire, Grafton and Merrimack Counties	9.70	.70	1.00		.02
Carrroll County	9.10	.55	.90		.02
LABORERS: Belknap, Carrroll, Coosa and Stafford Counties	5.91	.50	.45		.10
Cheshire & Grafton Counties	5.25	.50	.45		.10
Hillsboro County	6.67	.80	.60		.10
Merrimack County	6.56	.50	.45		.10
Rockingham County	6.23				
Sullivan County	5.11				
AIR TOOL OPERATORS: Cheshire & Grafton Cos.	5.75	.50	.45		.10
DRILLER, WAGON DRILL Carrroll County	7.26	.60	.70		.10
Hillsboro County	7.06	.50	.45		.10
PILED RIVERMEN: Cheshire County	8.05	.55	.50		.01

NH80-2008

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
TRUCK DRIVERS: 2 AXLE Belknap County	4.41	.55	.25		
Cheshire County	4.45	.55	.25		
Grafton County	4.71				
Hillsboro, Merrimack and Rockingham Counties	5.51	.60	.50		
4.33					
3 AXLE Belknap & Grafton Counties	4.94	.45	.25		
Carrroll County	6.09				
Cheshire & Coos Counties	5.44	.50	.40		
Hillsboro, Merrimack, Rockingham and Strafford Counties	5.74	.60	.50		
SPECIAL EARTH MOVING EQUIPMENT: Belknap, Hillsboro, Merrimack and Rockingham Cos.	5.97	.60	.50		
5.38					
Cheshire County					
POWER EQUIPMENT OPERATORS: ASPHALT PAVER: Belknap County	8.35	1.10	1.00		.03
Carrroll County	9.20				
Cheshire County	5.15				
Coos County	8.70	.85	.75		.05
Grafton County	7.50	.45	.60		.05
Hillsboro County	8.30	.80	.75		.05
Merrimack County	8.70	.85	.75		.05
Rockingham County	7.00				
Strafford County	8.53	.75	.60		
Sullivan County	5.11				
ASPHALT ROLLER: Belknap County	8.19	1.10	1.00		.03
Carrroll County	9.20				
Cheshire County	5.79				
Coos County	8.53	.75	.60		.05
Hillsboro County	8.30	.85	.75		.05
Merrimack County	8.70	.85	.75		.05
Rockingham County	8.49				
Strafford County	8.81	1.10	.80		.03
Sullivan County	5.33				

NH80-2008

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
8.50				
7.91				.05
8.75	.80	.75		.03
9.32	1.10	1.00		
8.10	.45	.60		.05
7.78				
8.50	.80	.75		.05
8.90	.85	.75		.05
9.20	1.10	1.00		.03
8.36				
5.60				
8.37				
8.44				
8.70	.85	.75		.03
7.90	.45	.60		.05
8.30	.80	.75		.05
9.25	1.10	1.00		.03
7.30	.85	.75		.05
6.90	.80	.75		.05
9.25	1.10	1.00		.03
8.53	.75	.60		.05
7.35	.45	.60		.05
8.30	.80	.75		.05
8.81	1.10	.80		.03
7.91				
8.50	.80	.75		.05
8.50	.85	.75		.05
8.75	.80	.75		.05
9.15	.85	.75		.05

GRADALL:
 Belknap County
 Cheshire County
 Hillsboro County
 Rockingham County
 GRADER:
 Belknap & Grafton Cos.
 Coos County
 Hillsboro County
 Merrimack County
 Rockingham County
 Strafford County
 Sullivan County
 MECHANIC:
 Belknap County
 Cheshire County
 Coos County
 Grafton County
 Merrimack County
 Rockingham County
 OILER:
 Hillsboro County
 OILER-GREASER:
 Cheshire County
 ROLLER, SELF-POWERED:
 Belknap & Rockingham Cos.
 Carrol County
 Coos County
 Grafton County
 Merrimack County
 Strafford County
 Sullivan County
 SCRAPER:
 Cheshire County
 Hillsboro County
 SHOVEL:
 Cheshire County
 Hillsboro County

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

NH80-2008

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
8.93	1.10	1.00		.03
8.64				
9.15	.80	.75		.05
8.30	.55	.60		.03
8.36				
8.70	.85	.75		.05
8.30	.80	.75		.05
7.99				
7.90	.45	.60		.05
9.20	1.10	1.00		.03
8.81	1.10	1.00		.03
8.75	.80	.75		.05
8.82				
9.32	1.10	1.00		.03
8.15	.85	.75		.05
7.60	.85	.75		.05
7.35	.45	.60		.05
7.36				
8.10	.45	.60		.05
8.11				
8.10	.45	.60		.05
8.90	.85	.75		.05
8.93	1.10	1.00		.03
8.93	1.10	.80		.03
8.30	.45	.60		.05
8.92				
8.90	.85	.75		.05
8.93	1.10	1.00		.03

BACKHOE
 Belknap and Strafford Counties
 Grafton County
 Hillsboro County
 Rockingham County
 Sullivan County
 BULLDOZER:
 Belknap County
 Cheshire & Hillsboro Cos.
 Coos County
 Grafton County
 Rockingham County
 Strafford County
 CRANE:
 Belknap, Cheshire, Hillsboro and Merrimack Cos.
 Carrol County
 Rockingham County
 FRONT END LOADER UNDER 3/4 YARDS:
 Belknap & Merrimack Cos.
 Hillsboro County
 Grafton County
 Sullivan County
 FRONT END LOADER 3/4 YARDS:
 Belknap County
 FRONT END LOADER 3/4 - 4 YARDS:
 Cheshire County
 Grafton County
 Hillsboro County
 Rockingham County
 FRONT END LOADER 4 YARDS
 AND OVER:
 Belknap, Grafton and Strafford Counties
 Cheshire County
 Coos County
 Merrimack County
 Rockingham County

DECISION NO. NY80-3006

STATE: NEW YORK
 COUNTY: NIAGARA
 DATE: Date of Publication
 DECISION NO. NY80-3006
 Supersedes Decision No. NY79-3022 dated July 20, 1979 in 44 FR 42875D
 DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction projects.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	\$12.25 12.80	1.32 1.10	1.15 1.5		.06 .02
ASBESTOS WORKER	12.88	.65	1.40		
BOILERMAKERS	12.01	.55	1.40		
BRICKLAYERS:	12.105	.55	1.40		
North Tonawanda:					
Bricklayers & stone masons	12.33	1.17	.57		
Terrazzo workers & tile setters	12.08	1.17	.57		
Marble setters					
Remainder of county:					
Bricklayers & stone masons	11.98	1.60	1.95		
Marble masons, terrazzo works & tile setters	11.18	1.25	1.55		
CARPENTERS; (BUILDING):					
North Tonawanda:					
Carpenters, millwrights and piledrivers	10.80	1.69	1.65		.025
Soft floor layers	10.90	1.69	1.65		.025
Remainder of county:					
Carpenters & soft floor layers	11.98	1.60	1.95		
Millwrights					
CARPENTERS; (HEAVY & HIGHWAY):					
North Tonawanda:					
Carpenters & piledrivers	8.51	1.69	1.65	e	.025
Remainder of County:	13.01	1.00			
Carpenters & Piledrivers	13.48	1.40	38+.80		.48
CEMENT MASONS	14.83	1.40	38+.80		.48
ELECTRICIANS:	13.51	1.045	.69	1.08+a	.03
Electricians	9.46	1.045	.69	1.08+a	.03
Cable splicers	6.44				
ELEVATOR CONSTRUCTORS	11.54	1.70	.70		.25
ELEVATOR CONSTRUCTORS' HELPERS					
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)					
GLAZIERS	12.16	1.07	.92		
IRONWORKERS:	10.715		.20		
Structural, ornamental & reinforcing	10.75	.40	.25	c	.01
LATHERS					
LEAD BURNERS					

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
PAINTERS:					
Tpws., of Somerset, Hartland, Royalton, New Fane, Lockport, Pendleton and the eastern half of Cambria and Wilson:	11.605	1.275	.70		.10
Brush	12.105	1.275	.40		.11
Cranes, steel, tanks, towers, stacks, bridges, flag poles, radio TV towers	11.855	1.275	.40		.11
Sandblasting, swing stages, scaffold, epoxy, spray, bosun chair	13.27	1.275	.70		.10
Bridges 35' high or in depth of 35' from road level	10.24	1.27	1.65		.01
Remainder of county:					
Brush	10.99	1.27	1.65		.01
Spray, steel, steeple jack, swing scaffold, sandblasting	11.905	1.27	1.65		.01
Bridge-crossing the Niagara River					
PILEDRIVERS:					
Piledrivers, dock carpenters and divers' tenders	11.98	1.60	1.95		
Divers	18.62	1.25	1.55		
PLASTERERS	10.96				
PLUMBERS AND STEAMFITTERS	13.25	1.005	1.37		.025
ROOFERS:					
Composition, damp, waterproofers					
sprayers, asphalt mastic, wood block floor workers, steen roofers & siders	12.36	.99	1.50		.02
Slate, tile asbestos & pre-cast tile	12.51	.99	1.50		.02
SHEET METAL WORKERS	13.25	1.33	1.16		.10
SPRINKLER FITTERS	13.27	.75	1.05		.06
TRUCK DRIVERS:					
Building, heavy & highway:	10.40	.75			
Euclid	10.15	.75			
Dump	10.365	.75	.775		
Ready-mix					
Welders - Craft Rate					

DECISION NO. NY80-3006

LABORERS; ROCK TUNNEL FREE AIR CONSTRUCTION
 NIAGARA COUNTY: EXCEPT NORTH TONAWANDA
 GROUP I
 GROUP II
 GROUP III
 GROUP IV
 GROUP V
 GROUP VI
 GROUP VII

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
9.61	1.75	1.30		
9.51	1.75	1.30		
10.46	1.75	1.30		
9.76	1.75	1.30		
9.86	1.75	1.30		
10.26	1.75	1.30		
9.76	1.75	1.30		

LABORERS: ROCK TUNNEL FREE AIR CONSTRUCTION

- GROUP I
Driller, shaft driller
- GROUP II
Chucker, mucking machine tender, shaft muckers
- GROUP III
Nipper, car pusher (tramer), track gang, bull gang, concrete gang, powder monkey
- GROUP IV
Blasters
- GROUP V
Rodman
- GROUP VI
Laborer & top man
- GROUP VII
Burning torch on demolition work

DECISION NO. NY80-3005

PAID HOLIDAYS:
 A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.
 FOOTNOTES:
 a. Holidays: A through F.
 c. Holidays: A through F; Washington's Birthday, Good Friday and Christmas eve, providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular schedule work days immediately preceding and following the holiday.
 e. Holidays: B and D.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
10.01	1.75	1.30		
10.51	1.75	1.30		
10.21	1.75	1.30		
11.01	1.75	1.30		

LABORERS; HEAVY, HIGHWAY, BUILDING CONSTRUCTION
 NIAGARA COUNTY: EXCEPT THE CITY OF NORTH TONAWANDA
 GROUP I
 GROUP II
 GROUP III
 GROUP IV

LABORERS: HEAVY, HIGHWAY, BUILDING CONSTRUCTION

- GROUP I
Laborers
- GROUP II
Form setter, wagon drill op., road finishers, gunnite nozzlemen, sandblasters, burning torch, concrete saw op.
- GROUP III
Potman, pipelayers, pavement breakers or busters, jackhammer op., barco rammers, chain saw, powder monkey, black top rakers, scalers, drill tenders, mortar mixers, men working from swinging scaffold bosum chair, suspended cage or bucket, work in caissons below 8 feet, concrete motor buggy, all other operators of mechanical tools, including vibrators regardless of type of power
- GROUP IV
Blasters

Line Construction (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Groundmen Digging Machine Operator, Groundman Dynamic Man	11.835	1.40	32+.75	k	
Telephone and other Communication Systems, Both overhead and underground:					
Linemen and Installer Repairmen	8.34	.40	32+.25	k	12
Splicers	8.89	.40	32+.25	k	12
Groundman Digging Machine Operator	7.73	.40	32+.25	k	12
Groundman	5.72	.40	32+.25	k	12
Groundman Truck Driver	6.82	.40	32+.25	k	12
Groundman Dynamicman	6.60	.40	32+.25	k	12

Paid Holidays: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

Footnotes:

k. Paid Holidays: A through F, Washington's Birthday, Good Friday, and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and after the holiday.

Line Construction	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Electrical Overhead and Under-ground Distribution Work:					
Linemen and Technicians	11.00	1.40	32+.75	k	
Cable Splicers	14.45	1.40	32+.75	k	
Groundman Digging Machine Operator and Groundman Dynamicman	9.90	1.40	32+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (Tractor Trailer)	8.80	1.40	32+.75	k	
Driver Mechanic, Groundman - Experienced	9.35	1.40	32+.75	k	
All Overhead Transmission Line Work and Lighting for Athletic Fields:					
Lineman and Technician	12.50	1.40	32+.75	k	
Groundman Digging Machine Operator, Groundman Dynamic Man	11.25	1.40	32+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.00	1.40	32+.75	k	
Groundman Truck Driver (Tractor Trailer Unit)	10.625	1.40	32+.75	k	
Driver Mechanic, Groundman - Experienced	9.375	1.40	32+.75	k	
Sub-Station, Switching Structures (when not part of the line), Traffic Signal, Street Lighting, and Electrical, Telephone or CATV Commercial Work:					
Linemen and Technicians	13.15	1.40	32+.75	k	
Cable Splicers	14.465	1.40	32+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.52	1.40	32+.75	k	
Groundman Truck Driver (Tractor Trailer Unit)	11.1775	1.40	32+.75	k	
Driver Mechanic, Groundman - Experienced	9.8625	1.40	32+.75	k	

DECISION NO. NY80-3006

POWER EQUIPMENT OPERATORS:

	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
GROUP I	11.16	1.10	1.35	a	.15
GROUP II	10.36	1.10	1.35	a	.15
GROUP III	7.94	1.10	1.35	a	.15
GROUP IV	8.95	1.10	1.35	a	.15
GROUP V	8.59	1.10	1.35	a	.15
GROUP VI	11.895	1.10	1.35	a	.15
GROUP VII	11.66	1.10	1.35	a	.15

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Finish blacktop rollers, crane work, shovels, derricks, steel erection, overhead or bridge cranes and clam buckets, all excavating machines, backfillers, cableways, draglines, backhoes, piledriving rigs, tunnel mucking machines, all tractors used in connection with scraper wagon, snowloader, all repair work or maintenance work under the supervision of a master mechanic, lubrication engineers, bulldozers, graders, blacktop spreaders, front and back loaders (except small types), power driver stone spreaders, portable stone crushers, crawler or rubber tire tractor with blade or bucket and crane boom or hoe boom or shovel boom attached (except farm type crawler or rubber tire tractor unless used with hydraulic backhoe), compressor with paving breaker attached, graders with bulldozer blades, multiple drum hoist with air compressor when used simultaneously for concrete batching machine, automatic batch plant op., concrete spreader op., finishing machine op., form puller, scraper (either double or single bowl), CMI grading machine, truck mounted concrete pumps, self-propelled riding vibrators, kolman loaders, mechanic, welder, euclid type belt loader, mechanical and hydraulic pipe pushing machine, scoompobies, forklifts and hoist which lift higher than 25 feet, trenchers when excavation over 6 feet in depth, post drivers (except truck mounted, postdrivers), concrete mixers 1 yard and over, concrete planers.

DECISION NO. NY80-3006

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS (CONT'D):

GROUP II: Elevators, material hoist, road rollers except finish blacktop roller, tractors, pavement busters, pumps over 4 inches, concrete blowers, compressors when used in banks of (2) and not over (3) within a 50 foot radius if such is possible, but at least within 50 foot radius, and if fuel is stored it will be stored within the same radius, guite machines, locomotives, scoop-mobies (when used as a stationary hoist or one which does not lift over twenty five feet, concrete pumps, conveyors, gas or diesel driven temporary lighting and power systems of 25 kilowatt capacity or over), stone crushers and winch hoist mounted on trucks, all earth drills, le tourneau turntrallers, highlift hoist which does not lift over 25 feet, gasoline heaters used in banks of (2) and not over (3) within an area of 100 foot radius, and for (2) but not over (3) gasoline or diesel driven welding machines, trenchers on the back of a jeep, truck mounted post drivers, snow-go, small front and back loaders, small type crawler or rubber tire tractor with blade or bucket not to exceed 1/2 yd. capacity, single drum hoist for hoisting materials other than steel, pug machine, self propelled rollers not on finish blacktop and under 7 tons, bobcat loader or forklift which does not lift over twenty five feet, trenchers, winch tractors, trenchers excavating up to 6 feet in depth, air compressors over 165 cu. ft.

GROUP III: Oilers on shovels, cranes, draglines, backhoe (over 3/4 cu. yds.) dredges, derrick boats, pavers (excluding stationary set-ups), trenching machines, pile drivers, quarry master (or its equivalent), hydrocranes, automated batch plants (wet or dry mix plants), compressors (165 cu. ft. per minute or under), pumps up to and including 4 inches.

GROUP IV: Truck crane oiler

GROUP V: Steam boiler operator.

GROUP VI: Master Mechanic.

GROUP VII: Cranes carrying over 100 feet of main boom.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F; providing employee works the day before and the day after the holiday.

DECISION NO. NY80-3006

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments			Education and/o Appr. Tr.
		H & W	Pensions	Vacation	
GROUP I	12.06	1.10	1.45	a	.15
GROUP II	11.21	1.10	1.45	a	.15
GROUP III	8.85	1.10	1.45	a	.15
GROUP IV	9.92	1.10	1.45	a	.15
GROUP V	8.51	1.10	1.45	a	.15
GROUP VI	12.83	1.10	1.45	a	.15

HEAVY & HIGHWAY CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Finish blacktop rollers, crane work, shovels, derricks, steel erection, overhead or bridge cranes and clam buckets, all excavating machines, backfillers, cableways, draglines, backhoes, piledriving rigs, tunnel mucking machines, all tractors used in connection with scraper wagon, snowloader, wagons, snowloader, all repair work or maintenance work under the supervision of a master mechanic, lubrication engineers, bulldozers, graders, blacktop spreaders, front and back loaders (except small types), power driver stone spreaders, portable stone crushers, crawler or rubber tire tractor with blade or bucket and crane boom or hoe boom or shovel boom attached (except farm type crawler or rubber tire tractor unless used with hydraulic backhoe), compressor with paving breaker attached, graders with bulldozer blades, multiple drum hoist with air compressor when used simultaneously for more than one purpose and single drum hoist when used to hoist steel, portable concrete batching machine, automatic batch plant op., concrete spreader op., finishing machine op., form puller, self propelled rollers if on blacktop, scraper, either double or single bowl, CMI grading machine, truck mounted concrete pumps, self-propelled riding vibrators, kolman loaders, mechanic, welder, euclid type belt loader, mechanical and hydraulic pipe pushing machine, scoomobiles, fork-lifts and hoist which lift higher than 25 feet.

DECISION NO. NY80-3006

HEAVY & HIGHWAY CONSTRUCTION - POWER EQUIPMENT OPERATORS (CONT'D):

GROUP II: Elevators, material hoist, road rollers except finish blacktop roller, tractors, pavement busters, pumps over 4 inches, concrete blowers, compressors when used in banks of (2) and not over (3) within a 50 foot radius if such is possible, but at least within 50 foot radius, and if fuel is stored it will be stored within the same radius, gunite machines, locomotives, scoop-mobiles (when used as a stationary hoist or one which does not lift over twenty five feet, concrete pumps, conveyors, gas or diesel driven temporary lighting and power systems of 25 kilowatt capacity or over), stone crushers and winch hoist mounted on trucks, all earth drills, le tourneau turntralliers, highlift hoist which does not lift over 25 feet, gasoline heaters used in banks of (2) and not over (3) within an area of 100 foot radius, and for (2) but not over (3) gasoline or diesel driven welding machines, trenchers on the back of a jeep, truck mounted post drivers, snow-go, small front and back loaders, small type crawler or rubber tire tractor with blade or bucket not to exceed 4 yd. capacity, single drum hoist for hoisting materials other than steel, pug machine, self propelled rollers not on finish blacktop and under 7 tons, bobcat loader or forklift which does not lift over twenty five feet, trenchers, winch tractors, trenchers excavating up to 6 feet in depth, air compressors over 165 cu. ft.

GROUP III: Oilers on shovels, cranes, draglines, backhoe (over 3/4 cu. yds.) dredges, derrick boats, pavers (excluding stationary set-ups), trenching machines, pile drivers, quarry master (or its equivalent), hydrocranes, automated batch plants (wet or dry mix plants), compressors (165 cu. ft. per minute or under), pumps up to and including 4 inches.

GROUP IV: Truck crane oiler

GROUP V: Steam boiler operator.

GROUP VI: Master Mechanic.

GROUP VII: Cranes carrying over 100 feet of main boom.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F, providing employee works the day before and the day after the holiday.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDES DECISION

STATE: Oregon
 COUNTIES: Clackamas, Multnomah and Washington
 DECISION NUMBER: OR80-5108
 DATE: Date of Publication
 Supersedes Decision No. OR78-5117 dated July 21, 1978, in 43 FR 31568
 DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
BRICKLAYERS	\$14.26	.95	\$1.20		.15
CARPENTERS	12.12	.80	1.00	.65	.04
CEMENT MASONS	11.50	.90	1.00	1.00	.15
DRYWALL INSTALLERS	12.12	.80	1.00	1.00	.15
ELECTRICIANS	17.25	.90	38+1.80		.10
LABORERS	6.30				
PAINTERS:					
Brush	10.82	.55	.70		.10
Spray	11.22	.55	.70		.10
Tapers	11.42	.55	.70		.10
PLUMBERS	16.08	1.50	1.60		.13
POWER EQUIPMENT OPERATORS:					
Asphalt roller	11.99	1.00	1.47	.50	.05
Blade, Finish	12.37	1.00	1.47	.50	.05
Loader, 4 cu. yds. or less	12.15	1.00	1.47	.50	.05
ROOFERS	12.15	.80	1.10		.10
SHEET METAL WORKERS	14.24	38+.98	12.8	1.00	.09
SOFT FLOOR LAYERS	11.565	.60	1.05	*	.11
TILE SETTERS	13.64	.80	1.00		.25
TRUCK DRIVERS:					
Dump Truck under 6 cu. yds.	10.92	.78	.77	1.28	.05
WELDERS: Receive rate for craft performing operation to which welding is incidental					

Unlisted classification needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards clauses 29 CFR, 5.5 (a) (i) (ii)

*FOOTNOTE:
 SOFT FLOOR LAYERS:
 4% of all gross wages to be placed to the credit of employees with less than one year of service; 6% of all gross wages to be placed to the credit of employees with more than one year of service.

SUPERSEDES DECISION

STATE: OHIO
 COUNTIES: FAYETTE & ROSS
 DECISION NO.: OH80-2003
 DATE: Date of Publication
 Supersedes Decision No. OH77-2089 dated May 20, 1977 in 42 FR 26096
 DESCRIPTION OF WORK: Residential Construction Consisting of Single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
BRICKLAYERS	\$8.00				
CARPENTERS	5.69				
CEMENT MASONS	6.00				
DRYWALL FINISHERS	7.50				
DRYWALL HANGERS	7.50				
ELECTRICIANS	6.88				
LABORERS:					
Common	4.34				
Mason Tenders	4.50				
PAINTERS	5.25				
PLUMBERS	6.25				
ROOFERS	5.60				
SHEET METAL WORKERS	6.00				
SOFT FLOOR LAYERS	5.00				
TILE SETTERS	5.23				
TRUCK DRIVERS	4.21				
POWER EQUIPMENT OPERATORS:					
Backhoes	6.27				
Bulldozers	6.00				
Front End Loaders	5.88				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (i) (ii)).

STATE: Washington
 COUNTY: Statewide
 DECISION NUMBER: WA80-5107
 DATE: Date of Publication
 SUPERSEDES Decision No. WA79-5126 dated July 20, 1979, in 44 FR 42886
 DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$15.78	.72	\$1.30		.03
16.14	.82	1.30		.16
14.64	.72	1.30		.04
13.61	1.175	1.25	1.00	.04
13.11	.80	1.00		.05
13.29	.80	.40		
11.96	.80	1.00		.05
13.43	.80	1.55		.11
14.26	.95	1.20		.15

ASBESTOS WORKERS:

Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Okanogan, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Cos. Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties Remaining Counties

BOILERMAKERS

BRICKLAYERS; MARBLE SETTERS: Adams (except City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Grand Coulee Dam Area in Okanogan County and Whitman Counties Benton, Franklin and Walla Walla Counties Chelan, Douglas and Okanogan (except area of Grand Coulee Dam) Clallam, Island, Jefferson, King, Kitsap, Snohomish and Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) Counties Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum Counties and ten mile strip bordering the Columbia River in Klickitat County

BRICKLAYERS; MARBLE SETTERS:

(Cont'd)
 Grant County and the portion of Adams County including the City of Othello
 Kittitas, Yakima and Klickitat (except a ten mile strip bordering the Columbia River) Counties Grays Harbor, Lewis, Mason, Northern portion of Pacific, Pierce and Thurston Counties San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof), and Whatcom Counties

CARPENTERS:

All Counties and parts of Counties east of the 120th Meridian: Carpenters Piledriver; Floor Sanders; Saw Filer; Stationary Power Woodworking Tool Operator Boom Men; Carpenters (creosoted material) Piledriver (creosoted material) Millwrights and Machine Erectors

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$13.25	.40			
13.59	.75	1.00		.07
13.43	.80	1.55		.12
13.84	.80	1.25		.06
12.34	.83	.90		.075
12.49	.83	.90		.075
12.59	.83	.90		.075
12.74	.83	.90		.075
12.84	.83	.90		.075

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ELEVATOR CONSTRUCTORS: (Cont'd) Chelan, Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Cos. Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	\$15.735	\$1.045	.82	a	.035
GLAZIERS: Adams (Northeastern portion), Lincoln (eastern half); Pend Oreille, Spokane and Stevens Cos. Adams (Southeastern portion), Benton, Columbia, Franklin and Walla Walla Counties Adams (Southwestern corner), Chelan, Douglas, Grant, Lincoln, (western half) and Okanogan Cos. Asotin, Garfield, and Whitman Counties Clallam, Island, Jefferson, Grays Harbor, King, Kitsap, Lewis, Mason, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston and Whatcom Cos. Yakima and Kittitas Cos. Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	13.405	.895	.69	a	.035
	11.79	.42	.50	b	
	11.83	.47	.55	.77	
	11.92	.47	.55	b	
	11.06	.47	.55	b	
	11.19	.34	.85	b	
	10.69	.42	.70		
	11.41	.61	.65		.01
INSULATION APPLICATORS: King County	9.55	.60	.80		.02

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
IRONWORKERS: Statewide, except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties: Reinforcing; Structural; Fence Erectors; Ornamental; Riggers and Signalmen Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties: Reinforcing; Structural; Fence Erectors; Ornamental; Riggers and Signalmen	\$13.66	.93	\$1.70		.10
LATHERS: Adams, Asotin, Benton, Chelan, Columbia, Ferry, Franklin, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties Clallam, Island, Jefferson, King, Kitsap, Lewis, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish and Whatcom Counties Clark, Cowlitz, Klickitat, Pacific (Southern portion); Skamania and Wahkiakum Counties	13.66	.93	1.70		.10
	11.00	.90	1.25		
	13.01	.85	1.00		.04
	12.42	.75	1.55		.06

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$11.15	.95	\$1.10			.10
11.85	.47	1.00			.02
12.10	.47	1.00			.02
12.20	.47	1.00			.02
12.25	.47	1.00			.02
10.82	.55	.70	.50		.10
11.22	.55	.70	.50		.10
11.57	.55	.70	.50		.10
11.97	.55	.70	.50		.10
10.65	.65	.60	.50		.06

MASON TENDERS:
 Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties: (including tenders of plasterers, bricklayers, tile setters, marble workers, and terrazzo workers; topping for cement finishers and mortar mixers)

PAINTERS:
 Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties:
 Brush
 Steel; Spray; Steam Cleaning; Roller over 9" or 10' handle; Drywall Taper
 Swing Stage work or high rate (over 30')
 Bitumastic; Sandblasting; Bridge; Tanks on legs; Tower; Stacks; Steeples
 Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties:
 Brush
 Spray
 Bridges, High work over 50' (brush)
 Bridges, High work over 50' (spray)
 Drywall Finishers

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$12.64	.72	.70			.04
13.04	.72	.70			.04
13.39	.72	.70			.04
13.63	.72	.25			
11.18	.90	1.25			
12.74	.85	1.25			.08
12.97	.75	1.00			.06
10.75	.82	1.00			.05

PAINTERS: (Cont'd)
 Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston, Pacific (Northern portion) and Whatcom Cos.:
 General Painters
 Drywall Tapers
 Industrial Painter
 Towers, Steeplejack
 Statewide except Wahkiakum, Cowlitz and Skamania Cos.:
 Striber

PLASTERERS:
 Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties
 Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston and Whatcom Cos.
 Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties

PLASTERERS' TENDERS:
 All Counties and portions of Counties East of the 120th Meridian

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$15.41	.94	\$1.65	\$1.50	.12
<p>PLUMBERS: Chelan, Clallam, King, O'15' Kittitas (north of 47'15' N. Lat.), Douglas (west of the 119'30' W. Long.), Jefferson and Okanogan (except the area lying east of the 119'30' W. Long., North to 48'30' N. Lat., North Lines) Cos. Adams (except area between a line drawn south from the western boundary of Ferry County to Highway #10 eastward to Whitman County), Asotin, Benton, Columbia, Franklin, Garfield, Grant, Klickitat, Walla Walla, Yakima, Douglas (east of 119'30' W. Long.), Ferry (west of a line drawn from Creston in Lincoln County northward to the Canadian Border), Kittitas (south of 47'15' N. Lat.), Lincoln (west of a line drawn from Schrag in Adams County northward to the Ferry County Line), and Okanogan (east of 119'30' W. Long. and south of 48'30' N. Lat.) Counties</p>				

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$14.75	.90	\$1.45	\$2.00	.12
<p>PLUMBERS: (Cont'd) Adams (area between a line drawn south from the western boundary of Ferry County to Highway #10 and eastward to Whitman County), Asotin, Cowlitz, Ferry (east of a line drawn from Creston in Lincoln County northward to the Canadian Border), Grays Harbor, Kitsap, Lewis, Lincoln (east of a line drawn from Schrag in Adams County northward to the Ferry County Line), Mason, Pend Oreille, Skagit, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Whatcom, Whitman, Clark, and Skamania Counties (those portions lying north of an east-west line drawn through Woodland eastward to the Klickitat County Line Clark and Skamania Counties south of an east-west line drawn through Woodland eastward to the Klickitat County Line</p>				
16.08	1.50	1.60		.13
<p>ROOFERS: Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Cos. Benton, Franklin, Kittitas, Klickitat and Yakima Counties</p>				
11.69	.75	1.00		.02
12.62	.75	.30		

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$12.71	.75	\$1.00		.03
12.96	.75	1.00		.03
12.33	.75	1.10		.02
12.58	.75	1.10		.02
10.13	.55	.40		
10.63	.55	.40		
12.15	.80	1.10		.10
12.40	.80	1.10		.10
12.65	.80	1.10		.10
15.13	3%+.68	1.14		.14
13.98	3%+.64	.94	2.00	.14
14.24	3%+.98	1.28	1.00	.08

ROOFERS: Cont'd)
 Clallam, Jefferson, King, Kitsap, Mason and Snohomish Counties:
 Slate and Tile Roofers
 Cowlitz, Grays Harbor, Lewis, Pacific, Pierce, Thurston and Wahkiakum Counties:
 Roofers; Waterproofers
 Island, San Juan, Skagit and Whatcom Counties:
 Roofers; Waterproofers
 Clark and Skamania Counties:
 Roofers
 Handling of irritating material (coal, tar or epoxy)
 Handling of irritating material (coal, tar or epoxy) in confined area
SHEET METAL WORKERS:
 Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties
 Clallam, Jefferson, Kitsap and Mason Counties
 Clark and Skamania Cos.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$14.25	3%+.68	\$1.06		.04
15.29	3%+.73	1.56		.07
13.51	3%+.73	1.49		.07
11.11	.47	.60		
10.66	.40	.90	1.21	
11.00	.40	.90	.60	
10.41	.47	1.00		.05
12.08	.63	1.25		
11.565	.60	1.05	c	.11
11.74	.63	1.25		.05
11.67	.47	.35		
11.23	.63	1.25		.05
11.47	.63	1.00		.05
16.76	.75	2.05		.11
14.30	.75	1.05		.08

SHEET METAL WORKERS: (Cont'd)
 Cowlitz, Grays Harbor, Lewis, Pacific, Pierce, Thurston and Wahkiakum Counties
 King, Kittitas, Island and Snohomish Counties
 Whatcom, Skagit and San Juan Counties
SOFT FLOOR LAYERS:
 Adams (Northeastern portion), Ferry, Lincoln (eastern half), Pend Oreille, Spokane and Stevens Counties
 Adams (Southeastern portion), Benton, Columbia, Franklin and Walla Walla Counties
 Adams (Southwestern portion), Chelan, Douglas, Grant, Lincoln (western half), and Okanogan Cos.
 Asotin, Garfield and Whitman Counties
 King and Snohomish Cos.
 Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties
 Grays Harbor, Lewis, Mason, Pacific (Northern portion), Pierce and Thurston Counties
 Yakima and Kittitas Cos.
 Island and Skagit Counties
 Whatcom County
SPRINKLER FITTERS:
 Skagit, Snohomish, King, Island, Kitsap, Pierce and Thurston Counties
 Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
TERRAZZO WORKERS; TILE SETTERS:					
Adams, (except that portion including the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman and Grand Coulee Dam area in Okanogan County Benton, Franklin and Walla Walla Counties	\$12.30	.80	\$1.00		
Chelan, Douglas, Okanogan (except area of Grand Coulee Dam)	12.62	.80	.40		
Clallam, Island, Jefferson, King, Kitsap, Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) and Snohomish Counties	11.96	.80	1.00	.05	
Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum and a ten-mile strip bordering the Columbia River in Klickitat County	13.57	.80	1.00	.11	
Grant County and that portion of Adams County including the City of Othello	13.64	.80	1.00	.25	
Grays Harbor, Lewis, Mason, Pierce and Thurston Cos.	13.25	.40			
San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof) and Whatcom Counties	13.53	.80	1.60	.11	
	12.82	.80	.85		

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
TILE, MARBLE and TERRAZZO FINISHERS:					
All Counties west of the Cascade Mountain Range (except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	\$11.69	.80	.30		

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

*Where Pacific county is stated as "Northern Portion" or "Southern Portion" such areas are defined as follows:

Pacific (Northern portion) - North of Wahkiakum County Northern Boundary extended due west to the Pacific Ocean
 Pacific (Southern portion) - South of Wahkiakum County Northern Boundary extended due west to the Pacific Ocean

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A thru F.
- b. Two weeks' vacation with pay after 1 year employment. Also seven Paid Holidays: A through F plus Washington's Birthday.
- c. 4% of all gross wages to be placed to the credit of the employee with less than one year's service - 6% of all gross wages to be placed to the credit of the employee with more than one year of service.

LINE CONSTRUCTION

BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
Group 1: Cable Splicer, Leadman Pole Sprayer	\$14.41	\$15.66	\$17.16	\$18.41
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	13.01	14.26	15.76	17.01
Group 3: Tree Trimmer	11.75	13.00	14.50	15.75
Group 4: Line Equipment Man	11.21	12.46	13.96	15.21
Group 5: Head Ground (Chipper), Head Groundman, Powderman, Jackhammer Man	9.80	11.05	12.55	13.80
Group 6: Groundman	9.21	10.46	11.96	13.21

FRINGE BENEFITS PAYMENTS:

Health and Welfare \$.45
 Pension 3%+1.10
 Vacation .10
 Apprenticeship Training 1/2%

GROUPS 1 to 3 \$.45
 3%+1.10
 .10
 1/2%

GROUPS 4 to 6 \$.45
 3%+1.10
 .10
 1/2%

ZONE DESCRIPTIONS:
 BASE ZONE* 0 to 3 miles radius from the geographical center of the Cities listed below
 ZONE 1 3 to 20 miles radius
 ZONE 2 20 to 35 miles radius
 ZONE 3 35 to 50 miles radius
 ZONE 4 Over 50 miles radius

Spokane Ellensburg Astoria Medford Corvallis
 Tacoma Ephrata Baker Portland Coeur D'Alene
 Walla Walla Everett Bend Kelloog
 Wenatchee Kennewick Salem Lewiston
 Yakima Longview Eugene Roseburg Orofino
 Wilbur Olympia Lakeview The Dalles
 Klamath Falls Bellingham Umatilla Sand Point

*BASE ZONE rate is paid when working out of employer's permanent shop.

LABORERS (AREA 1) BUILDING CONSTRUCTION All Counties and portions of Counties East of the 120th Meridian	Fringe Benefits Payments				
	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	\$10.20	.82	\$1.00		.05
Group 2	10.45	.82	1.00		.05
Group 3	10.70	.82	1.00		.05
Group 4	10.95	.82	1.00		.05
Group 5A	10.90	.82	1.00		.05
Group 5B	11.10	.82	1.00		.05
Group 5C	11.35	.82	1.00		.05
Group 5D	11.40	.82	1.00		.05

LABORERS (AREA 1)*

Counties and portions of Counties East of the 120th Meridian
 HEAVY and HIGHWAY CONSTRUCTION

Group Nos.

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	\$10.20	\$10.90	\$11.15	\$11.60	\$12.10
2	10.45	11.15	11.40	11.85	12.35
3	10.70	11.40	11.65	12.10	12.60
4	10.95	11.65	11.90	12.35	12.85
5A	10.90	11.60	11.85	12.30	12.80
5B	11.10	11.80	12.05	12.50	13.00
5C	11.35	12.05	12.30	12.75	13.25
5D	11.40	12.10	12.35	12.80	13.30

FRINGE BENEFITS:

Health and Welfare \$.82
 Pension 1.00
 Apprenticeship Training .05

*See ZONE DEFINITIONS - following TRUCK DRIVERS' Classifications

LABORERS (AREA 1)

All Counties and portions of Counties East of the 120th Meridian

Group 1: Brush Hog Feeder; Concrete Crewman (to include: Stripping of forms, hand operating jacks on slip form construction, application of concrete curing compounds, Pumpcrete Machine, Signaling, handling the nozzle of Squeezcrete or similar machine - 6 in. and smaller); Crusher Feeder; Demolition (to include: clean-up, burning, loading, wrecking and salvage of all material); Dumpman; Fence Erector (to include: Guard Rail, Guide and Reference Post, Sign Posts, and Right-of-way Markers); Flagman; General Laborer; Grout Machine Header Tender; Nipper; Riprap Man; Scalfold Erector; wood or steel; Scaleman; Stake Jumper; Structural Mover (to include: separating foundation, preparation, cribbing, shoring, jacking and unloading of structures); Tailhoseman (water nozzle); Timber Bucker and Faller (by hand); Tractor Laborer (railroad); Truck Loader; Well-point Man; Window Cleaner

Group 2: Asphalt Raker; Asphalt Roller, walking; Carpenter Tender; Cement Finisher Tender; Cement Handler; Concrete Saw, walking; Demolition Torch; Dope Pot Fireman, non-mechanical; Driller Tender (when required to move and position machine); Form Cleaning Machine Feeder; Stackler; Form Setter, paving; Grade Checker using level; Jack-hammer Operator; Nozzleman (to include: squeeze and flow-crete nozzle); Nozzleman, water, air or steam; pavement Breaker; Pipelayer, corrugated metal culvert; Pipelayer, multi-section; Pot Tender; Powderman Tender; Power Buggy Operator; Power Tool Operator; gas, electric, pneumatic; Railroad Equipment, power driven, except dual mobile power Spiker or Puller; Railroad power Spiker or Puller, dual mobile; Rodder and Spreader; Sandblast Tailhoseman; Tamper (to include: operation of Barco, Essex and similar tampers, and pavement breakers); Trencher, Shawnee; Tugger Operator; Vibrator, under 4 inches; Wagon Drills; Water Pipe Liner; Wheelbarrow, power driven

Group 3: Air Track Drill; Brush Machine (to include: Horizontal Construction Joint Clean-up Brush Machine, power propelled); Caisson Worker, free air, Chain Saw Operator and Faller; Concrete Stack (to include: Laborers when 40 ft. high); Gunnite (to include: operation of machine and nozzle); High Scaler; Hod Carrier; Laser Beam Operator (to include: Grade Checkers and Elevation control); Monitor Operator (track or similar mounting); Mortar Mixer; Nozzleman (to include: Jet Blasting Nozzleman, over 1,200 lbs., Jet Blast Machine, power propelled, Sandblast Nozzle); Pipelayer (to include: working Topman, Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer, Valve or Meter Installer); Pipewrapper; Vibrator, 4 inches and over

Group 4: Drills with dual Masts; Powderman

Group 5: Tunnel and Shaft, free air

Class A: Bull Gang, Pump Crete Crewman including Distribution Pipe, Assembling and Dismantle and Nipper

Class B: Brakeman, Dumpman

Class C: Miner and Nozzleman for concrete and Laser Beam Operator in Tunnels

Class D: Raise and Shaft Miner and Laser Beam Operator on Raises and Shafts

LABORERS (AREA 2)

All Counties West of the 120th Meridian (except those enumerated in Areas 3 and 4) and the Northern portion of Pacific County

	Basic Hourly Rates	Fringe Benefits: Payments			Education (end of Appr. Tr.)
		H & W	Pensions	Vacation	
Group 1	\$11.23	.95	\$ 1.10		.08
Group 2	11.57	.95	1.10		.08
Group 3	11.71	.95	1.10		.08
Group 4	11.81	.95	1.10		.08

Group 1: Asphalt Laborer; Batch Weighman; Broomers; Brush Cutter; Brush Hog Feeder; Burners; Car and Truck Loader; Cement Handler; Changehouse or Dry Shack; Choker Setter; Clean up Laborer; Concrete Form Stripper; Concrete and Monolithic Laborer; Crush Feeder; Curing Laborer; Demolition, wrecking and moving; Ditch Digger; Drierman; Dumpman; Elevator Feeders; Epoxy Technician; Faller and Bucker, hand; Fence Laborer; Fine Graders; Flagman; Form Setter; Grout Machine Header Tender; Header Laborer and Guardrail Erector; House Wrecker; Landscaping or Planting; Material Yard Man (including electrical); Nipper-Swamper; Pilot Car; Pitman; Pot Tender; Rip Rap Man; Scaleman; Signalman; Skipman; Sloper Sprayman; Stockpiler; Toolroom Man (at job site); Track Laborer; Truck Spotter; Window Cleaner

LABORERS (AREA 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian

Group 2: Air, gas or electric Vibrating Screed; Anchor Machine; Ballast Regulator machine; Chippers; Choker Splicer; Chuck Tender; Clary Power Spreader and similar types; Concrete Saw; Gabian Basket Builder; Grinders; GROUTMAN, pressure, including Post Tension Beams; Jackhammer; Multiple Tamper; Pavement Breaker; Pipe pot Tender; Pipe Wrapper; Powderman Tender; Power Jacks; Power Wheelbarrow or Buggy; Railroad Spike Puller; Ribbon Setter, head; Rip Rap Man, head; Rodder; Sloper, over 20 ft.; Stake Hopper; Swinging Scaffold or Boatswain Chair over water or 25 ft. in height; Tamper, multiple and self-propelled; Tamper and similar electric and air operator tools; Topman-tailman; Track Liners; Vibrator; Wagon Driller and Air Trac Tender Well Point Laborer

Group 3: Bit Grinder and Drill Doctor; Cement Dumper, paving; Cement Finisher Tender; Faller and Bucker Chain Saw; Grade Checker and Transit Man; High Scaler; Laser Beam Operator; Manhole Builder; Mortarman and Hodcarrier; Nozzleman (concrete and rock, sandblaster, gunnite, shotcrete); Water Blaster; Pipelayer and Caulker; Powderman; Raker, asphalt; Spreader (carries grade with rodder); Timberman, sewer; Tugger Operator; Vibrator, 4" and over; Wagon Driller and Air Trac Operator

Group 4: Caisson Worker; Laser Beam Operator (tunnel); Powderman; Re-timberman

LABORERS (AREA 3)*
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	\$10.01	\$10.41	\$10.76	\$11.01	\$11.26	\$11.51
2	10.36	10.76	11.16	11.36	11.61	11.86
3	10.66	11.06	11.41	11.66	11.91	12.16
4	10.91	11.31	11.66	11.91	12.16	12.41

FRINGE BENEFITS:

Health and Welfare	\$.95
Pension	1.10
Vacation	.65
Apprenticeship Tr.	.10

*See ZONE DEFINITIONS - following TRUCK DRIVERS' Classifications

Group 1: General Laborer; Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Change-house Man or Dry Shack Man; Choke Setter; Clean-up Laborers; Concrete Laborers; Culvert; hand labor; Curing, concrete; Demolition, wrecking and moving Laborers; Drillers' Tenders; Dumpers, road oil crew; Dumpman (for grading crew); Elevator Feeders; Fence Builder (including guard rail, median rail, reference post, guide post, right-of-way marker); Fine Graders; Form Strippers (not swinging stages); Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and similar types); Loading Spotters; Material Yard Man (including electrical); Powderman Tender; Pittsburgh Chipper Operator or similar types Railroad Track Laborers; Ribbon Setters (including Steel Forms); Rip Rap Man (hand Placed); Road Pump Tender; Sewer Labor; Signalman; Skipman; Slopers; Spraymen; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bull Gang (above ground); Weightman - Crusher (aggregate when used)

LABORERS (AREA 3) (Cont'd)
 Clark, Colitz, Klickitat, Skamania, Wahkiakum and the
 Southern portion of Pacific, Counties

Group 2: Applicator (including pot tender for same) Applying
 protective material by hand or nozzle on utility lines or
 storage tanks on project; Brush Cutters (power saw); Burners;
 Choker Splicer; Clary, power spreader and similar types;
 Clean-up Nozzleman-Greencutter (concrete, rock, et.); Con-
 crete Power Buggyman; Crusher Feeder; Demolition and wrecking
 charred materials; Grade Checker; Gunite Nozzleman Tender;
 Gunite and Sand Blasting Post Tender; Handlers or Mixers of
 all materials of an irritating nature (including cement and
 lime); Power Tool Operators, includes but not limited to: Dry
 Pack Machine, Jackhammer, Chipping Guns, Paving Breakers, Vi-
 brators (less than 4" in diameter); Post Hole Digger, air, gas
 or electric; Vibrating Screed; Tampers; Ribbon Setter, head;
 Rip Rap Man, head, hand placed; Sand Blasting (wet); Stake
 Setter; Tunnel-Muckers; Brakemen; Concrete Crew; Bull Gang
 (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill
 Operators; Air Tracks; Cat Drills; Wagon Drills; Rubber-
 mounted Drills and other similar types; Concrete Saw Ope-
 rator; Gunite Nozzleman; High Scalers; Strippers and
 Drillers (covers work in swinging stages, chairs or belts,
 under extreme conditions unusual to normal drilling, blasting,
 barring-down or sloping and stripping); Laser Beam (pipe
 laying); Applicable when employee assigned to move, set up,
 align Laser Beam; Manhole Builder; Powdermen; Power Saw
 Operators (bucking and falling); Pumpcrete Nozzleman; Sand-
 blasting (dry); Sewer (Pipe Layers); Sewer Timberman;
 Track Liners; Anchor Machines, Ballast Regulators, mul-
 tiple Tampers, power Jacks; Tugger Operator; Tunnel
 Chuck Tenders; Nippers and Timbermen; Vibrators (4"
 and larger); Water Blaster; Welder

Group 4: Laser Beam (tunnel) - Tunnel Miners; Tunnel Powderman

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$11.23	.95	\$1.10		.08
11.57	.95	1.10		.08
11.71	.95	1.10		.08
11.81	.95	1.10		.08

LABORERS (AREA 4)
 Those portions of Chelan,
 Douglas, Kittitas, Okanogan,
 and Yakima lying West of
 the 120th Meridian

Group 1
 Group 2
 Group 3
 Group 4

Group 1: Asphalt Laborer; Batch Weighman; Broomers; Brush Cutter;
 Brush Hog Feeder; Burners; Car and Truck Loader; Carpenter Tender;
 Cement Handler; Changehouse or Dry Shack; Choker Setter; Clean-
 up Laborer; Concrete Form Stripper; Concrete and Monolithic La-
 borer; Crush Feeder; Curing Laborer; Demolition, wrecking and
 moving; Ditch Digger; Dryerman; Dumpman; Elevator Feeders; Epoxy
 Technician; Faller and Buckler, hand; Fence Laborers; Fine Graders;
 Flagman; Form Setter; Grout Machine Header Tender; Header Laborer
 and Guardrail Erector; House Wrecker; Landscaping or Planting;
 Material Yard Man (including electrical); Nipper-Swamper; Pilot
 Car; Pitman; Pot Tender; Rip Rap Man; Scaleman; Signalman; Skip-
 man; Sloper; Sprayman; Stockpiler; Toolroom Man (at job site);
 Track Laborer; Truck Spotter; Window Cleaner

LABORERS (AREA 4) (Cont'd)

Those portions of Chelan, Douglas, Kittitas, Okanogan and Yakima lying west of the 120th Meridian

Group 2: Air, gas or electric Vibrating Screed; Anchor Machine; Ballast Regulator Machine; Chippers; Choker Splicer; Chuck Tender; Clary Power Spreader and similar types; Concrete Saw; Gabian Basket Builder; Grinders; Grouman, pressure, including Post Tension Beams; Jackhammer; Multiple Tampers; Pavement Breaker; Pipe Pot Tender; Pipe Wrapper; Powderman Tender; Power Jacks; Power Wheelbarrow or Buggy; Railroad Spike Puller; Ribbon Setter, head; Rip Rap Man, head; Rodder; Sloper, over 20 ft.; Stake Hopper; Swinging Scaffold or Boatswain Chair over water or 25 ft. in height; Tamper, multiple and self-propelled; Tamper and similar electric and air operated tools; Topman-Tailman; Track Liners; Vibrator; Wagon Driller and Air Trac Tender; Well Point Laborer

Group 3: Bit Grinder and Drill Doctor; Cement Dumper, paving; Cement Finisher Tender; Faller and Bucker Chain Saw; Grade Checker and Transit Man; High Scaler; Laser Beam Operator; Manhole Builder; Mortarman and Hod Carrier; Nozzleman (concrete pump, green cutter when using combination of high pressure air and water on concrete and rock, sandblast, gunnite, shotcrete) Water Blaster; Pipelayer and Caulker; Powderman; Raker, asphalt; Spreader (carries grade with rodder); Timberman, sewer; Tugger Operator; Vibrator, 4" and over; Wagon Driller and Air Trac Operator

Group 4: Caisson Worker; Laser Beam Operator (tunnel); Powderman; Re-timberman

POWER EQUIPMENT OPERATORS (AREA 1)*

All Counties and portions of Counties East of the 120th Meridian

Group No.	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	\$10.30	\$11.00	\$11.25	\$11.70	\$12.20
2	10.60	11.30	11.55	12.00	12.50
3	11.15	11.85	12.10	12.55	13.05
4	11.30	12.00	12.25	12.70	13.20
5	11.45	12.15	12.40	12.85	13.35
6	11.70	12.40	12.65	13.10	13.60
7	11.95	12.65	12.90	13.35	13.85

FRINGE BENEFITS:

Health and Welfare \$1.20
 Pension 1.55
 Apprenticeship Training .03

*See ZONE DEFINITIONS - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS (AREA 1)

All Counties and portions of Counties East of the 120th Meridian

Group 1: Bit Grinders; Bolt Threading Machine; Compressor, under 2,000 cu. ft. per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deckhand; Driller's Tender; Fireman and Heater Tender; Grade Checker; Tender (mechanic, H.D.); Oiler, Oiler and Cable Tender; Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar - or Compacting or Vibrator) except when pulled by dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator; Fireman or Pugmixer Operator, single unit (concrete); Belt Finishing Machine; Bending Machine (Pipeline); Blower Operator (cement); Cement Hog; Compressor (2,000 cu. ft. or over, 2 or more gas, diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Elevator Hoisting Materials; Dope Pots (power agitated); Fork lift of Lumber Stacker; Hydra-lift and similar; Gin Trucks (Pipeline); Hoist, single drum; Loader (Bucket, Elevator and Conveyors); Longitudinal Float; Mixer Operator; Post Hole Auger or Punch; Power Broom; Railroad Ballast Regulation Operator (self-propelled); Railroad Power Tamper Operator (self-propelled); Railroad Power Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Jack Operator (self-propelled); Straddle Buggy (Ross and similar on construction job site); Tractor (farm type R/T with attachments except Backhoe); Tugger Operator; Ditch Witch or similar

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Beltcrete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Blade Operator (motor patrol and attachments); Boat Operators; Boom Cats (side); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Doping Machine (Pipeline); Concrete Pumps (Squeeze-crete, Flow-crete, Pumcrete, Whitman and similar); Drills (Churn, Core, Calyx, or Diamond); Elevating Belt-type Loader (Euclid, Barber Green or similar); Elevating Grader-type Loader (Dumort, Adams or similar); Equipment Serviceman, oiler and greaser; Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Hoist (2 or more drums or tower hoist); Loader (Overhead and Front-end under 4 yds. R/T); Locomotive Engineer; Mixer/mobile; Mucking Machines; Paver or Curb Extruder (concrete and asphalt); Pump (grout or jet); Roller/man (finishing pavement); Rubber-tired Scraper (one motor with one scraper, under 40 yds.); Screenshot Operator, Soil Stabilizer (P&H or similar); Spreader Machine; Tractor (Crawler, including Dozer, Scraper, Drills, Boom, Rollers, etc.); Traverse Operator; Vacuum Drill (reverse circulation drill, under 8")

POWER EQUIPMENT OPERATORS (AREA 1) (Cont'd)

All Counties and portions of Counties East of the 120th Meridian

Group 4: H.D. Mechanic; Refrigeration Plant Engineer (under 1,000 tons); Rubber-tired Scraper, multi-engine power, with one scraper (Euclid, TS-24 and similar); Rubber-tired Scrapers, one motor with one scraper (40 yards and over); Surface Heater and Planer Machines; Turnhead (with re-screening)

Group 5: Asphalt Plant Operator; Automatic Subgrader (ditches and trimmers) (Auto-grade, ABC, R.R. Hansen and similar on grade wire); Backhoes (under 3 yds.); Batch and Wet Mix Operator - multiple units (2 and including 4); Blade (under 3 yds.); Concrete Slip Form Paver; Cranes (under 65 tons, sideboom over 24 ft., butt pin to CMR Sheave); Crusher, Grizzle and Screening Plant Operators; Drilling Equipment (8" bit and over) (Robbins, reverse circulation and similar); Loader Operator (front end and overhead, 4 yds. to 8 yds.); Pile Driving Engineers; Paver (dual drum); Quad-track or similar equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired Scrapers, Multiple engine, power with one scraper (Euclid, TS-24 and similar); Push Pull or Help Mate in use; Rubber-tired Scrapers, multiple engines with 2 scrapers; Shovels (under 3 yds.); Refrigeration Plant Engineer (1,000 tons and over); Signalmen (Whirlleys, High-line Hammerheads or similar); Trenching Machines (7 ft. depth and over); Multiple Dozer units with single blade

Group 6: Backhoes (3 yards and over); Batch Plant (over 4 units); Cableway Controller-Dispatcher; Cableway Operator; Clamshell Operator (3 yards and over); Cranes, all - 65 tons and over; Derricks and Stifflegs (65 tons and over); Dragline (3 yards and over); Elevating Belt (Holland type); Loader 360 degrees revolving Koehring Scooper or similar; Loaders (overhead and front-end, over 8 yards to 12 yards); Rubber-tired Scrapers (multiple engine with 3 or more scrapers); Shovels (3 yards and over); Tower Crane; Whirley and Hammerheads (all)

Group 7: Helicopter Pilot; Loaders (overhead and front-end, over 12 yards)

**POWER EQUIPMENT OPERATORS
(AREA 2)**

All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3)

Group	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Group 1	\$13.10	.85	\$1.50		.11
Group 2	13.20	.85	1.50		.11
Group 3	13.31	.85	1.50		.11
Group 4	13.36	.85	1.50		.11
Group 5	13.38	.85	1.50		.11
Group 6	13.43	.85	1.50		.11
Group 7	13.44	.85	1.50		.11
Group 8	13.45	.85	1.50		.11
Group 9	13.48	.85	1.50		.11
Group 10	13.50	.85	1.50		.11
Group 11	13.63	.85	1.50		.11
Group 12	13.66	.85	1.50		.11
Group 13	13.69	.85	1.50		.11
Group 14	13.76	.85	1.50		.11
Group 15	13.78	.85	1.50		.11
Group 16	13.79	.85	1.50		.11
Group 17	13.81	.85	1.50		.11
Group 18	13.84	.85	1.50		.11
Group 19	13.88	.85	1.50		.11
Group 20	13.95	.85	1.50		.11
Group 21	13.96	.85	1.50		.11
Group 22	14.01	.85	1.50		.11
Group 23	14.06	.85	1.50		.11
Group 24	14.28	.85	1.50		.11
Group 25	14.32	.85	1.50		.11
Group 26	14.37	.85	1.50		.11
Group 27	14.45	.85	1.50		.11
Group 28	14.67	.85	1.50		.11
Group 29	14.87	.85	1.50		.11
Group 30	14.98	.85	1.50		.11
Group 31	15.00	.85	1.50		.11
Group 32	15.28	.85	1.50		.11

POWER EQUIPMENT OPERATORS (AREA 2)
All Counties and portions of Counties West of the 120th Meridian except those enumerated in Area 3) and including the Northern portion of Pacific County

- Group 1: Mechanics' Tenders (Heavy duty)
- Group 2: Oilers, Grade-oiler combination and/or Brakeman
- Group 3: Firemen; Firemen (drier and hot plant)
- Group 4: Rollers, Tampers and Vibrators (other than plant, road mix or multi-lift materials); Tractor (farmall type, 60 h.p. and under); Compressor (excavating and general purposes)
- Group 5: Oiler Driver on Truck Cranes (over 45 tons up to 100)
- Group 6: Blower Distributors and Mulch Seeding Operator; Oil Distributors
- Group 7: Locomotive (Dinkey-air, diesel, electric, gas, steam)
- Group 8: Cement Hogs
- Group 9: Equipment Service and Fueling Oiler; Oiler Driver on Truck Cranes (100 tons and over)
- Group 10: Pump (water); Tractors (Farmall type, over 60 H.P.)
- Group 11: Post Hole Diggers (mechanical)
- Group 12: Brooms, power (Wayne, Saginaw and similar types); Bulldozers (under D9 or similar); Loaders (Fork Lifts, Lumber Stackers on construction job site, Drott Travel Lift); Rollers, Tampers and Vibrators (twin engine); Saw (concrete); Scrapers (carry-all types, single)
- Group 13: Batch Plant Operator (Batch and Mixer, 200 yds. per hour and under); Cranes ("A" Frame Trucks, single power drum); Conveyors; Crusher (rock) Washing and Screening Plants; Finishing Machine Operator, concrete paving; Hoists, Air Tuggers, Strabo Tower Bucket, Elevators and Deck Winches (power); Loaders (Elevating-Atchey, Barber Greene and similar types, Overhead and Front-end, under 2½ yds.); Mixers (asphalt up to 4 tons per batch, Concrete Mixer and Batch - 200 yds. per hour and under); Power Plant Operators; Pumps (Fuller Kenyon, Concrete and Pumpcrete); Rollers, Tampers and Vibrators (on plant, road mix or multi-lift materials); Screed Man; Spreaders (Blaw Know, Cedarapids, Jaeger, Flarretty or similar types); Trenching Machine (under 16 inches).

POWER EQUIPMENT OPERATORS (AREA 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian
(except those enumerated in Area 3) and including the Northern
portion of Pacific County

Group 14: Motor Patrol Graders (including Model 14 and similar);
Tournapulls, Caterpillar, Euclid Scrapers and similar type equip-
ment (25 yards and under)

Group 15: Compressor (steel erection or tank erecting including
sandblasting, painting of the same); Hoists on steel erection,
Air Tuggers and Towermobiles; Loaders (fork lifts with power)

Group 16: Mechanic or Welder (heavy duty)

Group 17: Loaders (Elevating Grade type, Dumor and similar);
Mixers (paving); Scraper (carryall type, double)

Group 18: Tractors (farmall type, used as Backhoes, Rubber-tired
Ford, Ferguson, Case and similar type 60 H.P. and under); Pumps,
truck mounted; Concrete Pump with boom attachment

Group 19: Bull Dozer (D-9 or similar)

Group 20: Trenching Machines (16 inches and over)

Group 21: Bump Cutter (Concut, Christianson or similar types)

Group 22: Batch Plant (Batch and Mixer, over 200 yards per hour
through 400 yards per hour); Conveyors (Beltrcrete with power
pack and similar types); Loaders (elevating belt type - Euclid
and similar types); Mixer (asphalt, 4 tons and over per batch,
concrete mixers and batch - over 200 yards per hour through
400 yards per hour, and paving, dual)

Group 23: Bulldozer engaged in Yo Yo Operation (while clearing
and scaling); Cableways (3 yards and under); Cranes ("A" Frame
Trucks, double power drum: and Crawler, truck type, Floating,
Locomotive, Whirley, either 3 yards and under, or 150' of boom
including jibs and under, or 45 tons and under; Hydraulifts,
Hyster Cat Cranes and attachments; Chipper, wood with boom
attachment); Derricks, all; Drilling Machine (Core, Cable
Rotary and Exploration); Loader (Fork Lift with power boom
and swing attachment; Overhead and Front End, 2½ yards and
up to 4 yards); Mixers (mobile type with hoist combination);
Motor Patrol Graders over Model 14 and similar; Mucking Ma-
chines (Mole, Tunnel Drill, and/or Shield); Paydozer and
Linker Pusher (Quad-9 and similar); Piledriver Engineer
(L. B. Foster Puller or similar, paving breaker); Shovels
(Crawler and truck types, all attachments, 3 yards and under);
Sub Grader (Gurries, CMI and similar types); Tractors (farmall
type, used as Backhoes, Rubber-tired - Ford, Ferguson, Case and
similar types - over 60 H.P.); Tournapulls, Caterpillar, Euclid
Scrapers and similar type equipment over 25 yds. through 40 yds.

POWER EQUIPMENT OPERATORS (AREA 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian
(except those enumerated in Area 3) and including the Northern
portion of Pacific County

Group 24: Loaders (Overhead and Front End, 4 yards up to 8 yards)

Group 25: Concrete Mixers and Batch, over 400 yards per hour
through 600 yards per hour

Group 26: Tournapulls, Caterpillar, Euclid, Scrapers and similar
type (over 40 yards through 55 yards)

Group 27: Cableways (over 3 yards); Crane (Crawler, truck type,
floating, Locomotive, Whirley, either over 3 yards, or over 150'
of boom including jibs or over 45 tons up to 100 tons; and, Tower
Cranes, Peco, Lorraine, Bucyrus and similar types); Helicopter
Winch Operator; Remote Control Operator on Rubber-tired Earth
Moving Equipment; Shovels (Crawler and truck type, all attach-
ments, over 3 yards up to 6 yards); Slip Form Paver (Zimmerman,
cml and similar types)

Group 28: Tournapulls, Caterpillar, Euclid, Scrapers and similar
type equipment (over 55 yards through 70 yards)

Group 29: Loaders (Overhead and Front End 8 yards and over)

Group 30: Tournapulls, Caterpillar, Euclid, Scrapers and similar
type equipment (over 70 yards through 85 yards)

Group 31: Tournapulls, Caterpillar, Euclid, Scrapers and similar
type equipment (over 85 yards through 100 yards)

Group 32: Tournapulls, Caterpillar, Euclid, Scrapers and similar
type equipment (over 100 yards)

POWER EQUIPMENT OPERATORS (AREA 3)*
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum, and the
Southern portion of Pacific, Counties

Groups	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	\$11.43	\$11.83	\$12.18	\$12.43	\$12.68	\$12.93
2	11.57	11.97	12.32	12.57	12.82	13.07
3	11.67	12.07	12.42	12.67	12.92	13.17
4	11.83	12.23	12.58	12.83	13.08	13.33
5	11.85	12.25	12.60	12.85	13.10	13.35
6	11.93	12.33	12.68	12.93	13.18	13.43
7	11.99	12.39	12.74	12.99	13.24	13.49
8	12.09	12.49	12.84	13.09	13.34	13.59
9	12.15	12.55	12.90	13.15	13.40	13.65
10	12.21	12.61	12.96	13.21	13.46	13.71
11	12.23	12.63	12.98	13.23	13.48	13.73
12	12.29	12.69	13.04	13.29	13.54	13.79
13	12.37	12.77	13.12	13.37	13.62	13.87
14	12.53	12.93	13.28	13.53	13.78	14.03
15	12.69	13.09	13.44	13.69	13.94	14.19
16	12.87	13.27	13.62	13.87	14.12	14.37
17	13.01	13.41	13.76	14.01	14.26	14.51
18	13.19	13.59	13.94	14.19	14.44	14.69
19	13.33	13.73	14.08	14.33	14.58	14.83

FRINGE BENEFITS:

Health and Welfare	\$1.00
Pension	1.47
Vacation	.50
Apprenticeship Training	.05

*See ZONE DESCRIPTION - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS (AREA 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the
Southern portion of Pacific, Counties

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail equipment, and Trenching Machine; Assistant Conveyor Operator; Crusher Feederhand; Deckhand; Self-propelled Scaffolding Operator; Guard-rail Punch Oiler; Pump Operator, under 4"; Brakeman; Switchman; Parts Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler - driver, 25 ton capacity or over; Crane Fireman (all equipment except floating); A-Frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Driller Tender; Auger; Oiler; Boatman; Fork Lift or Lumber Stacker Operator (on job site); Oiler, combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Tender; Helicopter Radio-man (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Asphalt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with screed; Compressor Operator (any power), under 2,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tapper; Bell Boy, phones, etc.; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunnite Work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Lull Hi-lift Operator or similar type; Fork Lift, over 5 ton; Service Oiler (Greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Factor or similar type (without blade); Concrete Batch plant Quality Control Operator; Power Jumbo, Setting Slip Forms, etc. in tunnels; Slip Form Pumps; Power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulva-mixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayne type) Self-propelled (on job site); Tractor, rubber-tired 50 H.P. Flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

POWER EQUIPMENT OPERATORS (AREA 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the
Southern portion of Pacific, Counties

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concrete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2½ cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Belcrete; Pumpcrete Operator (any type); Fuller-Kenyon and similar; Concrete Pump; GROUTING Machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame truck, double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type, 3/8 cu. yds. and under with or without front end attachments 2½ cu. yds. and under (Ford, John Deere, Case type); Elevating Grader, Tractor towed requiring Operator or Grader; Pot Rammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

Group 8: Diesel-electric Engineer, Plant, Crusher, Generator, Floating Plant and/or wet mix, one and two drum; Generator Operator; Belt Loader, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type lifting device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yds.; Loader, Front End and Overhead, 2½ cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (bit grinder); H.D. Mechanic Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. Flywheel; Tractor with boom attachment; Trench Machine, maximum digging capacity over 3 ft. depth; Asphalt Plant Operator

Group 10: Bulldozer, twin engine (TC 12 and similar); Cable Plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Rubber-tired Dozers and Pushers (Michigan, Cat, Hough type); Driller - Percussion, Diamond, Core, Cable, Rotary and similar type

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel; Dragline; Clamshell, Hoe, etc., under 1 cu. yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

POWER EQUIPMENT OPERATORS (AREA 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the
Southern portion of Pacific, Counties

Group 12: Blade Operator; Batch Plant and/or Wet Mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper, single and twin engine; Single Scraper, with push-pull attachments, self-loader; Paddle wheel, auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engine; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25 ton and over; Crane, over 25 ton and including 50 tons; Pile-driver Operator; Floating Clamshell, etc., under 3 cu. yds.; Floating Crane (Derrick Barge), less than 30 ton; Elevating Grader, operated by tractor operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc. 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, auger type, finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Autograder or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (Derrick Barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley, over 80 ton and including 150 ton; Floating Crane (Derrick Barge), 80 ton, but less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane, 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane, 250 ton and over; Remote controlled earth moving equipment; Under-water equipment, remote or otherwise

**POWER EQUIPMENT OPERATORS
(DREDGING - AREA 1)**
All Counties and portions
of Counties East of the
120th Meridian

- Group 1: Assistant Mate (deckhand)
- Group 2: Fireman; Oiler
- Group 3: Assistant Engineer (Electric, Diesel, Steam or Booster Pump); Mates and Boatmen
- Group 4: Engineer; Crane man
- Group 5: Assistant Engineer (Electric Generator Operator for primary pump, power barge or dredge)
- Group 6: Leverman, Hydraulic
- Group 7: Leverman, Dipper:
 - (a) 5 yards and under
 - (b) Over 5 yards

(DREDGING - AREA 2)
All Counties and portions
of Counties West of the
120th Meridian (except
those enumerated in Area 3)
and including the Northern
portion of Pacific

- Group 1: Leverman, Dipper
- Group 1A: Leverman, Hydraulic
- Group 2: Assistant Engineer (including Watch Engineer, Mechanic, and Machinist) and Mate
- Group 3: Tenderman (Boatman, attending Dredge Plant); Fireman
- Group 4: Assistant Mate (Deckhand); Oiler

(DREDGING - AREA 3)
Clark, Cowlitz, Klickitat,
Pacific (Southern portion),
Skamania and Wahkiakum Cos.

- Group 1
- Group 1A
- Group 2
- Group 3
- Group 4

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$13.02	.85	\$1.50		.11
13.12	.85	1.50		.11
13.46	.85	1.50		.11
13.51	.85	1.50		.11
13.56	.85	1.50		.11
13.88	.85	1.50		.11
14.27	.85	1.50		.11
14.82	.85	1.50		.11
13.02	.85	1.50		.11
13.12	.85	1.50		.11
13.46	.85	1.50		.11
13.51	.85	1.50		.11
13.56	.85	1.50		.11
13.88	.85	1.50		.11
14.27	.85	1.50		.11
14.82	.85	1.50		.11
12.79	1.00	1.47	.50	.05
13.44	1.00	1.47	.50	.05
12.42	1.00	1.47	.50	.05
12.18	1.00	1.47	.50	.05
11.92	1.00	1.47	.50	.05

TRUCK DRIVERS (AREA 1)*
All Counties and portions of Counties East of the 120th Meridian

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	\$11.39	\$12.09	\$12.34	\$12.79	\$13.29
2	11.43	12.13	12.38	12.83	13.33
3	11.49	12.19	12.44	12.89	13.39
4	11.58	12.28	12.53	12.98	13.48
5	11.79	12.49	12.74	13.19	13.69
6	11.83	12.53	12.78	13.23	13.73
7	11.89	12.59	12.84	13.29	13.79
8	11.93	12.63	12.88	13.33	13.83
9	12.04	12.74	12.99	13.44	13.94
10	12.08	12.78	13.03	13.48	13.98
11	12.39	13.09	13.34	13.79	14.29
12	12.53	13.23	13.48	13.93	14.43
13	12.69	13.39	13.64	14.09	14.59
14	12.83	13.53	13.78	14.23	14.73

FRINGE BENEFITS:
Health and Welfare \$1.12
Pensions 1.19

*See ZONE DEFINITIONS - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS (AREA 1)
All Counties and portions of Counties East of the 120th Meridian

- Group 1: Flat Bed Truck, single rear axle; Escort Driver; Fork Lift, 3,000 lbs. and under; Fuel Truck Driver (steam cleaner and washer); Tender and Swamper; Leverperson loading Trucks at Bunkers; Pick-up hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equipment); Water Tank Truck, 1,800 gallons
- Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1
- Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yds. and under); Trucks, side, end, and bottom dump (under 6 yds.); Water Tank Truck, 1,801 - 4,000 gallons
- Group 4: Auto Crane - 2,000 lbs. capacity; Bulk Cement Spreader; Dumptor (56 yds. and under); Flaherty Spreader, Box Driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.); Oil Distributor Driver (Road, Bootperson, Leverperson Tender); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yds. to 6 yds.); Water Tank Truck, 4,001 - 6,000 gallons; Wrecker and Tow Trucks
- Group 5: Low Boy (under 50 tons); Service Greaser; Tireperson No. 2; Truck, side, end, and bottom dump (over 6 yds. to 12 yds.)
- Group 6: A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); Water Tank Truck, 6,001 - 8,000 gallons
- Group 7: Dumptor (over 6 yds.); Transit Mixers and Trucks hauling concrete (6 yds. to 10 yds.); Trucks, side, end, and bottom dump (over 12 yds. including 20 yds.)

TRUCK DRIVERS (AREA 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

- Group 8: Low Boy (over 50 tons); Water Tank Truck, 8,001 - 10,000 gallons; Tractor with Steer Trailer
- Group 9: Transit Mixers and Trucks hauling concrete (10 yards to 15 yards); Trucks, side, end and bottom dump (over 20 yards including 30 yards); Water Tank Truck (10,001 - 12,000 gallons)
- Group 10: Mechanic, Field
- Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, which is greater; Transit Mixers and Trucks hauling concrete (15 yards to 20 yards); Trucks, side, end and bottom dump (over 30 yards to 40 yards); Water Tank Truck, 12,001 - 14,000 gallons
- Group 12: Transit Mixers and Trucks hauling concrete (over 20 yards); Trucks, side, end and bottom dump (over 40 yards to 50 yards)
- Group 13: Trucks, side, end and bottom dumps (over 50 yards to 100 yards)
- Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end and bottom dump (over 100 yards)

TRUCK DRIVERS (AREA 2)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) including the Northern portion of Pacific County and all of Kittitas and Yakima Counties

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$13.41	.94	\$1.12		.09
12.46	.94	1.12		.09
13.51	.94	1.12		.09
13.62	.94	1.12		.09
13.68	.94	1.12		.09
13.72	.94	1.12		.09
13.73	.94	1.12		.09
13.79	.94	1.12		.09
13.84	.94	1.12		.09
13.86	.94	1.12		.09
13.89	.94	1.12		.09
13.99	.94	1.12		.09
14.01	.94	1.12		.09
14.05	.94	1.12		.09
14.17	.94	1.12		.09
14.21	.94	1.12		.09
14.33	.94	1.12		.09
14.38	.94	1.12		.09
14.54	.94	1.12		.09
14.70	.94	1.12		.09
14.86	.94	1.12		.09

DECISION NO. WA80-5107

Page 43

TRUCK DRIVERS (AREA 2)

All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) including the Northern portion of Pacific County and including all of Kittitas and Yakima Counties

Group 1: Leverman and Loaders at Bunkers and Batch Plants; Pickup Trucks, Escort or Pilot Car; Swampers; and Checkers

Group 2: Team Drivers

Group 3: Bull Lifts and similar equipment used in loading and unloading trucks, transporting materials on job site, Dumpsters and similar equipment (including Tournarockers, Tournawagon, Turnatrailer, Cat DW series, Terra Cobra, Le-Tourneau, Westinghouse, Athey Wagon, Euclid, two and four-wheeled power tractor with trailer and similar top-loaded equipment transporting material: Dump Trucks, side, end and bottom dump, including Semi-trucks and Trains or combinations thereof) - up to and including 5 yards; Flatbed, single rear axle; Fuel Truck; Grease Truck; Greaser, Battery Service Man and/or Tire Service Man; Scissor Truck; Spreader, Flaherty; Tractor (small, rubber-tired); Vacuum Truck; Water Wagon and Tank Trucks, up to 1,600 gallons; Winch Truck, single rear axle; Wrecker, Tow Truck and similar equipment

Group 4: Flatbed, dual rear axle

Group 5: Buggymobile; Hyster Operators; Straddle Carrier (Ross, Hyster, and similar equipment); Water Wagon and Tank Trucks, 1,6000 gallons to 3,000 gallons

Group 6: Transit-mix, 0 to and including 41 yards

Group 7: Dumpsters and similar equipment (as listed in Group 3) - over 5 yards to and including 12 yards; Explosive Truck (field mix) and similar equipment; Lowbed and Heavy Duty Trailer, under 50 tons gross; Road Oil Distributor Driver; Slurry Truck; Sno-go and similar equipment; Winch Truck, dual rear axle

Group 8: Dumpster and similar equipment (as listed in Group 3) - over 12 yards to and including 16 yards

DECISION NO. WA80-5107

Page 44

TRUCK DRIVERS (AREA 2) (Cont'd)

All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) including the Northern portion of Pacific County and including all of Kittitas and Yakima Counties

Group 9: Bulk Cement Tanker; Dumpsters and similar equipment (as listed in Group 3) - over 16 yards to and including 20 yards; Water Wagon and Tank Truck, over 3,000 gallons

Group 10: Bull Lifts or similar equipment used in loading or unloading trucks transporting materials on job site, other than warehousing

Group 11: Transit-mix, over 4½ yards to and including 6 yards

Group 12: "A" Frame or Hydralift Trucks or similar equipment

Group 13: Dumpster and similar equipment (as listed in Group 3) - over 20 yards to and including 30 yards; Lowbed and Heavy Duty Trailer, over 50 tons gross to and including 100 tons gross

Group 14: Transit-mix, over 6 yards to and including 8 yards

Group 15: Dumpsters and similar equipment (as listed in Group 3) - over yards to and including 40 yards; Lowbed and Heavy Duty Trailer, over 100 tons gross

Group 16: Transit-mix, over 8 yards to and including 10 yards

Group 17: Dumpsters and similar equipment (as listed in Group 3) - over 40 yards to and including 55 yards

Group 18: Transit-mix, over 10 yards to and including 12 yards

Group 19: Transit-mix, over 12 yards to and including 16 yards

Group 20: Transit-mix, over 16 yards to and including 20 yards

Group 21: Transit-mix, over 20 yards

TRUCK DRIVERS (AREA 3)*
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and
the Southern portion of Pacific, Counties

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	\$10.92	\$11.32	\$11.67	\$11.92	\$12.17	\$12.42
2	10.97	11.37	11.72	11.97	12.22	12.47
3	11.02	11.42	11.77	12.02	12.27	12.52
4	11.07	11.47	11.82	12.07	12.32	12.57
5	11.12	11.52	11.87	12.12	12.37	12.62
6	11.22	11.62	11.97	12.22	12.47	12.72
7	11.32	11.72	12.07	12.32	12.57	12.82
8	11.42	11.82	12.17	12.42	12.67	12.92
9	11.52	11.92	12.27	12.52	12.77	13.02
10	11.69	12.09	12.44	12.69	12.94	13.19
11	11.79	12.19	12.54	12.79	13.04	13.29
12	11.89	12.29	12.64	12.89	13.14	13.39
13	11.99	12.39	12.74	12.99	13.24	13.49
14	12.09	12.49	12.84	13.09	13.34	13.59

FRINGE BENEFITS:

Health and Welfare	\$.78
Pension	.77
Vacation	1.28
Apprenticeship Training	.05

*See ZONE DESCRIPTION - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS (AREA 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the
Southern portion of Pacific, Counties

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; 6 cu. yds. and under, Lift Jitneys, Fork Lifts (all sizes in loading, unloading and transporting material on job site); Loader and/or Leverman on Concrete Dry Batch plant (manually operated); pilot Car; Solo Flat Bed and misc. Body Trucks, 0-10 tons; Truck Tender; Truck Mechanic Tender; Warehouseman (warehouse parts, tool men and parts chaser, checkers and receivers); Water Wagons (rated capacity) - up to 1,600 gallons

Group 2: "A" Frame or Hydra-lift Truck with load bearing surface; Lubrication Man, Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix, and Wet or Dry Mix Trucks: 5 cu. yds. and under; Tireman (full-time basis); Water Wagons (rated capacity) - 1,600 to 3,000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer, Truck and Trailers or doubles transporting equipment or wet or dry materials; Lumber Carrier Driver - Staddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity) - 3,000 to 5,000 gallons

Group 5: Dumpsters or similar equipment, all sizes; Transit Mix and Wet or Dry Trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 10 cu. yds. and including 20 cu. yds.; Transit Mix and Wet or Dry Mix Truck, over 7 cu. yds. and including 9 cu. yds.; Truck Mechanic - Welder - Body Repairman; Water Wagons (rated capacity) - 5,000 to 7,000 gallons

TRUCK DRIVERS (AREA 3) (Cont'd)

Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 20 cu. yds. and including 30 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 9 cu. yds. and including 11 cu. yds.; Water Wagons (rated capacity) over 7,000 gallons to 10,000 gallons

Group 8: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 30 cu. yds. and including 40 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 11 cu. yds. and including 15 cu. yds.; Water Wagon (rated capacity) over 10,000 gallons to 15,000 gallons

Group 9: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 40 cu. yds. and including 50 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 90 cu. yds. and including 100 cu. yds.

Drivers and Tenders (handling sacked cement - add \$.15 per hour)

Winch Truck - takes classification of Truck on which Winch is mounted.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

[FR Doc. 80-6872 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-27-C

ZONE WAGE SCALE (AREA 1)

CEMENT MASONS

Travel Zone Centers: Wenatchee Pasco Yakima
Moses Lake *Walla Walla Spokane Lewiston
*Coeur d'Alene

LABORERS
(Heavy and Highway)
POWER EQUIPMENT OPERATORS
TRUCK DRIVERS

Travel Zone Centers: Pasco Spokane Lewiston
Moses Lake *Coeur d'Alene *Walla Walla
*15 mile free Zone

ZONE 1 - within a 15 mile radius from the center of the above named Cities

ZONE 2 - 15-30 miles radius from the center of the above named Cities

ZONE 3 - 30-45 miles radius from the center of the above named Cities

ZONE 4 - 45-90 miles radius from the center of the above named Cities

ZONE 5 - over 90 miles radius from the center of the above named Cities

ZONE WAGE SCALE (AREA 3) ONLY

LABORERS

Goldendale, Longview and Vancouver

POWER EQUIPMENT OPERATORS
Astoria, Goldendale, Hood River, Longview
The Dalles and Vancouver

TRUCK DRIVERS

Astoria, Goldendale, Longview, The Dalles and Vancouver

ZONE 1 - all jobs or projects located within 10 miles of the respective City Hall

ZONE 2 - more than 10 miles but less than 25 miles from the respective City Hall

ZONE 3 - more than 25 miles but less than 35 miles from the respective City Hall

ZONE 4 - more than 35 miles but less than 45 miles from the respective City Hall

ZONE 5 - more than 45 miles but less than 75 miles from the respective City Hall

ZONE 6 - more than 75 miles from the respective City Hall

federal register

Friday
March 7, 1980

Part III

**Department of
Agriculture**

Food and Nutrition Service

**Commodity Supplemental Food Program;
Interim Rule**

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 247

Commodity Supplemental Food Program; Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: These regulations set forth various changes in the requirements for the Commodity Supplemental Food Program (CSFP).

The major changes will modify the health service requirements except that local agencies are required to maintain the level of effort effective prior to March 3, 1978; revise the administrative funding formula to base the administrative grant on 15 percent of total funds appropriated and provide States with a more stable allocation; allow State agencies to charge transportation costs to local agencies; and clarify the certification procedures. The revisions and additions incorporated into these regulations will increase the efficiency with which the Program is administered and will result in improved services to needy individuals applying for and receiving commodity supplemental foods.

DATES: The administrative funds procedure will become effective April 1, 1980. The other provisions of these regulations must be implemented by June 5, 1980. This allows an adequate period to meet new requirements.

Comments: Comments will be accepted and should be postmarked on or before May 15, 1980.

ADDRESS: Send comments to: Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Jane W. McNeil, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250, (202) 447-8704.

SUPPLEMENTARY INFORMATION: On March 3, 1978, interim regulations for the CSFP were published in the *Federal Register* (43 FR 8777). The regulations were made effective immediately to implement the provisions of Pub. L. 95-113, which required a number of significant changes in the CSFP. The major changes involved the allocation and use of administrative funds and the provision of nutrition education. At that time the Department requested public comments on the interim regulations and

29 letters were received. As a result of these comments, the Department realizes that further changes are necessary to increase the efficiency of CSFP operations and administration and to improve services to participants of this vital Program. Therefore, the Department is issuing this new set of interim regulations which discusses the substantive comments received and the actions taken. Several new sections have also been added; consequently, the numbers of some sections have changed. The Department again extends an invitation for comments from all interested individuals or organizations that wish to offer criticism or suggestions on these new interim regulations. All comments received within the time frame specified will be considered when final regulations are drafted. Copies of all written submissions will be made available for public inspection in Room 4301, 201 14th Street, SW., Washington, D.C. 20250, during regular business hours (8:30 AM to 5:00 PM).

§ 247.1 General Purpose and Scope

This section has been revised slightly to clarify that the purpose of the Program is to provide supplemental foods and nutrition education to eligible persons through State or local agencies.

§ 247.2 Definitions

These regulations also contain a few revisions and additions to the definitions section in order to clarify terms in current usage. The changes are as follows:

"A-90" has been defined to clarify that this circular applies to the Program. "A-95" is also defined and refers to the circular requiring the Governor's review of the State Plan.

"Categorical ineligibility" has been added and means persons who do not meet the definition of pregnant women, breastfeeding women, postpartum women, or infants or children. This definition replaces the term "Eligible persons" used in the previous regulations.

"Certification" has also been added in order to clarify the term.

"Local agency" has been redefined to clarify the type of agency that qualifies to participate as a local agency. A number of commenters appeared to misconstrue the previous definition. They felt it implied that only health agencies could participate in the Program, and were concerned since currently some local agencies are not health agencies. Further, it was pointed out that a number of currently participating local agencies are unable to meet the requirement of providing

health services. The Department strongly supports the provision of health services to participants. However, in order to avoid terminating any participating local agencies, disrupting services to participants, or preventing the expansion of the Program into needy areas, the Department has decided to modify the requirement that all local agencies provide health services. Many local agencies with the necessary facilities have always provided health services to participants. These agencies are required to continue to maintain the same level of health-ties that was ongoing prior to March 3, 1978 (publication date of interim regulations with expanded health services requirement). Other local agencies, as well as new local agencies, are encouraged, but not required to provide health services. All local agencies are required to advise participants of the importance of health care and where low-income persons can obtain such services.

"Participation" has been defined as the number of persons who have received supplemental foods through the Program in the reporting period.

"Pregnant women" a term which was inadvertently omitted from the previous regulations, is now included, and is defined as women who are determined to have one or more embryos or fetuses in utero.

"SFPD" has been included to reflect, as a result of reorganization, the proper name of the division responsible for administration of the Program within FN. The term means the Supplemental Food Programs Division.

"State agency" has been modified to remove the reference to the State distributing agency and to clarify that the State must determine which agency at the State level has responsibility for Program administration. Only the agency which contracts with FNS to administer CSFP will be called the State agency. The State agency, however, may sub-contract with other agencies to fulfill other Program responsibilities.

§ 247.3 Administration

This section delegates Program administrative responsibilities among FNS, State and local agencies. The responsibilities of the agency(s) administering the Program at the State level have been clarified. If more than one agency operates the Program at the State level, the State must determine which agency shall be responsible for Program administration in the State and this agency must enter into a written agreement with the Department. The agency which enters into the agreement shall be called the State agency. The

State agency may choose to have certain Program functions performed by another agency(s) of the State. Under such circumstances, the State agency must enter into a written agreement with the other agency which outlines each agency's responsibilities under the Program. For example, if the State Department of Social Service is the State agency, it may enter into an agreement with a distributing agency for food distribution. This procedure should improve continuity of administration by ensuring that one cognizant State agency is responsible for overall Program administration in the State. It should be noted that when a State agency enters into an agreement with a distributing agency, the distributing agency must still enter into a separate agreement with the Department, as required by 7 CFR 250.5(d) Subchapter B Food Distribution.

§ 247.4 Donation of Supplemental Foods

A new provision has been added to this section to clarify that the State agency is liable to FNS for supplemental foods that are lost or destroyed.

In addition, relative to this section, a few comments were received which requested changes in the food package offered under the Program. Several commenters specifically proposed that a soy-based formula be included. The Department is aware that in the majority of the literature concerning soy-based formulas, the formulas are discussed in reference to milk-intolerant infants. Symptoms which are characteristic of milk allergies may also be common to other health disorders. If infants exhibit such symptoms they should be seen by a physician so that an appropriate diagnosis can be made. For these reasons the Department is concerned that if participants are able to request soy-based formulas on the basis of their own diagnoses, rather than on the basis of consultation with a physician, there is a danger that some health problems may go undetected. Also there is some concern that participants might decide to try a new formula because they are curious about it, rather than because their infants have had problems. While the Department endorses the use of soy-based formulas when there is a demonstrated need, it does not endorse the indiscriminate use of these products. In describing their soy-based formula products, manufacturers clearly state that these products are for special uses. Therefore, in accordance with the mandate in Public Law 95-113 that the Department annually review the food package, the Department is currently reevaluating the authorized food items,

and serious consideration is being given to the inclusion of a soy-based formula. If such a formula should be authorized it could only be issued upon a showing of proper documentation from a physician stating the need for the substitution. The Department would like to have further comments concerning the feasibility of distributing two types of formula throughout the Program.

§ 247.5 State Plan

This section describes the requirements related to the State Plan of Program Operations and Administration which is the document that describes the State agency's goals and action plans for efficient and effective Program operation. These regulations require each State agency to submit a State Plan to FNS by August 15th of each year. However, State agencies are required to submit only those portions of the State Plan which have changed since the previous year. This new provision will relieve State agencies from having to duplicate the unchanged portions of the previous year's State Plan. To further benefit State agencies, these regulations require FNS to expeditiously evaluate State Plans and to provide written approval or denial of a Plan or amendment within 30 days of receipt.

A requirement had also been added that the State Plan include a copy of the forms to be used for agreements between the State agency and other agencies of the State, agreements between the State and local agencies (except when the State agency and local agency are the same) and for certification. The use of an agreement between the State and other agencies of the State and between State and local agencies will serve to clearly delineate the responsibilities reserved to each agency. The certification form will assure that all necessary data is collected in a uniform manner from individuals applying for Program benefits.

One commenter questioned the requirement of a nutrition education evaluation. The commenter suggested that it would be difficult to assess measurable improvement without an accurate record of health indicators. While an assessment of improvement in various health indices could be used to evaluate all Program benefits, such an assessment might not be the sole indicator of the effectiveness of the nutrition education received by participants. There are methods other than health assessment which may be used, such as tests of participants' knowledge, surveys of participants' shopping habits or questioning participants as to their opinion on the

value of the nutrition education received. Since Pub. L. 95-113 establishes nutrition education as a basic benefit of the Program, the Department believes it is especially important to evaluate the effectiveness of the component. Therefore, the requirement for an evaluation of nutrition education remains in the regulations.

The State agency is responsible for detecting and preventing dual participation within each local agency, between local agencies and between the CSF Program and the WIC Program. This is a particularly important requirement when more than one CSF State agency, or a CSF Program and a WIC Program, operate in the same area. In these cases, the State agency must enter into a written agreement with the other CSF State agency or with the WIC State agency operating in that area. This agreement must specify the responsibilities of the two agencies in preventing dual participation. Copies of these agreements must be submitted in the State Plan.

Further, in order to delineate the State agency's standards and objectives concerning nondiscrimination and fair hearings, a description of the State agency's procedures in these areas is required in the State Plan.

§ 247.6 Selection of Local Agencies

In the past, the CSFP and the WIC Program were not allowed to operate simultaneously in the same area. However, Pub. L. 95-627 now authorizes the simultaneous operation of the two Programs in the same area. This provision is intended to help meet the unserved need that either CSFP or the WIC Program is incapable of meeting in a particular area. In order to document that there is a definite and justifiable need which warrants both Programs in one area, any State agency that approves the operation of one Program by a local agency in an area already served by the other Program must maintain on file at the State agency office written justification for review and evaluation by the FNS Regional Office. When evaluating the need for both Programs, the State agency is expected to consider such factors as the total number of potentially eligible participants in the area compared to the number already being served by the existing Program. If there is reason to believe that the existing Program is already meeting the need of the area, then the application should be disapproved by the State agency.

§ 247.7 Certification

A number of local agencies have indicated their inability to meet the requirements of interim regulations concerning health care and nutritional assessments. It is evident that the use of nutritional criteria to determine eligibility varies considerably among the local agencies now administering the Program. Some local agencies require that all applicants meet nutritional need criteria in order to participate, while others certify only on the basis of categorical eligibility and income. While the Department believes there is merit in using nutritional criteria to determine eligibility, the Department does not wish to disrupt ongoing operations by local agencies unable to meet this requirement. To disqualify such agencies would mean that many participants would lose Program benefits, perhaps for an extended period. Therefore, in the interest of maintaining services to CSFP participants, the requirement of a nutritional need examination has been deleted. However, the Department strongly believes that in addition to receiving the supplemental foods, on-going health care is vital in further ensuring the good health of this high risk target population. For this reason each participant shall be advised of the importance of participating in on-going, routine health care and where health service facilities providing such health care for low-income persons are located.

Other portions of this section have been restructured and several paragraphs have been added to improve clarity. A sentence has been added to explain that local agencies may choose to issue either a monthly supply of supplemental foods or a 2-month supply every other month. However, if a local agency chooses to issue a 2-month supply of supplemental foods every other month, the local agency must inform participants that they may still receive a monthly supply every month if they so request. This requirement is intended to simplify distribution for local agencies without inconveniencing those participants with limited storage or refrigeration facilities.

Further, the minimum information that must appear on the certification form has also been added to the regulations. This requirement is intended to ensure that specific basic information is included on each State's certification form and that applicants are aware of their basic rights and responsibilities prior to signing the form.

A paragraph has also been included in the regulations to require the State agency to notify participants of their

right to fair hearings, nondiscrimination, and nutrition education.

In addition, another new paragraph sets forth the State agency's responsibility to issue explanatory notices to applicants denied Program benefits and to participants terminated during a certification period. Also, participants whose certification periods are expiring must be notified of the forthcoming expiration of eligibility.

The previous regulations contained no requirement for the length of certification periods. The Department believes that the State agency should be allowed flexibility in determining the intervals within which a person's eligibility must be reestablished. However, certification should be done often enough to ensure that nutrition education is provided at regular intervals, and to prevent Program abuse. It would be imprudent to allow continuous participation without periodic certification periods since the economic status as well as categorical eligibility of an individual could change.

At a minimum, the Department believes that infants, children, and postpartum or breastfeeding women should be certified at least annually and that pregnant women should be certified for the duration of pregnancy and for 6 weeks postpartum. In addition, language has been added to allow Program benefits to be continued until the end of a month in which the participant becomes categorically ineligible. For example, a child could continue to receive supplemental foods until the end of the month in which the child reaches the sixth birthday. This provision is included for the administrative convenience of the local agency, so they do not have to issue partial food packages to certain participants.

The requirements regarding transfers of certification have been expanded to include all participants, unlike the previous requirement which pertained to migrant farmworkers only. In addition, it is required that the State agency must allow the local agencies under its jurisdiction to accept evidence of certification from persons who have been participating in the Special Supplemental Food Program for Women, Infants and Children or the Commodity Supplemental Food Program in another local agency within or outside of the jurisdiction of the State agency. Verification of certification now includes the name and address of the local agency which performed the original certification to enable the receiving agency to acquire additional information from the originating agency if necessary.

Provisions concerning dual participation were also added to the regulations. Individuals may not participate at more than one local agency and may not participate at more than one site in local agencies with multiple certification and distribution sites. Pub. L. 95-627 specifies that this Program and the WIC Program may operate in the same or overlapping areas. However, participants are still prohibited from simultaneously receiving benefits from both this Program and the WIC Program. This section has been added to clarify these prohibitions and set forth procedures to prevent dual participation.

The State agency shall be responsible for detecting and preventing dual participation within each local agency and between local agencies. Before a State agency for the Program and either an Indian State agency for the Program or a WIC Program may operate in the same area, the State agency must enter into a written agreement with the Indian State agency or the WIC Program State agency for a plan to detect and prevent dual participation. The State agency shall terminate dual participators from one of the programs and may also disqualify dual participators from continued Program participation in both programs. However, disqualification for dual participation or disqualification for other forms of fraud from both programs shall not exceed a 3-month period and shall be waived altogether if it is determined that a serious health risk may be a consequence of disqualification from the Program. Participants shall be afforded the opportunity to appeal both a termination and a disqualification from the Program. These regulations list examples of actions which constitute fraud. If the State or local agency believes fraud has occurred, appropriate sanctions may be pursued. These measures, plus checking the identification of each participant at certification and when issuing supplemental foods, are designed to assure that individuals do not abuse the Program.

§ 247.8 Nutrition Education

The nutrition education provisions of the previous regulations have not been substantially changed. One comment received by the Department stated that the nutrition education section was too vague. Although some minor revisions of this section have been made to improve clarity, the Department believes it is important for local agencies to be allowed flexibility in delivering nutrition education during the initial stages of nutrition education development. Two other comments suggested that nutrition

education include food demonstration and recipe development for participants. While the Department encourages both these ideas as long as they reinforce the importance of having foods consumed by the participant to whom they are issued, the Department believes that State and local agencies should be allowed flexibility in designing an appropriate nutrition education plan and that a requirement for food demonstration and recipe development would be too structured a requirement. A paragraph was added to clarify that supplemental foods issued to a State or local agency administering the Program may be used by that agency only for the purpose of providing nutrition education to participants and parents or guardians of participants. Supplemental foods shall not be used for outreach or other purposes.

§ 247.9 Financial Management Systems

Although this section is new, the requirements of the section are derived from OMB Circular A-102 and are not new requirements. The Department has included the requirements as a separate section to improve the clarity of the regulations.

In the previous regulations the paragraphs describing Letters of Credit and their disbursement were located in the Administrative Funding Section. The addition of this new section enabled the Department to more appropriately relocate that information here where it applies to all Program funds.

§ 247.10 Administrative Funding

Since publication of the previous rules, the Department has received a number of comments regarding the sections on administrative funding and costs. Most of the comments requested changes in allowable administrative costs. The commenters stated that the burden of the cost of transportation of food within the State should be borne by the local agencies rather than State agencies, or that more monies should be given to the State agencies. The Department agreed that some changes were needed and revised the section on administrative costs accordingly.

Until passage of Pub. L. 95-113, the Department had no authority to fund expenses of State and local agencies for administering the CSFP. Funds had to be obtained from State and local sources or from Federal sources, such as the Community Services Administration. Pub. L. 95-113 does not preclude continued funding from such sources, but also provides authority for the Secretary of Agriculture to provide

funds to State and local agencies to cover allowable administrative costs.

In fiscal years 1978 and 1979 the amount of administrative funds provided to each State agency was calculated as follows:

$$\frac{\text{Each State's participation}}{\text{National participation}} \times \frac{15\% \text{ of the estimated value of foods ordered}}{\text{value of foods ordered}} = \frac{\text{Each State's quarterly grant amount}}{\text{grant amount}}$$

First, the percent that each State agency's monthly participation represents of the total CSFP State agencies' participation for the latest month is determined. Each State agency's percentage is multiplied by the administrative funds available for that quarter. The figure derived represents the quarterly administrative grant for each CSFP State agency. The determination of available administrative funds is based on 15 percent of the estimated value of State agency needs, e.g., total foods ordered by the State agencies for the quarter.

The estimated needs for commodities are solicited from CSFP State agencies by the FNS Food Distribution Division (FDD). Once all food estimates are received, FDD assigns a cost value to the commodities requested based on the most recent cost paid for that food item by the Federal Government. The total cost as assigned results in the estimated value of the total foods ordered. It should be noted that this estimate does not reflect any cancellations by the States at a later time, or foods that are not purchased because of market conditions.

Some State agencies have voiced opposition to the above method of computing funding levels. These State agencies maintain that they are not receiving 15 percent of the foods ordered or actually distributed to participants. Further, they have expressed concern that the present method does not allow them the opportunity to administer the Program in an efficient and effective manner. By not being able to predict their administrative grant throughout the fiscal year, they cannot properly plan or budget for Program operations. In the same vein, CSFP State agencies have expressed concern that they are unable to meet the requirements contained in the Program regulations with the administrative funds provided.

An analysis of our data reveals that the CSFP State agencies are correct in stating that they are not all receiving 15 percent of the commodities ordered to be distributed. Due to the fluctuation in State orders depending on their inventory levels, some State agencies are receiving more, and others less, than 15 percent. From a national perspective,

administrative grants equal 15 percent of the total estimated value of commodities ordered by CSFP State agencies. However, it should be noted that this 15 percent is based on food cost estimates and that this procedure has not resulted in the distribution of the entire administrative appropriation. In reference to the CSFP State agency concerns regarding their inability to budget for Program operations due to fluctuating quarterly grant amounts, we agree that not knowing the grant amount can cause uncertainty which may result in significantly inhibited Program operations. By tying food costs (e.g., value of commodities ordered) to the method of computing administrative grant levels, CSFP State agencies can never be assured of knowing the exact amount of their annual grant amount.

In light of the problems cited above, we believe that the method of computing funding levels should be changed so that the entire administrative appropriation can be allocated and the CSFP State agencies can be advised or be able to predict their grant level throughout the fiscal year.

Therefore, the funding method has been changed to reflect these concerns. The new formula is:

$$\frac{\text{Each State agency's average participation}}{\text{National average participation}} \times \frac{\text{Administrative Funds appropriation}}{\text{Funds appropriation}} = \frac{\text{Each State's annual grant}}{\text{State's annual grant}}$$

As the value of commodities which can be made available to State and local agencies is equal to the funds appropriated by Congress for purchasing commodities, then 15 percent of the appropriation for commodity purchases is allowed for the administrative funds grant. Thus, all administrative funds appropriated are available to State and local agencies.

Under this method, participation figures used will be based on the average participation reported for the most recent 12 months. The percent that each State agency's participation represents of the total CSFP State agencies' participation is derived. Each State agency's percentage is then multiplied by the administrative funds appropriation to determine the annual funding level for each State agency. FNS reserves the right to adjust participation data used in the computation process upward or downward to ensure adequate funds are allocated for future operations such as anticipated start-up or termination of State agencies. Since this formula distributes the entire administrative appropriation for the fiscal year, participation of new State

agencies during the course of the fiscal year will depend upon the availability of funds. The actual allocation of administrative funds to State agencies will be made on a quarterly basis. However, each State agency will be made aware of their annual grant level at the beginning of the fiscal year.

Caseload assignment would still be used to ensure that the food funds appropriated are not exceeded. Thus, quarterly adjustments to those State agencies exceeding or not meeting projected expenditures would probably be necessary to ensure both the efficient use of funds and that State agencies are operating within their allotted administrative and food levels. To ensure that each State agency can properly budget for the Program's operation, this formula includes a special provision that 75 percent of a State agency's administrative grant be protected from future recoveries.

Since fiscal year funds have already been distributed for 6 months of fiscal year 1980, this section, including funding amounts, will be effective on April 1, 1980, with third and fourth quarter grants being computed based on the new formula. The participation figures used will be based on August 1978 through July 1979 months, as these months would normally be used to compute the initial fiscal year grant if the formula had been in effect beginning in fiscal year 1980. However, State agencies should be aware that the grants received under the new formula might be lower than prior quarter grants since estimated food orders were unusually high for the first two quarters, resulting in prior distribution of more than half of the appropriated administrative funds for the fiscal year.

The administrative funding formula for allocation of funds between State and local agencies, in combination with the requirements placed on the State agency, also caused concern among the States. Comments at the CSFP meeting in Atlanta in April 1978, and comment letters from State agencies, a local agency, and one Congressman complained about the administrative funds available to the States. At issue was each State's responsibility for food distribution costs in addition to the formula for distributing administrative funds within the State.

In these regulations no change has been made in the formula for distributing administrative funds within a State, but relief has been provided to State agencies through a change in the billing for the distribution of food within a State and a special provision is made for State agencies which provide

warehousing services. These changes are discussed in the following section.

§ 247.11 Administrative Costs

Section 247.10(b)(7) of the previous regulations stated that the State agency could not charge any part of the (food) transportation costs to local agencies. The State agency was required to assume all costs incurred as a result of transporting food to local agencies. This was in addition to other administrative costs the State agency had to bear.

Commenters indicated that in certain States, after transportation costs were paid, there would be very few funds available for all other State administrative costs. Further, many local agencies had been sharing, and could continue to share, the cost of transporting food within the State. In response to such comments, the Department revised these regulations to allow State agencies to charge local agencies for distribution costs. The Department believes this revision allows State agencies greater flexibility in the allocation of costs while continuing to assure that a certain percentage of funds are passed on to the local agencies. As is currently done, storage and handling costs at local warehouses are costs borne by local agencies. However, some State agencies have their own warehousing facilities. This results in a larger share of the administrative costs at the State level. In these instances, the State agency may request FNS approval to retain funds in excess of the amount authorized by the intra-State formula. Before approving such a request, FNS would assess the impact of the retention of these additional funds at the State level to ensure that it will not adversely affect local agencies.

In further response to comments, a sentence has been added to the regulations to clarify that the costs of interpreters, audits, administrative appeals and fair hearings are allowable administrative costs. Also, in the interest of clarity, paragraphs have been added to enumerate those costs which are allowable only with prior FNS approval, as specified in FMC 74-4 and to enumerate costs which are specifically unallowable.

We have received requests to allow Program funds to be used to provide transportation to participants. Since this Program serves a number of areas where there is little public transportation and since carrying home a monthly food package is a considerable burden on participants even when there is public transportation, the cost of transporting participants has been made an allowable cost when the need is

documented by the local agency. Another source of funding for this purpose may be through Section 18 of the Department of Transportation's Formula Grant Program for Areas Other than Urbanized Areas of the Urban Mass Transportation Act. Section 18 provides funds to States for the capital and operating expense of rural transportation service. Besides this type of grant there are over 100 other Federal programs which provide transportation assistance. All of these should be thoroughly considered before any type of transportation system is developed for a CSFP agency. Although expenses incurred for the transportation of participants are allowable, in cases where the participant has been transported to the local agency for services in addition to CSFP the transportation cost must be prorated between the two services. In no event shall a participant be reimbursed for transportation.

§ 247.12 Program Income

This is a new section of the regulations which specifies how income from Program funds must be used. This section has been added to more clearly outline the use of Program income as required by OMB Circular A-102.

§ 247.13 Records and Reports

The time period for record retention has been revised slightly to comply with the requirements of the Office of Management and Budget. The regulations require record retention for three years following the date of submission of the annual expenditure report for the period to which the reports pertain.

One change requires that Program and financial reports be submitted quarterly, rather than "as required by FNS, at a frequency required by FNS." The reports are needed quarterly and are currently submitted on that schedule. OMB Circular A-102 requires reporting to be at least annually, but no more frequently than quarterly. The Department selected quarterly reporting as the appropriate interval for the Program. In addition, a requirement for an annual physical inventory has been added.

§ 247.14 Procurement and Property Management Standards

Although no comments were received on this section, some slight technical amendments, such as titles to paragraphs, were made for clarity.

§ 247.15 Audits

Only one comment was received on this section. A public accounting group misinterpreted the previous regulations to mean that the Department permitted only Certified Public Accountants (CPA's) to perform audits. In accordance with the Standards for Audits of Governmental Organizations, Programs, Activities and Functions, the Department permits State-licensed accountants to perform audits if they were licensed prior to 1971. These regulations have been revised to clarify this policy.

A sentence has been added to make it clear that corrective action plans submitted in response to audits must include timeframes for the correction of deficiencies and problems. Also, a paragraph has been added to establish the frequency with which audits must be conducted.

§ 247.16 Investigations

No comments were received on this section and the provisions are unchanged from those in the previous regulations.

§ 247.17 Claims

The Department added this new section to the regulations for the purpose of assigning to States the responsibility for the management of Program funds and to provide authority for FNS claims against State agencies for negligence, fraud or other misuse of Program funds.

§ 247.18 Closeout Procedures

No comments were received on this section. However, a revision has been included to correct an error in the previous regulations. State agencies must submit final fiscal year closeout reports to FNS within 90 days after the end of the fiscal year. The previous regulations erroneously permitted a period of 120 days for the submission of such reports. Preliminary fiscal year closeout reports are still required within 30 days after the end of the fiscal year.

§ 247.19 Nondiscrimination

In compliance with the requirements of Title VI of the Civil Rights Act of 1964 these regulations prohibit discrimination on the basis of race, color or national origin. Although no comments were received on this section, the previous regulations prohibiting discrimination because of creed, political beliefs or sex, have been deleted from these regulations at this time. The Department does not condone discrimination on any basis, but chose not to delay this docket while awaiting the necessary clearances

on the Nondiscrimination Section of the regulations.

In addition, a provision has been added to require State agencies to ensure that, where necessary, bilingual staff members or interpreters are available. Also, the requirement for translated Program information was retained in these regulations. If volunteer interpreters are used rather than hiring bilingual staff members the local agency must ensure that such volunteers are reliable and available when needed.

§ 247.20 Fair Hearing Procedures for Participants

The fair hearing section has been reorganized and expanded to clarify and improve upon the previous regulations. Additions were made in order to clarify the hearing official's responsibilities and the applicant's rights during the hearing procedure. Also for clarification, the regulations specify that fair hearing decisions must comply with Federal law or regulations and must be factually based on the hearing record. Furthermore, a statement has been added to specify that in addition to a decision being reached within 45 days, benefits must also be issued within that timeframe if the hearing is decided in favor of the applicant. In addition, the regulations require that applicants who lose a decision must be told about the availability of a judicial review of a State agency decision.

These regulations specify that aggrieved individuals must be provided at least 60 days in which to request a fair hearing. Also, if they are participating in the Program and are terminated within a certification period and they appeal the termination within the 15-day advance adverse notice period they must be given continued benefits. Even if an individual is terminated because of categorical ineligibility, the benefits continue until the hearing official reaches a decision.

Individuals who apply or reapply for a new certification period and whose applications are denied, may appeal the action but will not receive benefits during the appeal.

Several commenters suggested that the previous fair hearing requirements were too restrictive to State agencies and that not enough time was provided to process appeals. After reviewing the requirements, the Department concluded that processing standards and other uniform requirements are essential to ensure fair and equal treatment to all applicants. Needy applicants, particularly those not eligible for continued benefits, warrant rapid attention when they appeal an agency

action. The Department believes that State agencies do have considerable flexibility, within the basic requirements, to set their own hearing procedures.

§ 247.21 Management Evaluation and Reviews

Prior to the issuance of these regulations, a section was not included on management evaluation and reviews. However, because of the important role that this phase of the management cycle plays in assuring an effective and efficient administration of the Program, the Department felt that it was essential to include a management evaluation section in these regulations. Management evaluation is an ongoing process and an important element in the areas of Program operation and accountability. This review process can be utilized to assess Program compliance as well as denote any needed Program improvements. The findings of the reviews can show the staff at the local, State, and Federal levels what is required to improve the Program and ensure that overall objectives are met and as many eligible persons as possible are reached.

Guidance presenting the concept of management evaluation, background information, and the minimum steps necessary to successfully carry out the management evaluation process will be issued by FNS. FNS will provide technical assistance to help establish the State review operation.

§ 247.22 Miscellaneous Provisions

No comments were received on this section; however, some provisions have been added in an effort to safeguard the rights of the participants.

Accordingly, Part 247 is revised to read as follows:

PART 247—COMMODITY SUPPLEMENTAL FOOD PROGRAM

- Sec.
- 247.1 General purpose and scope.
 - 247.2 Definitions.
 - 247.3 Administration.
 - 247.4 Donation of supplemental foods.
 - 247.5 State agency plan of program operation and administration.
 - 247.6 Selection of local agencies.
 - 247.7 Certification.
 - 247.8 Nutrition education.
 - 247.9 Financial management systems.
 - 247.10 Administrative funding.
 - 247.11 Administrative costs.
 - 247.12 Program income.
 - 247.13 Records and reports.
 - 247.14 Procurement and property management standards.
 - 247.15 Audits.
 - 247.16 Investigations.
 - 247.17 Claims.

Sec.

- 247.18 Closeout procedures.
 247.19 Nondiscrimination.
 247.20 Fair hearing procedure.
 247.21 Management evaluation and reviews.
 247.22 Miscellaneous provisions.

Authority: Sec. 32, Pub. L. 74-320, 49 Stat. 774, as amended (7 U.S.C. 612c); Pub. L. 75-165, 50 Stat. 323, as amended (15 U.S.C. 713c); sec. 416, Pub. L. 81-439, 63 Stat. 1058, as amended (7 U.S.C. 1431); sec. 4(a), Pub. L. 93-86, 87 Stat. 249, as amended (7 U.S.C. 612c note); sec. 1304(b), Pub. L. 95-113 (7 U.S.C. 612c note).

§ 247.1 General purpose and scope.

This part specifies the policies and prescribes the regulations for the Commodity Supplemental Food Program (CSFP) under which women, infants and children in low-income groups, vulnerable to malnutrition, may obtain supplemental nutritious foods donated by the U.S. Department of Agriculture. The purpose of the Program is to provide supplemental foods and nutrition education to eligible persons through State or local agencies.

§ 247.2 Definitions.

For the purpose of this part and of all contracts, guidelines, instructions, forms, and other related documents, the term:

"Administrative costs" means those direct and indirect costs, identified under FMC 74-4, which State and local agencies determine to be necessary to support Program operations. Such costs are further addressed in § 247.11.

"A-90" means Office of Management and Budget Circular A-90 which provides guidance for the coordinated development and operation of information systems.

"A-95" means Office of Management and Budget Circular A-95 which sets forth procedures for evaluation, review and coordination of Federal and federally assisted programs and projects.

"A-102" means Office of Management and Budget Circular A-102 which sets forth uniform administrative requirements for grants-in-aid to State and local governments and federally recognized Indian tribal governments.

"A-110" means Office of Management and Budget Circular A-110 which sets forth uniform administrative requirements for grants to, and other agreements with, institutions of higher education, hospitals, and other quasi-public and private non-profit organizations.

"Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

"Categorical ineligibility" means persons who do not meet the definition of pregnant women, breastfeeding

women, postpartum women, or infants or children.

"Certification" means the use of criteria and procedures to assess and document each applicant's eligibility for the Program

"Children" means persons who are at least one year of age but have not reached their sixth birthday.

"Department" means the U.S. Department of Agriculture.

"Distributing agency" means an agency which has entered into an agreement with a State agency and with the Department for the distribution of commodities under 7 CFR Part 250, Subchapter B—Food Distribution Regulations.

"Dual participation" means simultaneous participation by an individual in the CSFP in more than one local agency or clinic, or simultaneous participation in the CSFP and in the Special Supplemental Food Program for Women, Infants and Children (WIC) 7 CFR Part 246.

"Fiscal year" means the Federal fiscal year covering the period of 12 calendar months beginning October 1 of any calendar year and ending September 30 of the following year.

"FMC 74-4" means Federal Management Circular 74-4, which sets forth principles for determining costs applicable to grants and contracts with State and local governments.

"FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.

"Infants" means persons under one year of age.

"Local agency" means a public or private nonprofit agency which enters into an agreement with the State agency to administer the Program at the local level. A local agency determines the eligibility of applicants, distributes supplemental foods and provides nutrition education to low-income persons, either directly or through another agency with which it has entered into a written agreement in accordance with § 247.6. In addition, existing local agencies are required to maintain the health-ties at the same level that were effective prior to March 3, 1978. All other local agencies are encouraged to develop health service linkages and at the minimum are required to advise participants of the importance of health care and where low-income persons can obtain such services. The term local agency includes an IHS service unit, an Indian tribe, band or group recognized by the Department of the Interior, or an intertribal council or group that is an authorized representative of Indian

tribes, bands or groups recognized by the Department of the Interior.

"Nonprofit agency" means a private agency which is exempt from income tax under the Internal Revenue Code of 1954, as amended.

"Participants" means pregnant women, breastfeeding women, postpartum women, infants and children who are receiving supplemental foods under the Program.

"Participation" means the number of persons who have received supplemental foods through the Program in the reporting period.

"Postpartum women" means women up to 12 months after termination of pregnancy.

"Pregnant women" means women determined to have one or more embryos or fetuses in utero.

"Program" means the Commodity Supplemental Food Program (CSFP) of the Food and Nutrition Service of the U.S. Department of Agriculture.

"Secretary" means the Secretary of the U.S. Department of Agriculture.

"SFPD" means the Supplemental Food Programs Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

"State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

"State agency" means the agency of a State designated by the State to administer the Program; or an Indian tribe, band or group recognized by the Department of the Interior; or an intertribal council or group recognized by the Department of the Interior and which has an ongoing relationship with Indian tribes, bands or groups for other purposes and has contracted with them to administer the Program; or the appropriate area office of the Indian Health Service of the Department of Health, Education, and Welfare.

"State Agency Plan of Program Operation and Administration (State Plan)" means the document which, as required by § 247.5, describes the manner in which the State agency intends to implement and operate all aspects of Program administration within its jurisdiction.

"Supplemental foods" means foods donated by the Department for use by eligible persons in low-income groups who are vulnerable to malnutrition.

"WIC Program" means the Special Supplemental Food Program for Women, Infants and Children (7 CFR Part 246).

§ 247.3 Administration.

(a) *Delegation of Authority to FNS.* Within the Department, FNS shall act on behalf of the Department in the administration of the Program. Within FNS, SFPD and the Regional Offices are responsible for Program administration. FNS will provide assistance to State and local agencies and evaluate all levels of Program operations to assure that the goals of the Program are achieved in the most effective and efficient manner possible.

(b) *Delegation of authority to State agency.* The State agency is responsible for all operations under the Program within its jurisdiction and shall administer the Program in accordance with the requirements of this part, FMC 74-4, A-90, A-95, A-102, A-110, and 7 CFR Part 250 Subchapter B where applicable. The State agency shall provide guidance to local agencies on all aspects of Program operations. If distribution of supplemental foods or other Program operations at the State level are performed by an agency of the State other than the State agency, the State agency shall enter into a written agreement with the other agency. The agreement shall outline the responsibilities of each agency under the Program and shall be included in the State Plan. In addition, when a State agency enters into an agreement with a distributing agency, the distributing agency still must enter into a separate agreement with the Department as required by 7 CFR Part 250 Subchapter B, Food Distribution.

(c) *Agreement and State Plan.* Each State agency desiring to take part under the Program shall annually submit a State Plan and enter into a written agreement with the Department for the administration of the Program within its jurisdiction in accordance with the provisions of this part.

(d) *Delegation of authority to local agency.* The local agency shall provide Program benefits to participants in the most effective and efficient manner, and shall comply with this part and the State Plan.

§ 247.4 Donation of supplemental foods.

The Department shall donate supplemental foods for use in the Program in accordance with the terms and conditions of this part. The Department shall also administer the Program in accordance with the terms and conditions applicable to distributing agencies under 7 CFR Part 250 Subchapter B, Food Distribution Regulations, as long as these provisions are not inconsistent with this part. The State agency is strictly liable to FNS for all losses of supplemental foods donated

by the Department and shall safeguard them from theft, spoilage, other damage or destruction or other loss. If supplemental foods donated by the Department are lost through any cause, prior to issuance to the participant, the State agency shall submit payment to FNS for the documented value of the loss.

§ 247.5 State agency plan of program operation and administration.

(a) *Requirements.* By August 15 of each year the State agency shall submit to FNS for approval a State Plan for the following fiscal year. FNS shall provide written approval or denial of a completed State Plan or amendment within 30 days of receipt. Within 15 days after FNS receives an incomplete submission, FNS shall notify the State agency that additional information is needed to complete the Plan. Any disapproval shall be accompanied by a statement of the reasons for the disapproval. Approval of the Plan by FNS is a prerequisite to the payment of funds to the State agency for Program administration and the delivery of commodities. The Plan and all amendments shall be signed by the Chief Officer of the State agency or equivalent. Portions of the State Plan which do not change from year to year need not be resubmitted. However, the State agency shall provide the title of the section(s) that remain unchanged as well as the year of the last plan in which the section was submitted. The State Plan shall provide the following:

(1) The names and addresses of the local agencies which have an agreement with the State agency for the administration of the Program

(2) The name and location of the local agency or agencies which will be responsible for certification of persons; the identity of the agency or agencies that will distribute foods and the storage and distribution facilities to be used.

(3) A copy of the forms to be used for: (i) Certification of participants; (ii) agreements between the State agency and other agencies of the State; (iii) agreements between the state and local agencies; and (iv) verification of certification, if a State form is used.

(4) The specific income criteria and methods to be used in certifying persons as being in need of supplemental foods and the period of time covered by certifications in each local agency.

(5) The plan for nutrition education services for the fiscal year. The nutrition education portion of the State Plan shall include an evaluation component which includes a systematic procedure for participants' input.

(6) A description of the manner in which the State agency plans to monitor each local agency.

(7) A description of how the financial management system will provide an accurate, current and complete disclosure of the financial status of the State's Program including an accurate accounting of all administrative funds received and expended.

(8) A plan for the detection of dual participation within the jurisdiction of the State agency. In States where the CSFP and an Indian State agency for CSFP or a WIC Program State agency operate in the same area, a copy of the written agreement between the State agencies for the detection and prevention of dual participation must be submitted.

(9) A description of the State agency audit procedures, including: (i) A description of the scope and frequency of audits of the State agency and local agencies and a delineation of the procedures used to assure audit examinations at reasonable frequency. State agency guidelines for selecting a sample of grant programs for audits should be included; (ii) A description of the State agency and the audit organization in sufficient detail to demonstrate the independence of the audit organization; and (iii) The names of the local agencies in which the CSFP was included in an audit in the last full four quarters, the total number of local agency audits planned, and the number of local agencies to be audited in the coming fiscal year which will include the CSFP in the audit.

(10) A description of the procedures used to comply with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 and with 7 CFR Part 15, including racial and ethnic participation data collection, public notification procedures and the annual civil rights compliance review process.

(11) A description of the fair hearing procedures for participants.

(b) *Submission of local agency information.* Local agencies under the State agency's jurisdiction may be required to submit information, similar to the eleven preceding requirements, to the State agency for its use in assuring compliance with this section.

(c) *Submission to Governor.* Annually, by June 30, all State agencies, except Indian State agencies, shall submit the State Plan to the Governor, or a delegated authority, for comment as required by Circular A-95 (38 FR 32874) issued by the Office of Management and Budget, September 13, 1973. A period of 45 days from the date the Governor receives the State Plan shall be afforded

for comment. The Governor's comments shall be submitted to FNS with the State Plan. If the Governor makes no comment, a statement to that effect shall be attached to the State Plan. Amendments to the State Plan need not be submitted to the Governor unless there is a significant change. Indian State agencies are encouraged to consult areawide Federal planning offices in the development of their State Plan.

(d) *Amendments.* At any time the State agency may amend the State Plan to request changes. The State agency shall submit the amendments to FNS for approval.

(e) *Retention of copy.* A copy of the approved State Plan shall be kept on file at the State agency for public inspection.

§ 247.6 Selection of local agencies.

(a) *Application of local agencies.* The State agency shall require each agency which desires approval as a local agency to submit a written application which contains sufficient information to enable the State agency to make a determination as to the eligibility of that agency. If the State agency and the local agency are the same, this requirement does not apply. The State agency may approve the application of a local agency in an area already served by the Program or a WIC Program only if a new local agency is necessary to serve the full extent of need in that area or population. If the State agency approves the operation of a new local agency in an area already served by an existing Program or a WIC Program, documentation which indicates the need for both local agencies in that area shall be maintained on file at the State agency for FNS review and evaluation.

(b) *Agreements between State and local agencies.* (1) State agencies shall enter into agreements with local agencies which are approved to participate in the Program. If the State agency and the local agency are the same this requirement does not apply. Copies of the agreement shall be kept on file at both the State and local agency for purposes of review and audit. Such agreements shall be in writing and shall contain the following: (i) An assurance that local agencies will comply with all the fiscal and operational requirements prescribed by the State agency pursuant to this part; (ii) An assurance that local agencies will provide nutrition education pursuant to this part; (iii) For those local agencies in existence prior to March 3, 1978, an assurance that they will continue to maintain the same level of health-ties available prior to that date; (iv) An assurance that issuance of supplemental food is in accordance with this part; (v) A statement that local

agencies are responsible to the State agency for any loss resulting from improper or negligent issuance by them of prescriptions for supplemental foods; (vi) A statement that local agencies are responsible to the State agency for any Program losses caused by other agencies which have entered into agreements with the local agency; (vii) The name and address of each certification, food distribution and storage site under the jurisdiction of the local agency; and (viii) An assurance that the local agencies will maintain accurate and complete records with respect to their activities under the Program and retain such records for a period of 3 years following the date of submission of the final expenditure report for the period to which the report pertains.

(c) *Agreements between local agencies and other agencies.* A local agency which cannot fulfill one or more of these requirements shall enter into a written agreement with another agency(s) in order to comply with these requirements. The written agreement shall state the Program responsibilities of the other agency, shall be approved by the State agency, and shall be on file at both the State agency and local agency. State agency approval of agreements with applicant agencies shall be accomplished during the application process.

§ 247.7 Certification.

(a) *Eligibility requirements.* To be certified as eligible to receive supplemental foods under the Program, each applicant shall meet the following requirements:

(1) Categorical eligibility as an infant, child, or pregnant, postpartum or breastfeeding woman; and

(2) Eligibility for local benefits under existing Federal, State or local food, health or welfare programs for low-income persons.

(b) *Processing standards.* When maximum caseload has not been reached, the local agency shall either certify the applicant or notify the applicant of ineligibility for the Program within 20 days of the applicant's first visit to the local agency to apply for participation in the Program. A person who is determined to be eligible shall receive supplemental foods within 10 days of notification of eligibility.

(c) *Issuance of supplemental foods.* Participants shall be issued prescriptions for supplemental foods by personnel of a local agency or by such other personnel the local agency may designate. The local agency may choose to issue either a one month supply of supplemental foods each month or a two month supply of supplemental foods

every other month. However, local agencies which choose to issue a two month supply every other month shall inform participants that they may still receive one month's supply every month if they so request.

(d) *Certification forms.* All certification data for each applicant shall be recorded on a certification form. At a minimum the information on the form shall include the following:

(1) The person's name and address.
(2) The date of initial visit to apply for participation and the date of certification.

(3) The criteria used to determine the person's eligibility and the signature and title of the persons making the eligibility determinations.

(4) The following statement shall be located directly above the applicant's signature line and shall be read by or to the applicant or applicants' parent or caretaker before the application is signed:

"This certification form is being made in connection with the receipt of Federal assistance. Program officials may verify information on this form. I am aware that deliberate misrepresentation may subject me to prosecution under applicable State and Federal statutes. I have been advised of my rights and obligations under the Program. I certify that the information I have provided for my eligibility determination is correct to the best of my knowledge."

(e) *Applicant's rights.* The following sentences shall be read by, or read to, the applicant or the applicant's parent or caretaker at the time of certification. Where a significant proportion of the population served by a local agency is composed of non-English or limited English speaking persons who speak the same language, the sentences shall be stated to such persons in a language they understand:

(1) *Standards for participation in the Program are the same for everyone regardless of race, color, or national origin.*

(2) *You may appeal any decision made by the local agency regarding your denial or termination from the Program.*

(3) *If your application is approved, the local agency will make nutrition education available to you and you are encouraged to participate.*

(f) *Notification requirements.* The following responsibilities shall be performed by the State or local agency:

(1) A person found ineligible for Program benefits during a certification visit shall be advised in writing of the agency's decision, of the reasons for the decision, and of the right to a fair hearing.

(2) A person found ineligible for the Program at any time during the certification period shall be advised in writing at least 15 days before termination of eligibility, of the reasons for ineligibility, and of the right to a fair hearing.

(3) Each participant shall be notified before the expiration of each certification period that eligibility for the Program is about to expire.

(4) Each participant shall be advised of the importance of participating in ongoing, routine health care, and where such health service facilities providing such health care for low income persons are located.

(g) *Certification periods.* Eligible pregnant women shall be certified for the duration of their pregnancy and for six weeks postpartum. Eligible postpartum or breastfeeding women and eligible infants and children shall be certified at the time of their entrance into the Program and at intervals prescribed by the State agency, provided such intervals do not exceed one year in length. Program benefits may be continued until the end of the month in which categorical ineligibility begins, for example, until the end of the month in which a child reaches the sixth birthday.

(h) *Restrictions.* The following restrictions shall be observed by State agencies:

(1) Durational residence requirements shall not be imposed as a condition of eligibility.

(2) Participants shall not be required to make any payments in money, materials or services for, or in connection with, the receipt of supplemental foods. Also they shall not be solicited in connection with the receipt of supplemental foods for voluntary cash contributions for any purpose.

(3) Distribution of supplemental foods shall not be used as a means for furthering the political interest of any person or party.

(i) *Transfer of certification.* Each State agency shall ensure issuance of a verification of certification form to every participant who intends to relocate during the certification period. The State agency shall require the local agencies under its jurisdiction to accept verification of certification forms from participants who have been participating in the Program or the WIC Program in another local agency within or outside of the jurisdiction of the State agency. The verification or certification is valid until the certification period expires, and shall be accepted as proof of eligibility for Program benefits. However, if the receiving local agency

has waiting lists for participation, the transferring participant shall be placed on the list ahead of all waiting applicants. The verification of certification shall include the name of the participant, the date the certification was performed, the date the certification period expires, the signature and printed or typed name of the local agency official in the originating jurisdiction, the name and address of the certifying local agency and an identification number or some other means of accountability. The verification of certification form shall be uniformed throughout the jurisdiction of the State agency.

(j) *Dual participation.* The State agency shall be responsible for the following:

(1) In conjunction with the local agency, the detection and prevention of dual participation within each local agency and between local agencies. As part of the certification process, applicants shall be informed of the illegality of simultaneous participation in the WIC Program and this Program or of simultaneous participation in more than one CSFP.

(2) In areas where a local agency serves the same area as an Indian State agency or WIC Program, the CSFP State agency and the Indian State agency for the Program or the WIC State agency shall agree to a plan for the detection and prevention of dual participation. The agreement must be in writing and must be made prior to operation within the same area.

(3) Participants found committing dual participation shall be terminated from one of the Programs immediately.

(4) At certification the local agency shall check the identification of each participant. For a child participant, an immunization record, birth certificate, or other records that local agency personnel consider adequate identification shall be acceptable. Also, when issuing supplemental foods the local agency shall check the identification of each participant or the identity of the adult responsible for picking up the food for a child participant.

(k) *Disqualification.* (1) The State agency may disqualify applicants and participants from Program participation for a period not to exceed 3 months if it is established by the State or local agency that the applicant, participant, parent, or caretaker fraudulently applied for and/or obtained Program benefits. However, if the person who determined the participant's eligibility determines that a serious health risk will result from disqualification from the Program and the participant is currently eligible the disqualification shall be waived. In

addition, participants may request a fair hearing, as specified in § 247.20, to contest a disqualification.

(2) For Program purposes, fraud consists of the following inclusive, but not exclusive, actions if they are made knowingly, willfully and deceitfully:

(i) Making false statements orally or in writing in order to obtain benefits to which the individual would not otherwise be eligible;

(ii) Concealing information in order to obtain benefits to which the individual is not eligible;

(iii) Altering Program documents for the purpose of receiving increased benefits to which the individual is not eligible or for the purpose of transferring benefits to an unauthorized individual;

(iv) Using supplemental foods in an unauthorized manner, such as trading or selling the foods; or

(v) Committing dual participation.

§ 247.8 Nutrition education.

(a) *General.* Nutrition education shall be thoroughly integrated into Program operations. Nutrition education shall be designed to be easily understood by individual participants and shall bear a practical relationship to their nutritional needs and household situations.

(b) *Goals.* Nutrition education shall be based on the following two broad goals:

(1) To emphasize the relationship of proper nutrition to the total concept of good health, with special emphasis on the nutritional needs of pregnant, postpartum, and breastfeeding women, infants and children under six years of age; and

(2) To assist participants in obtaining a positive change in food habits, resulting in improved nutritional status and in the prevention of nutrition-related problems through maximum use of the supplemental and other nutritious foods. This use is to be within the context of ethnic, cultural and geographic preferences. Consideration should also be given to tailoring nutrition education to meet any limitations experienced by groups of participants, such as lack of running water, lack of electricity, and limited cooking or refrigeration facilities.

(c) *State agency responsibilities.* The State agency shall ensure that the local agency fully performs its responsibilities as set forth in paragraph (d) of this section. The State agency shall also ensure that an evaluation procedure is maintained to determine the effectiveness of the nutrition education. Such evaluation procedure shall include a systematic procedure for participant input and may be conducted directly by State and local agencies or by contract for such services, so long as the

evaluation is directed by a nutritionist or other professional determined by the State agency to be qualified to perform the evaluation procedure.

(d) *Local agency responsibilities.* (1) The local agency shall make nutrition education available to all adult participants and to parents or guardians of infant and child participants. Where appropriate, nutrition education for child participants is encouraged.

(2) The local agency shall direct Program funds for nutrition education to the benefit of participants and local agency staff members involved in nutrition education, in accordance with this part.

(3) The local agency shall conduct or arrange for nutrition education in a manner consistent with the nutrition education portion of the State Plan.

(4) The local agency shall include the following subject matter in the instruction given to participants:

(i) An explanation of the importance of the consumption of the supplemental foods by the participant for whom they are prescribed rather than by other family members;

(ii) Reference to any special nutritional needs of participants and ways to provide adequate diets;

(iii) An explanation of the Program as a supplemental rather than a total food program;

(iv) Information on the use of the supplemental foods and on the nutritional value of these foods;

(v) Information on the benefits of breastfeeding; and

(vi) An explanation of the importance of health care.

(e) *Food demonstrations.* Any food demonstrations using supplemental foods shall be conducted by the State or local agency and solely in conjunction with nutrition education under the Program. Supplemental foods may not be used for outreach, refreshments for participants, or any other such purpose. Supplemental foods may not be provided to any other community agency or facility for any purpose whatsoever, unless such agency has entered into a signed written agreement with the State or local agency to provide nutrition education services under the Program.

§ 247.9 Financial management systems.

(a) *Disclosure of expenditures.* The State agency shall maintain a financial management system which provides accurate, current and complete disclosure of the financial status of the Program. This shall include an accounting for all property and other assets and all Program funds received and expended each fiscal year.

(b) *Reports.* The State agency shall maintain its financial accounts in a manner sufficient to permit the preparation of the reports required in § 247.13.

(c) *Record of expenditures.* The State agency shall maintain records which adequately identify the source and use of funds expended for Program activities. These records shall contain, but are not limited to, information pertaining to authorization, receipt of funds, obligations, unobligated balances, assets, liabilities, outlays and income.

(d) *Payment of costs.* The State agency shall implement procedures which ensure prompt and accurate payment of allowable costs, and ensure the allowability and allocation of costs in accordance with the cost principles and standard provisions of this part, and FMC 74-4.

(e) *Identification of obligated funds.* The State agency shall implement procedures which accurately identify obligated Program funds at the time obligations are made.

(f) *Resolutions of audit findings.* The State agency shall implement procedures which ensure timely and appropriate resolution of claims and other matters resulting from audit findings and recommendations.

(g) *Letters of Credit.* All administrative funds made available under this section shall be provided to participating State agencies by means of issuance of Letters of Credit unless other funding arrangements are made with FNS. If at the end of the fiscal year, funds authorized by a letter of Credit issued to any State agency exceed obligations, FNS shall reduce the amount of the Letter of Credit by the unobligated portion.

(h) *Payments.* Letters of Credit shall be issued to the appropriate Regional Disbursing Office in favor of the State agency. The State agency shall obtain funds needed through presentation by designated officials of a payment voucher on the Letter of Credit to the designated Regional Disbursing Office, in accordance with procedures prescribed by FNS and consistent with the U.S. Treasury Department Circular 1075.

(i) *Transfer of cash.* The State agency shall have controls to minimize the time elapsing between receipt of Federal funds from the U.S. Department of Treasury and the disbursement of these funds for Program costs. In the Letter of Credit system, the State agency shall make drawdowns from the U.S. Department of Treasury's Regional Disbursing Office as close as possible to the time of the actual disbursement of funds. Advances made by the State

agency to local agencies shall also conform to these same standards.

(j) *Local agency financial management.* The State agency shall ensure that all local agencies develop and implement a financial management system consistent with the requirements prescribed by the State agency pursuant to the requirements of this section.

§ 247.10 Administrative funding.

(a) *General.* This section prescribes the policies and procedures for payment by FNS of funds for administrative costs to participating State agencies and disbursements by State agencies to local agencies. The funds shall be paid to State agencies as specified in § 247.9, Financial Management Systems. As a prerequisite to the receipt of such funds each fiscal year, the State agency shall have executed a written agreement with the Department and shall have received FNS approval of its State Plan.

(b) *State agency funding.* Funds for total State administrative costs for each year shall be allocated by FNS based on 15 percent of the annual appropriation available for the purchase of commodities. Each State agency shall receive its proportionate share of the administrative funds based on its percentage of the total average participation reported (up to the authorized caseload level) for the latest 12 months prior to the beginning of a fiscal year. FNS shall determine the specific amount due each State agency by: (1) Dividing each State's average participation by the total average participation; and (2) multiplying the result by the administrative funds appropriated to derive an annual grant level which will be distributed to each State on a quarterly basis. FNS shall reserve the right to adjust participation figures used in the computation process upward or downward to ensure adequate funds are allocated when the Department believes that the participation level reported will not reflect future plans for operation, such as when a State agency plans to start-up or terminate the Program during the year. Participation of new State agencies during the course of the fiscal year will depend on the availability of funds. FNS shall use caseload assignments to ensure that food funds appropriated are not exceeded. FNS reserves the right to periodically recover and redistribute unspent administrative funds. To ensure that State agencies can properly budget for program operations, FNS guarantees that 75 percent of each State agency's annual grant level will be protected from further recoveries. The State agency may retain a percentage of the amount paid to it, based on the

following formula: 15 percent of the first \$50,000; plus 10 percent of the next \$100,000; plus 5 percent of the next \$100,000. The State agency may retain a maximum amount of \$22,500 annually for its administrative expenditures. However, if the State agency provides warehousing services, FNS approval may be requested for funds greater than those allowed under the formula; provided, the State agency can document the need and ensure that the increase will not impose undue hardship on local agencies. The remaining funds and any unused funds at the State level shall be distributed to the local agencies.

(c) *Local agency funding.* The State agency, in disbursing administrative funds to local agencies, shall apportion such funds among the local agencies on the basis of their respective needs so as to ensure that those local agencies evidencing higher administrative costs, while demonstrating prudent management and fiscal controls, receive a greater portion of the administrative funds. The State agency also may redistribute any unused portion of the local administrative funds among local agencies. All administrative funds which are unused shall be returned to FNS.

§ 247.11 Administrative costs.

(a) *General.* Funds provided to State and local agencies may be used to cover administrative costs identified under FMC 74-4 which State agencies determine to be necessary to carry out the Program within their jurisdiction.

(b) *Allowable costs.* The following costs are specifically identified as illustrative of costs allowable under the Program:

- (1) The cost of certifying persons;
- (2) The cost of nutrition education services provided to participants and parents and guardians of participants, and used for training local agency staff members;
- (3) The cost of transporting food and of administering the food distribution system;
- (4) The cost of interpreters and translators for Program materials;
- (5) The cost of outreach services;
- (6) The cost of audits and fair hearings;
- (7) General administration of the State and local agencies including, but not limited to, personnel, warehousing, and insurance;
- (8) The cost of monitoring and reviewing Program operations; and
- (9) The cost of transportation for participants to the local agency when the local agency has determined and documented the need for such assistance.

(c) *Restrictions on Allowable Costs.* The following costs are allowable only with the prior approval of FNS:

(1) Automatic Data Processing equipment and system purchases whether by outright purchase, rental-purchase agreement or other method of purchase;

(2) Capital expenditures over \$2500.00 such as the cost of facilities, equipment, other capital assets and any repairs that materially increase the value or useful life of capital assets. Provided that any subsequent sale of real or personal properties, purchased in whole or in part with Program funds, shall be used to reimburse FNS in an amount computed by applying to the sale proceeds the percentage of FNS participation in the original acquisition cost; and

(3) Management studies performed by agencies or departments other than the State or local agency or those performed by outside consultants under contract with the State or local agency.

(d) *Unallowable Costs.* Expenditures by a State agency or local agencies which result in costs that may not be applicable to the Program objectives are "unallowable costs." A State agency's system for financial management shall identify such unallowable costs. In addition to unallowable costs identified in FMC 74-4 the following are specifically unallowable costs for reimbursement by FNS:

- (1) Costs incurred for rearrangement and alteration of facilities not required specifically for the program;
- (2) Occupancy of space under rental-purchase or a lease with option to purchase agreements;
- (3) Equipment rental costs where the agreement provides for rental-purchase or a lease with option to purchase; and
- (4) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise).

§ 247.12 Program income.

Program income means gross income the State agency or local agencies earn from grant supported activities, with the exception of income from the sale of property as specified in § 247.11(c)(2). Program income earned during the agreement period shall be retained by the State agency and used to further Program objectives; except that interest earned on advances may be retained and used at State agency discretion. A State agency's financial management system shall provide guidelines to assure that: Income earned is recorded as individual transactions within the accounting records in conformance with generally accepted accounting principles for recording expenditures and

revenues; and that specifically earmarked Program income is used for the purpose(s) intended.

§ 247.13 Records and reports.

(a) *Recordkeeping requirements.* Each State agency shall maintain accurate and complete records with respect to the receipt, disposal, and inventory of supplemental foods, including the determination made as to liability for any improper distribution or use of, or loss of, or damage to, such foods and the result obtained from the pursuit of claims arising in favor of the State agency. Accurate and complete records shall also be maintained with respect to the receipt and disbursement of administrative funds received. State agencies shall require all local agencies to maintain accurate and complete records with respect to the receipt, disposal and inventory of supplemental foods and with respect to any administrative funds received. All records required by this section shall be retained for a period of 3 years following the date of submission of the annual expenditure report for the period to which the reports pertain. All records, except medical case records of participants (unless they are the only source of certification data), shall be available during normal business hours for representatives of the Department and the General Accounting Office of the United States to inspect, audit, and copy. Any reports resulting from such examinations shall not divulge names of individuals.

(b) *Financial reports.* All financial data shall be submitted quarterly.

(c) *Program reports.* All Program performance data shall be submitted quarterly, unless otherwise specified by FNS.

(d) *Inventory reports.* Inventory reports shall be submitted as required by FNS, at a frequency prescribed by FNS. Annually, a physical inventory of all foods at each storage and distribution site is required to be submitted to FNS at a date specified by FNS.

(e) *Civil rights.* Each local agency participating under the Program shall submit a report of racial and ethnic participation data, at a frequency prescribed by FNS.

(f) *Audit acceptability of reports.* To be acceptable for audit purposes, all financial and Program performance reports shall be traceable to source documentation.

(g) *Certification of reports.* Financial and Program reports shall be certified as to their completeness and accuracy by the person given that responsibility by the State agency.

(h) *Use of reports.* FNS shall use State agency reports to measure progress in achieving objectives set forth in the State Plan. If it is determined, through review of State agency reports, Program or financial analysis, or an audit, that a State agency is not operating according to its State Plan, FNS may request additional information and take other appropriate actions.

§ 247.14 Procurement and property management standards.

(a) *Requirements.* State and local agencies shall comply with the requirements of Circular A-102, Attachment O for procurement of equipment and other services with Program funds. These requirements are adopted by FNS to ensure that such materials and services are obtained for the Program in an effective manner and in compliance with the provisions of applicable law and executive orders.

(b) *Contractual responsibilities.* The standards contained in Circulars A-90, A-102 and A-110, were applicable, do not relieve the State or local agency of the responsibilities arising under its contracts. The State agency is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes, but is not limited to: disputes, claims, protests of awards, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

(c) *State regulations.* The State or local agency may use its own procurement regulations which reflect applicable State and local regulations, provided that procurements made with Program funds adhere to the standards set forth in Circulars A-90, A-102 and Circular A-110, where applicable.

(d) *Property acquired with Program funds.* State and local agencies shall observe the standards prescribed in A-102, Attachment N, and A-110, Attachment N, where applicable, in their utilization and disposition of property acquired in whole or in part with Program funds.

§ 247.15 Audits.

(a) *Federal access to information.* The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, or State auditors shall have access to any books, documents, papers, and records of the State and local agencies and their contractors, for the purpose of making

surveys, audits, examinations, excerpts, and transcripts.

(b) *State agency response.* The State agency may take exception to particular audit findings and recommendations. The State agency shall submit a response or statement to FNS as to the action taken or planned regarding the findings. A proposed corrective action plan developed and submitted by the State agency shall include specific time frames for its implementation and for completion of the correction of deficiencies and problems leading to the deficiencies.

(c) *Corrective action.* FNS shall determine whether Program deficiencies have been adequately corrected. If additional corrective action is necessary, FNS shall schedule a followup review, allowing a reasonable time for such corrective action to be taken.

(d) *State sponsored audits.* (1) Each State agency shall provide for an independent audit of the financial operations of the State agency and local agencies. Audits may be conducted by State and local government audit staffs, State licensed public accountants who were licensed on or before December 31, 1970, or by Certified Public Accountants and audit firms under contract to the State or local agencies. Audits shall conform to: "The Standards of Audit of Governmental Organizations, Program Activities and Functions," issued by the Comptroller General of the United States (Reprint 1974, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402); the "Guidelines for Financial and Compliance Audits of Federally Assisted Programs," issued by the U.S. General Accounting Office, October 1978 (for sale by the U.S. General Accounting Office, Distribution Section, Room 1518, 441 G Street, NW., Washington, D.C. 20013); any compliance supplements approved by OMB; and generally accepted auditing standards established by the American Institute of Certified Public Accountants. An audit shall be used to determine whether:

(i) Financial operations are properly conducted;

(ii) The financial reports are fairly presented;

(iii) The State or local agency has complied with applicable laws, regulations, and administrative requirements pertaining to financial management; and

(iv) Proper inventory controls (physical and paper) are being maintained.

(2) The State agency shall conduct audits in accordance with the provisions of A-102, Attachment G. Audits of the State agency and the local agencies under the State agency's jurisdiction shall be performed in a representative sample of grant program audit examinations during each audit cycle which occurs, not less frequently than once every two years. In some audit cycles, a grant program or programs other than this Program may be audited. However, audits of the Program shall be performed at intervals frequent enough to ensure consistency with good Program management. Also, at any time, the Department, FNS or the State agency may at its discretion audit a Program if an audit appears to be warranted. If FNS in the course of Program reviews of State agency operations finds that the efficiency and effectiveness of the State agency's financial management system is in question, FNS may request the State agency to include the Program in the sample for the next audit examination.

(3) Each State agency shall make all State or local agency sponsored audit reports of Program operations under its jurisdiction available for the Department's review upon request. The cost of these audits shall be considered a part of administrative costs and funded from either State or local agency administrative funds.

§ 247.16 Investigations.

(a) *Authority.* The Department may make an investigation of any allegation of noncompliance with this part. The investigation may include, where appropriate, a review of pertinent practices and policies of any State or local agency, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the State or local agency has failed to comply with the requirements of this part.

(b) *Confidentiality.* No State or local agency, participant, or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under this part because the individual has made a complaint or formal allegation, or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of every complainant shall be kept confidential except to the extent necessary to carry out the purpose of this part, including the conduct of any investigation, hearing, or judicial proceeding.

§ 247.17 Claims.

If FNS determines through a review of the State agency's reports, program or financial analysis, monitoring, audit, or otherwise, that any Program funds provided to a State agency for administrative purposes were, through State agency or local agency negligence or fraud, misused or otherwise diverted from Program purposes, a claim shall be made by FNS against the State agency, and the State agency shall pay promptly to FNS a sum equal to the amount of the administrative funds so misused or diverted. Further, if FNS determines that any part of the money received by a State agency was lost as a result of thefts, embezzlements, or unexplained causes, the State agency shall, on demand by FNS, pay to FNS a sum equal to the amount of the money so lost. Claims for losses or misuse of supplemental foods shall be handled in accordance with 7 CFR Part 250—Subchapter B—Food Distribution. The State agency shall have full opportunity to submit evidence, explanations or information concerning alleged instances of noncompliance or diversion before a final determination is made in such cases.

§ 247.18 Closeout procedures.

(a) *Fiscal year closeout reports.* State agencies shall submit preliminary and final closeout reports for each fiscal year or part thereof. All obligations shall be liquidated before final closure of a fiscal year grant. Obligations shall be reported for the fiscal year in which they occur. State agencies shall:

(1) Submit to FNS, within 30 days after the end of the fiscal year, preliminary financial reports which show cumulative actual expenditures and obligations for the fiscal year, or part thereof, for which Program funds were made available; and

(2) Submit to FNS, within 90 days after the end of the fiscal year, final fiscal year closeout reports.

(b) *Revised closeout reports.* Revised closeout reports may be submitted at any time. However, FNS shall not be responsible for reimbursing unpaid obligations later than one year after the close of the fiscal year in which they were incurred.

(c) *Grant closeout procedures.* When grants to State agencies are terminated, the following closeout procedures for the Program shall be performed in accordance with OMB Circular A-102.

(1) *Termination for cause.* FNS may terminate a state agency's participation under the Program, in whole or in part, whenever FNS determines that the State agency has failed to comply with the conditions prescribed in this part. FNS

shall promptly notify the State agency in writing of the termination and the reasons for the termination, including the effective date. A State agency shall terminate a local agency's participation under the Program by written notice whenever it is determined by FNS or the State agency that the local agency has failed to comply with the requirements of the Program. When a State agency's participation under the Program is terminated for cause, any payments made to the State agency, or any recoveries by FNS from the State agency, shall be in conformance with the legal rights and liabilities of the parties.

(2) *Termination for convenience.* FNS or the State agency may terminate the State agency's participation under the Program, in whole or in part, when both parties agree that continuation under the Program would not produce beneficial results commensurate with the further expenditure of funds. The State agency or the local agency may terminate the local agency's participation, in whole or in part, under the same conditions. The two parties shall agree upon the termination conditions, including the effective date thereof and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of the noncancellable obligations, properly incurred by the State agency prior to termination.

§ 247.19 Nondiscrimination.

(a) *Requirement.* The State agency shall comply with the requirements of Title VI of the Civil Rights Act of 1964, and the Department's regulations concerning nondiscrimination (7 CFR Part 15), including requirements of racial and ethnic participation data collection, public notification of the nondiscrimination policy, and annual reviews of each local agency to assure compliance with such policy, to the end that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Program.

(b) *Non-English materials and staff.* Where a significant proportion of the population of the area served by a local agency is composed of non-English or limited English speaking persons who speak the same language, the State agency shall take action to ensure that Program information, except certification forms, is provided to such

persons in the appropriate language orally and in writing. The State agency shall ensure that there are bilingual staff members or interpreters available to serve these persons.

(c) *Complaints.* Complaints of discrimination filed by applicants or participants shall be referred to the Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S.D.A., Washington, D.C. 20250.

§ 247.20 Fair hearing procedures.

(a) *Availability of hearings.* The State agency shall provide a hearing procedure through which any individual may appeal a State or local agency action which results in the individual's denial or termination from the Program.

(b) *Notification of appeal rights.* At the time of application and at the time of denial or termination from the Program, each individual shall be informed in writing of the right to a fair hearing, of the method by which a hearing may be requested, and that any positions or arguments on behalf of the individual may be presented personally or by a representative such as a relative, friend, legal counsel or other spokesperson. Such notification is not required at the expiration of a certification period.

(c) *Request for hearing.* A request for a hearing is defined as any clear expression by the individual or the individual's parent, guardian or other representative, that an opportunity to present its case to a higher authority is desired. The State or local agency shall not limit or interfere with the individual's freedom to request a hearing.

(d) *Time limit for request.* The State or local agency shall provide individuals a reasonable period of time to request fair hearings. Such time limit shall not be less than 60 days from the date the agency mails or gives the applicant or participant the notice of adverse action to deny or terminate benefits, as required in § 247.7(f)(2).

(e) *Denial or dismissal of request.* A request for a hearing shall not be denied or dismissed unless:

(1) The request is not received within the time limit set by the State agency in accordance with paragraph (d) of this section.

(2) The request is withdrawn in writing by the applicant or a representative.

(3) The applicant or representative fails, without good cause, to appear at the scheduled hearing.

(f) *Continuation of benefits.* Participants who appeal the termination of benefits within the 15 day advance adverse notice period provided by § 247.7(f)(2) shall continue to receive

Program benefits until the hearing official reaches a decision. Applicants who are denied benefits at initial certification or at subsequent certifications may appeal the denial but shall not receive benefits while awaiting the hearing.

(g) *Rules of procedure.* The State and local agency shall process each request for a hearing under uniform rules of procedure. The uniform rules of procedure shall be available for public inspection and copying. At a minimum, the uniform rules of procedure shall include: the time limits for requesting and conducting a hearing; all advance notice requirements; the rules of conduct at the hearing; and the rights and responsibilities of the applicant. The procedures shall not be unduly complex or legalistic and the applicant's background shall be taken into consideration.

(h) *Hearing official.* Hearings shall be conducted by an impartial official who does not have any personal stake or involvement in the decision and who was not directly involved in the initial determination of the action being contested. The hearing official shall:

(1) Administer oaths or affirmations if required by the State;

(2) Ensure that all relevant issues are considered;

(3) Request, receive and make part of the hearing record all evidence determined necessary to decide the issues being raised;

(4) Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing;

(5) Render a hearing decision which will resolve the dispute.

(i) *Conduct of the hearing.* The hearing shall be accessible to the applicant. The State or local agency shall provide the applicant with a minimum of 10 days advance written notice of the time and place of the hearing and shall enclose the rules of procedure. The State and local agency shall also provide the applicant or representative an opportunity to:

(1) Examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

(2) Be assisted or represented by an attorney or other persons;

(3) Bring witnesses;

(4) Advance arguments without undue interference;

(5) Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses; and

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(j) *Hearing decisions.* (1) Decisions of the hearing official shall comply with Federal law or regulations and shall be based on facts in the hearing record. The verbatim transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding shall constitute the exclusive record for a final decision by the hearing official. This record shall be retained in accordance with § 247.13. This record shall also be available, for copying and inspection, to the appellant or representative at any reasonable time.

(2) A decision by the hearing official shall be binding on the local agency and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent regulations. The decision shall become a part of the record.

(3) Within 45 days of the request for the hearing, the applicant or representative shall be notified in writing of the decision and the reasons for the decision in accordance with paragraph (j)(2) of this section. Also, if the decision is in the favor of the applicant and benefits were denied, benefits shall begin within this 45-day time period. If the decision is in favor of the agency, as soon as administratively feasible any continued benefits shall be terminated as decided by the hearing official.

(4) All State and local agency hearing records and decisions shall be available for public inspection and copying, subject to the disclosure safeguards provided in § 247.22(d), and provided the names and addresses of participants and other members of the public are kept confidential.

(k) *Judicial review.* If a State level decision upholds the agency action, the State agency shall explain any available State review of the decision and any State rehearing process. If neither are available or have been exhausted, the State agency shall explain the right to pursue judicial review of the decision.

§ 247.21 Management evaluation and reviews.

(a) *General.* FNS and each State agency shall establish a management evaluation system in order to assess the accomplishment of Program objectives as provided under these regulations, the State Plan, and the written agreement with the Department. FNS will provide assistance to States in discharging this responsibility and will establish standards and procedures to determine how well the objectives of this part are being accomplished.

(b) *Responsibilities of FNS.* FNS shall establish evaluation procedures to determine whether State agencies carry out the purposes and provisions of this part, the State Plan, and the written agreement with the Department. As a part of the evaluation procedures, FNS shall review audits performed by the State agency to ensure that the Program at both the State and local levels has been included in audit examinations at a reasonable frequency. These evaluations shall include a review of each State agency, including on-site reviews of selected local agencies, at least once every year. These evaluations will measure the State agency's progress toward meeting the objectives outlined in its State Plan and compliance with these regulations.

(c) *Responsibilities of State agencies.* The State agency is responsible for meeting the following requirements:

(1) The State agency shall establish evaluation and review procedures and document the results of such procedures. The procedures shall include, but not be limited to:

(i) Annual monitoring of the operation of all local agencies to evaluate certification procedures, management, nutrition education, civil rights compliance, food storage, inventory, accountability, and financial management systems. However, more frequent reviews may be performed as the State agency deems necessary. The State agency shall provide a continuing evaluation of each local agency through on-site reviews of the local agency, reviews of local agency reports including inventory reports, reviews of storage facilities and safeguards for supplemental foods.

(ii) Instituting the necessary followup procedures to correct identified problem areas.

(2) On its own initiative or when required by FNS, the State agency shall provide special reports on Program activities, and take positive action to correct deficiencies in Program operations.

(3) The State agency shall require that local agencies establish Program review procedures to be used in reviewing their operations and those of subsidiaries or contractors.

§ 247.21 Miscellaneous provisions.

(a) *No aid reduction.* The value of benefits or assistance available under the Program shall not be considered as income to or resources of participants or their families for any purpose under Federal, State or local laws, including, but not limited to, laws relating to taxation, welfare and public assistance programs.

(b) *Statistical information.* FNS reserves the right to use information obtained under the Program in a summary, statistical or other form which does not identify particular individuals. FNS may require the State or local agencies to supply data and other information collected under the Program in a form that does not identify particular individuals, to enable the Secretary or the State agencies to evaluate the effect of food intervention upon low-income individuals determined to be eligible for Program benefits.

(c) *Confidentiality.* Each State agency shall restrict the use or disclosure of information obtained from Program applicants or participants to persons directly connected with the administration or enforcement of the Program.

(d) *Public information.* Any person who wishes information, assistance, records or other public material shall request such information from the State agency, or from the FNS Regional Office serving the appropriate State as listed below:

(1) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont: U.S. Department of Agriculture, FNS, New England Region, 33 North Avenue, Burlington, Massachusetts 01803.

(2) Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia: U.S. Department of Agriculture, FNS, Mid-Atlantic Region, One Vahlsing Center, Robbinsville, New Jersey 08691.

(3) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee: U.S. Department of Agriculture, FNS, Southeast Region, 1100 Spring Street, NW., Atlanta, Georgia 30309.

(4) Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin: U.S. Department of Agriculture, FNS, Midwest Region, 536 South Clark Street, Chicago, Illinois 60605.

(5) Arkansas, Louisiana, New Mexico, Oklahoma, Texas: U.S. Department of Agriculture, FNS, Southwest Region, 1100 Commerce Street, Room 5-C-30, Dallas, Texas 75242.

(6) Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming: U.S. Department of Agriculture, FNS, Mountain Plains Region, 2420 West 26th Avenue, Room 430-D, Denver, Colorado 80211.

(7) Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, Washington: U.S.

Department of Agriculture, FNS,
Western Region, 550 Kearney Street,
Room 400, San Francisco, California
94108.

Note.—The reporting and/or recordkeeping requirements contained herein are subject to clearance by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(Catalog of Federal Domestic Assistance, Program No. 10,565, National Archive Reference Service).

Note.—This rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. An impact statement has been prepared and is available from Jennifer R. Nelson, Director.

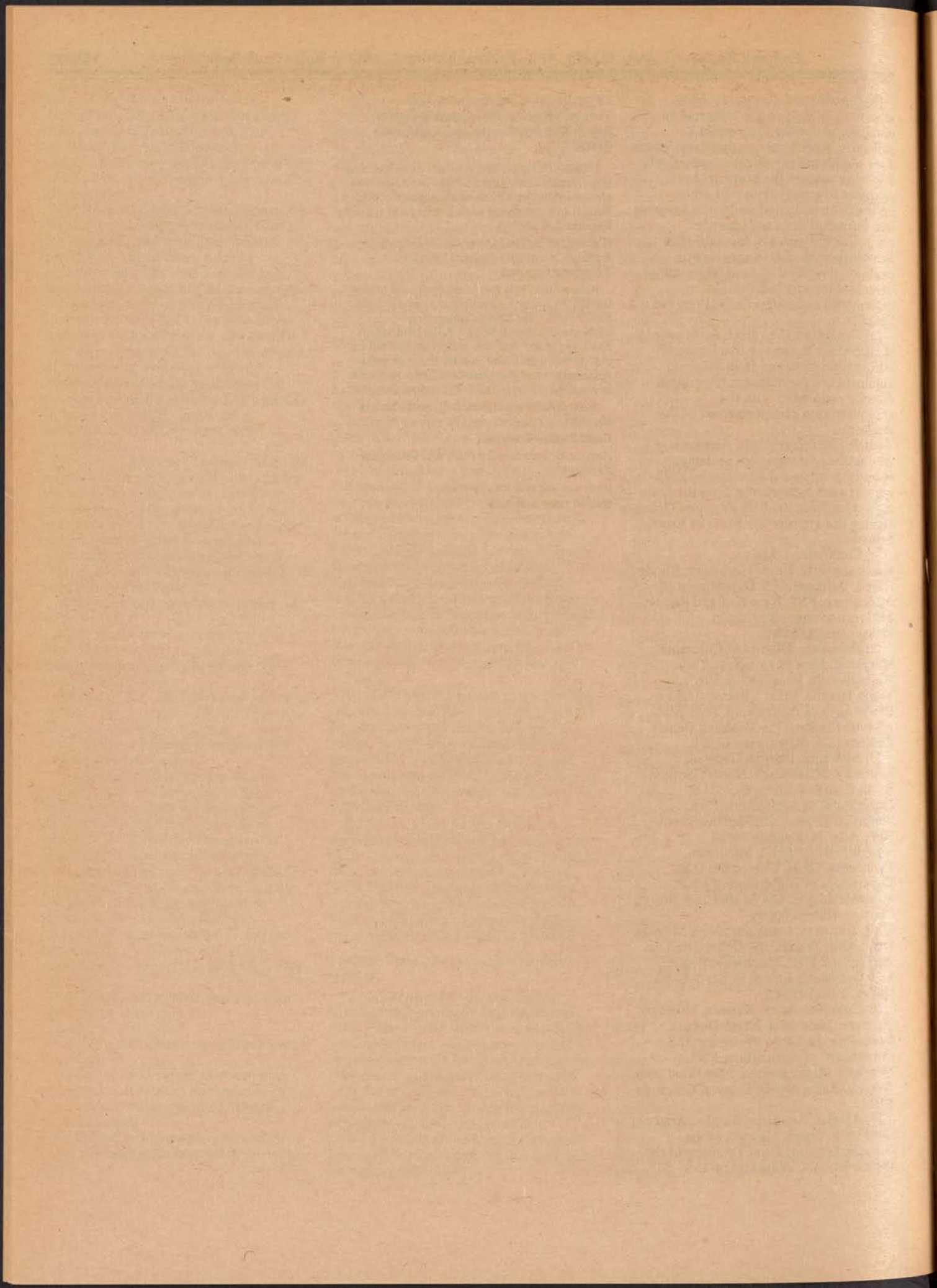
Signed At Washington, D.C., on February 29, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-6945 Filed 3-6-80; 8:45 am]

BILLING CODE 3410-30-M



federal register

**Friday
March 7, 1980**

Part IV

Federal Election Commission

**Amendments to Federal Election
Campaign Act of 1971**

FEDERAL ELECTION COMMISSION**11 CFR Parts 100-115, 9008**

[Notice 1980-8]

Amendments to Federal Election Campaign Act of 1971; Regulations Transmitted to Congress**AGENCY:** Federal Election Commission.**ACTION:** Transmittal of Regulations to Congress.

SUMMARY: FEC Regulations relating to the Federal Election Campaign Act, Pub. L. 96-187, January 8, 1980, 93 Stat. 1339-69, have been written and transmitted to Congress pursuant to Pub. L. 96-187, Title III, section 303, January 8, 1980, 93 Stat. 1368-69. The amendments were proposed by the Committee on House Administration of the House of Representatives (H.R. 5010) to simplify the recordkeeping, reporting and disclosure requirements of the Act, to increase the role of State and local political parties in campaigns, to reduce the procedural requirements of the enforcement process and for other purposes. Further information on the intended effect of the proposed regulations is contained in the supplementary information below.

Pub. L. 96-187, title III, section 303 requires the Commission to transmit to the Congress prior to February 29, 1980 proposed rules and regulations prescribed by the Commission to implement the provisions and amendments made by Act. If neither House of Congress disapproves of the regulations within 15 legislative days after their receipt, the Commission may finally prescribe the regulations in question. The following regulations were transmitted to Congress on February 28, 1980.

DATE: Further action, including the announcement of an effective date and deletion of existing regulations in affected parts of 11 CFR will be taken by the Commission after these regulations have been before Congress for 15 legislative days in accordance with Pub. L. 96-187, title III, section 303.

The Administrative Procedure Act, at 5 U.S.C. 553(d)(3), provides that a substantive rule become effective not less than 30 days after publication, except as otherwise provided by the agency for good cause found and published with the rule.

It is possible that the 15 legislative day review period will expire in fewer than 30 calendar days from the date of publication of these regulations. Because the 1979 Amendments are already in effect and the 1980 election campaigns

are already underway, it is essential that these regulations take effect as soon as possible to provide guidance to candidates and committees for compliance with the new requirements of the FECA. The Commission, in accordance with 2 U.S.C. 553(d)(3), finds good cause for waiving the 30 calendar day period of the APA and intends to finally prescribe these regulations as soon as possible following either Congressional approval or the expiration of the 15 legislative day review period.

FOR FURTHER INFORMATION, CONTACT: Ms. Patricia A. Fiori, Assistant General Counsel, 1325 K Street, NW, Washington, DC 20463 (202-523-4143).

Explanation and Justification of Regulations Concerning January 8, 1980 Amendments to Federal Election Campaign Act of 1971**Part 100—Scope and Definitions****§ 100.1 Scope.**

This subchapter is issued by the Federal Election Commission to implement the Federal Election Campaign Act of 1971 (Pub. L. 92-225), as amended by Pub. L. 93-443, Pub. L. 94-283, Pub. L. 95-216 and Pub. L. 96-187.

§ 100.2 Election.

These definitions follow current regulation 11 CFR 100.6.

§ 100.3 Candidate.

Subsections (a) (1) and (2) follow 2 USC 431(2) (A) and (B), which establish the \$5,000 threshold for becoming a candidate.

Subsection (a)(3) of this definition generally follows the disavowal requirement of current regulation 11 CFR 100.2(c), except that the \$5,000 threshold is incorporated.

Subsection (a)(4) adds to the statutory definition by providing that all contributions received or expenditures made by an individual or his or her committees will be aggregated toward the \$5,000 threshold. Thus, for example, if an individual receives \$2,000 in contributions and his or her committees receive \$3,001, that individual will become a candidate under the Act. If all contributions or expenditures were not aggregated in this manner, the \$5,000 threshold could be circumvented.

Subsection (b) defines the election cycle during which contributions or expenditures are aggregated for purposes of determining whether an individual is a candidate. This time frame begins on the day following the previous general election for the office

the candidate seeks and ends on the date when the general election for that office is held. However, where an individual receives contributions or makes expenditures designated for another election cycle, then the election cycle begins when the individual first receives contributions or makes expenditures in connection with the designated election. The establishment of this time frame is necessary to prevent the aggregation of an individual's campaign receipts or expenditures over several different election periods.

§ 100.4 Federal office.

This definition follows 2 USC 431(3).

§ 100.5 Political committee.

Subsections (a), (b) and (c) of this definition follow 2 USC 431(4) (A), (B) and (C).

Subsection (d) adds to the statutory definition and provides that when an individual becomes a candidate by exceeding the \$5,000 threshold, his or her principal campaign committee and authorized committees become political committees. Absent this provision, an individual's authorized committees would become political committees upon reaching the \$1,000 threshold even though the individual would not become a candidate until reaching the \$5,000 threshold.

Subsection (e) follows current regulation 11 CFR 100.14(a), subsection (f) follows current regulation 11 CFR 100.14(b), and subsection (g) follows current regulation 11 CFR 100.14(c).

§ 100.6 Connected organization.

Subsection (a) follows current regulation 11 CFR 100.15.

Subsections (b) and (c) add to the statutory definition and reflect language found in H.R. Rep. No. 96-422, 96th Cong., 2d Sess. (1979) (hereinafter referred to as House Report 96-422) at page 6, as follows:

Subsection (b) provides that where an entity such as a trade association establishes a political committee, member organizations of the trade association would not in turn be regarded as connected organizations of the political committee.

Subsection (c) makes it clear that an entity which makes contributions to a political committee does not become a connected organization of that committee. Rather, only an entity that pays for the establishment, administration or solicitation costs of the committee will be regarded as a connected organization.

§ 100.7 Contribution.

Subsection (a)(1) follows 2 USC 431(8)(a)(i).

Subsections (a)(1)(i) (A)-(C) clarify the relationship between the terms "loan" and "contribution." Under subsection (A), no loan may exceed the contribution limitations, regardless of whether or not it is repaid.

Subsection (B) provides that a loan is a contribution at the time it is made and for such time and to the extent that it remains unpaid. Thus, any contributions made by an individual must be added to the balance of all unpaid loans and any other contributions made by that individual from that individual to determine whether he or she has exceeded the contribution limitations.

Subsection (C) makes it clear that a loan is a contribution by each endorser or guarantor. Where a written agreement sets forth the amount of an endorser's or guarantor's liability for the loan, then he or she is deemed to have contributed that amount. Similarly, where there is a written agreement, any reduction in the unpaid balance of the loan reduces the amount guaranteed by each endorser or guarantor in accordance with the terms of such agreement. In the event that the written agreement does not state the amount of the loan for which each is liable, then the loan is reduced proportionately among the total number of endorsers or guarantors.

Subsection (D) was added to make it clear that where a political committee makes a loan to any person, the repayment of the loan shall be subject to the provisions set forth at 11 CFR Parts 110 and 114. Similarly, payment of interest on such a loan is not a contribution to the extent that it has not exceeded a commercially reasonable rate prevailing at the time the loan was made.

Subsection (a)(1)(ii) follows current regulation 11 CFR 100.4(a)(1)(i).

Subsections (a)(1)(iii) (A) and (B) essentially follow current regulations 11 CFR 100.4(a)(1)(iii) (A) and (B) (1)-(2), respectively.

Subsection (a)(2) follows current regulation 11 CFR 100.4(a)(2) and makes it clear that the entire amount paid to purchase a ticket to a fundraising or other political event is a contribution. For example, the entire amount paid to attend a fundraising dinner, including the amount paid for the cost of a meal, is a contribution. Subsection (a)(2) also adds to current regulations by specifying that the entire amount paid for a fundraising item is a contribution. This addition follows Commission policy with regard to the purchase of

fundraising items, such as watches, etc. (See AO 75-15).

Subsection (a)(3) follows 2 USC 431(8)(A)(ii).

Subsection (a)(4) follows current regulation 11 CFR 100.4(a)(1)(iii)(B)(6).

§ 100.7(b).

This subsection sets forth numerous activities which are excluded from the definition of contribution.

Subsection (b)(1) essentially follows current regulation 11 CFR 100.4(b)(1). In addition, this subsection makes it clear that funds received or payments made in order to amass campaign funds to be spent after the individual becomes a candidate fall within the definition of contribution. Also, funds received or payments made for general public political advertising fall within the definition of contribution.

Subsection (b)(2) follows current regulation 11 CFR 100.4(b)(8).

Subsection (b)(3) follows 2 USC 431(8)(B)(i).

Subsections (b) (4), (5) and (6) essentially follow 2 USC 431(8)(B)(ii) with the following amplifications.

Subsection (b)(4) incorporates language in House Report 96-422 at page 7, which expands the definition of residential premises to include a recreational room in an apartment complex.

Subsections (b) (4) and (5) add the proviso that such a recreational, church or community room must be available for use without regard to political affiliation.

Subsections (b) (4) and (5) further make it clear that the mere payment of a nominal fee for the use of the room which is not commensurate with its rental value does not constitute a contribution.

Subsection (b)(7) follows 2 USC 431(8)(B)(iii).

Subsection (b)(8) follows 2 USC 431(8)(B)(iv). This subsection reflects a change in the statute by expanding the travel payment exemption to encompass all individuals. House Report 96-422 at page 8 makes it clear that this travel expense exemption applies not only to individuals who volunteer their personal services (as provided under current regulation 11 CFR 100.7(b)(6)), but extends as well to individuals who are being paid by a candidate or party committee.

Subsection (b)(9) essentially follows 2 USC 431(8)(B)(v) regarding the payment by State and local party committees of costs incurred with respect to printed slate cards, sample ballots, etc. Language from House Report 96-422 at page 8 is incorporated by providing that the portion of the costs allocable to

federal candidates must be paid from funds subject to the Act's limitations and prohibitions. If made by a party committee which qualifies as a political committee, such payments must be reported as disbursements but need not be allocated to specific candidates.

Subsection (b)(10) follows 2 USC 431(8)(B)(vi).

Subsection (b)(11) regarding loans made by lending institutions in the ordinary course of business generally follows 2 USC 431(8)(B)(vii). In addition, this subsection incorporates language from House Report 96-422 at page 8 and provides that an overdraft is to be considered a contribution by the lending institution unless it is made on an account subject to automatic overdraft protection and to a definite and customary interest rate and repayment schedule.

Subsection (b)(12) follows 2 USC 431(8)(B)(viii) and provides reporting requirements for donations toward construction costs of office facilities. Such donations are to be reported only if they are made directly to a political committee. However, if the donations are made to a separate entity or committee which is not a political committee under the Act and which is established solely to receive and disburse such donations, no reporting is required.

Subsections (b) (13) and (14) concerning the provision of legal or accounting services follow 2 USC 431(8)(B)(ix) and current regulation 11 CFR 100.4(b) (11) and (12).

Subsection (b)(15) follows and clarifies the provisions of 2 USC 431(8)(B)(x) regarding the exclusion of payments made by State or local party committees for campaign materials, such as pins, bumper stickers and handbills, used in connection with volunteer activities, as follows:

Subsection (b)(15)(i) defines the term "direct mail" (see 2 USC 431(8)(B)(x)(1)) as any mailing made by a commercial vendor or from commercial lists. This definition is intended essentially to follow the definition of "direct mail" as it appears in House Report 96-422 at page 10. Thus, mailings by a commercial vendor or from commercial lists would not be included under this exemption. The term "commercial lists" refers generally to lists that were not developed by the State or local party committee, that is, to lists developed by a commercial vendor or lists purchased or obtained by such committee, except where the lists are obtained from a public office, such as voter registration lists obtained from a Secretary of State. Mailings from lists developed by a State or local committee are permissible.

Examples of lists developed by a committee are lists of contributors to a committee, lists of volunteers who have worked for the committee and lists developed as a result of substantial volunteer activity on behalf of the committee.

Subsection (b)(15)(iii) reflects language in House Report No. 96-422 at page 9 to the effect that a contribution shall not be considered "designated" (see 2 USC 431(8)(B)(x)(3)) where the party committee disbursing the funds makes the final decision regarding its use.

Subsection (b)(15)(iv) incorporates language from House Report No. 96-422 at page 9 and provides that payments by a State or local party committee for travel and subsistence or customary token payments to volunteers do not alter their volunteer status.

Subsection (b)(15)(v) makes it clear that such payments, if made by a committee which qualifies as a political committee under the Act, must be reported by the committee as disbursements but need not be allocated to specific candidates.

Subsection (b)(15)(vi) makes it clear that payments by a State candidate for his or her share of expenses for such campaign materials are not contributions so long as the amount paid does not exceed the State candidate's proportionate share of the expenses.

Subsection (b)(15)(vii) follows House Report 96-422 at page 9 and provides that campaign materials which are purchased by a national party committee for use by a State or local committee do not qualify under this exemption. Similarly, this subsection also provides that materials purchased through the use of funds donated by a national committee for the purchase of such materials do not qualify under this exemption. Rather, the costs of these materials are subject to 2 USC 441a(d) and 11 CFR 110.7 regarding party committee expenditure limitations.

Subsection (b)(16) follows 2 USC 431(8)(B)(xi) and, in addition incorporates the definition of "direct mail" from House Report 96-422, at page 10. For the purposes of this section, the term "direct mail" means mailings by commercial vendors or mailings made from lists not developed by the candidate. A mailing by a candidate from a list of contributors to his or her campaign, a list of individuals who had volunteered to work for his or her campaign or other types of lists developed by the candidate would not be considered direct mail.

Subsection (b)(17) basically follows the provisions of 2 USC 431(8)(B)(xii) concerning the payment by State or

local party committees of costs of voter registration activities.

Subsection (b)(17)(i) defines "direct mail" in the same way it is defined under 11 CFR 100.7(b)(15)(i).

Subsection (b)(17)(iii) incorporates language contained in House Report No. 96-422 at page 9, which states that a contribution shall not be considered "designated" where the party committee disbursing the funds makes the final decision as to its use.

Subsection (b)(17)(iv) incorporates language from House Report No. 96-422 at page 10, which provides that if voter registration activities by State or local party committees on behalf of presidential and vice presidential nominees include references to candidates for the House or Senate as well, the costs attributable to the House or Senate candidates would be considered contributions by the State or local party committees. If, however, the reference to the House or Senate candidates is merely incidental to the overall activity, then such incidental mention would not be considered a contribution to such candidates.

Subsection (b)(17)(v) incorporates language found in House Report No. 96-422 at page 10, concerning phone banks. When phone banks are operated by volunteers in connection with voter registration and get-out-the-vote activities, the payment of costs incurred in the use of such phone banks is not a contribution. Any payment incurred in the use of paid professionals to design the phone bank system, develop calling instructions and train supervisors is not a contribution, but, if made by a political committee must be reported as a disbursement.

Subsection (b)(17)(vii) provides that if payments for voter registration and get-out-the-vote activities are made from funds donated for that purpose to a State or local party committee by a national committee, such payments are not exempt. House Report 96-422 at page 9, makes it clear that campaign materials purchased by a national party committee and given to a State or local committee do not qualify for the exemption at 2 USC 431(8)(B)(x). This subsection extends the same rationale to payments made for voter registration and get-out-the-vote activities where the national committee donates funds to the State or local committee for such activities.

Subsection (b) (18) and (19) follow 2 USC 431(8)(B)(xiii) and (xiv), respectively.

Subsection (b)(20) follows current regulation 11 CFR 100.4(b)(15).

§ 100.7(c).

This section incorporates established Commission policy into the regulations and provides that any contributions or payments made by a married individual shall not be attributed to that individual's spouse unless otherwise specified by that individual or by his or her spouse.

§ 100.8 Expenditure.

Subsection (a) and (a)(1) follow 2 USC 431(9)(A)(i).

Subsections (a)(1) (i) and (ii) follow current regulation 11 CFR 100.7(a)(1)(i)(A)-(C).

Subsection (a)(1)(iii) follows current regulation 11 CFR 100.7(a)(1)(ii).

Subsection (a)(1)(iv)(A) essentially follows current regulation 11 CFR 100.7(a)(1)(iii).

Subsection (a)(1)(iv)(B) follows current regulations 11 CFR 100.7(a)(1)(iii)(A)-(B).

Subsection (a)(2) follows 2 USC 431(9)(A)(ii) and makes the additional clarification that such an agreement is considered an expenditure as of the date the contract, promise or obligation is made.

Subsection (a)(3) follows current regulation 11 CFR 100.7(a)(4).

§ 100.8(b).

This section sets forth numerous activities which are excluded from the definition of expenditure. The regulations under this section essentially follow the statutory language, the current regulations, or the proposed regulations pertaining to exclusions from the definition of "contribution" as discussed above.

Subsection (b)(1) follows proposed regulations at 11 CFR 100.7(b)(1).

Subsection (b)(2) follows 2 USC 431(9)(B)(i) and current regulation 11 CFR 100.7(b)(3).

Subsection (b)(3) follows 2 USC 431(9)(B)(ii) and current regulation 11 CFR 100.7(b)(4).

Subsection (b)(4) follows 2 USC 431(9)(B)(iii).

Subsection (b)(4)(i) follows current regulation 11 CFR 100.7 (b)(5)(i).

Subsection (b)(4)(ii) follows current regulation 11 CFR 100.7 (b)(5)(ii).

Subsection (b)(4)(iii) follows current regulation 11 CFR 100.7 (b)(5)(iii).

Subsections (b)(4)(iii)(A)(1)-(2) follow current regulations 11 CFR 100.7(b)(5)(iii)(A)(1)-(2).

Subsections (b)(4)(iii)(B)(1)-(4) follow current regulations 11 CFR 100.7(b)(5)(iii)(B)(1)-(4).

Subsection (b)(4)(iii)(C) follows current regulations 11 CFR 100.7(b)(5)(iii)(C).

Subsection (b)(4)(iii)(D) follows current regulations 11 CFR 100.7(b)(5)(iii)(D).

Subsections (b)(4)(iv)-(vii) follow current regulations 11 CFR 100.7(b)(5)(iv)-(vii), respectively.

Subsections (b)(5), (6), and (7) essentially follow current regulations 11 CFR 100.7(b)(6) and (7).

Subsection (b)(8) was added to reflect the addition of its parallel provision under "contribution" at 11 CFR 100.7(b)(7).

Subsection (b)(9) follows current regulations 11 CFR 100.7(b)(8) and (10) and incorporates the new \$1,000 and \$2,000 limitations established in its counterpart provision under "contribution" at 11 CFR 100.7(b)(8).

Subsections (b)(10) and (11) essentially follow 2 USC 431(9)(B)(iv) and (v). In addition, subsection (b)(10) incorporates the provisions concerning the portion of costs allocable to Federal candidates found in the parallel provision under "contribution" at 11 CFR 100.7(b)(9).

Subsection (b)(12) basically follows current regulation 11 CFR 100.7(b)(16) and incorporates those additional provisions of its counterpart provision under "contribution" at 11 CFR 100.7(b)(11).

Subsection (b)(13) was added to reflect the addition of its parallel "contribution" provision at 11 CFR 100.7(b)(12).

Subsections (b)(14) and (15) follow 2 USC 431(9)(b)(vii)(I) and (II) and incorporate the language regarding partnerships found in their parallel provisions at 11 CFR 100.7(b)(13) and (14). In addition, subsection (b)(15) makes it clear that expenditures for legal or accounting services by a candidate certified to receive public funds under 11 CFR Parts 143 or 9034 do not count against the candidate's expenditure limitations.

Subsections (b)(16)(i)-(iii) essentially follow 2 USC 431(9)(B)(viii)(1)-(3), respectively, and incorporate the additions made to their parallel provisions under "contribution" at 11 CFR 100.7(b)(15)(i)-(iii). In addition, subsections (b)(16)(iv)-(vi) were inserted to reflect the additions made at 100.7(b)(15)(iv)-(vi).

Subsection (b)(17) was added to reflect the addition of a parallel provision under "contribution" at 11 CFR 100.7(b)(16).

Subsections (b)(18)(i)-(vi) follow 2 USC 431(9)(B)(ix)(1-3) and incorporate those additions made to the parallel provisions under "contribution" at 11 CFR 100.7(b)(17)(i)-(vi).

Subsection (b)(19) follows 2 USC 431(9)(B)(x).

Subsection (b)(20) follows current regulation 11 CFR 100.7(b)(17).

Subsections (b)(21), (21)(i) and (ii) follow current regulations 11 CFR 100.7(b)(13)(i)-(iii).

Subsection (b)(22) follows current regulation 11 CFR 100.7(b)(10).

Subsection (c) was added to reflect the addition of its counterpart provision under "contribution" at 11 CFR 100.7(c).

§§ 100.9-100.18.

These definitions follow 2 USC §§ 431(10)-(19), respectively. Section 100.14(b) additionally incorporates current regulation 11 CFR 100.19(b).

§ 100.19. File, filed or filing.

This definition follows current regulation 11 CFR 100.9.

§ 100.20 Occupation.

This definition follows current regulation 11 CFR 100.11.

§ 100.21 Employer.

This section makes it clear that the term "employer" means the name of the organization by which an individual is employed and not the name of the individual's supervisor.

Part 101 Candidate Status and Designations.

§ 101.1 Candidate designations.

Subsections (a) and (b) generally follow 2 USC 432(e)(1). In addition, subsection (a) incorporates language in House Report 96-422 at page 12 and sets forth registration procedures to be followed by principal campaign committees and the Commission.

§ 101.2 Candidate as agent of authorized committee.

Subsection (a) follows 2 USC 432(e)(2). Under subsection (b), once an individual becomes a candidate, he or she will be deemed to have acted as an agent of his or her authorized committees in receiving funds, obtaining loans or making disbursements in connection with the campaign prior to becoming a candidate.

§ 101.3 Funds received or expended prior to becoming a candidate.

This subsection clarifies the agency principle set forth in subsection 101.2. Funds received or expended by an individual prior to becoming a candidate, which were used in connection with that individual's election campaign, are subject to the limitations and prohibitions of the Act. As these funds and payments must be reported by the individual after candidate status is attained, such individual should keep accurate records

of all such funds received and payments made. All funds received which violate the provisions of the Act must be refunded within 10 days from the date on which the individual attains candidate status.

Part 102—Registration, Organization and Recordkeeping by Political Committees.

§ 102.1 Registration of political committees.

Subsections (a)-(d) generally follow 2 U.S.C. 433(a) and 432(f) (1) and (2). In addition, subsection (c) makes it clear that a fund established solely for the purpose of financing State or local elections is not required to file a Statement of Organization with the Commission.

§ 102.2 Statement of organization: Forms and committee identification numbers.

Subsections (a)(1)(i)-(vi) generally follow 2 U.S.C. 433(b)(1)-(6), respectively. To insure that communications from the Commission reach the appropriate person, subsection (a)(1)(v) adds the requirement that the authorized committee also include the address to which communications should be sent.

Subsection (a)(2) generally follows 2 U.S.C. 433(c) and current regulation 11 CFR 102.3.

Subsections (b)(1)(i) and (b)(1)(ii)(A)-(B) generally follow current regulations 11 CFR 102.2(b)(1)(i) and (b)(1)(ii)(A)-(B), respectively.

Subsection (b)(1)(ii)(C) incorporates the committee identification number procedure set forth in current regulation 11 CFR 102.5.

Subsection (b)(2) follows current regulation 11 CFR 102.2(b)(2).

§ 102.3 Termination of registration.

Subsections (a) and (b) essentially follow current regulation 11 CFR 102.4 (a) and (b), respectively.

§ 102.4 Administrative termination.

This subsection sets forth procedures to implement 2 U.S.C. 433(d)(2) which provides the Commission with authority to terminate a committee's reporting obligations. See also House Report 96-422 at page 15.

§ 102.5 Organizations financing political activity in connection with Federal and non-federal elections, other than through transfers and joint fundraisers.

Subsection (a) basically tracks current regulations at 11 CFR 102.6. It sets forth requirements for organizations which finance political activity in connection with both federal and non-federal

elections where those organizations qualify as political committees under the Act. Such organizations must either (1) establish a separate account for federal activity that accepts only funds subject to the limitations and prohibitions of the Act; or (2) establish one committee to conduct both federal and non-federal activity, which committee may accept only funds subject to the limitations and prohibitions of the Act.

Subsection (b) deals with organizations which finance both federal and non-federal election activity, but which do not qualify as political committees under the Act. Such organizations must demonstrate through a reasonable accounting method that their federal activity is financed with funds subject to the limitations and prohibitions of the Act. Upon request, the committee must supply the Commission with records which will demonstrate compliance with subsection (b).

§ 102.6 Transfers and joint fundraisers.

Subsection (a) provides that transfers of funds may be made without limit between affiliated committees, whether or not they are political committees. For example, a committee established by a labor organization for State and local election activity may transfer funds to any political committee established by the labor organization or by any local unit of that labor organization. Similarly, a committee established by a corporation for State and local election activity may transfer funds to any political committee established by the corporation or by any of its subsidiaries, branches, divisions or departments. These transfers apply toward the thresholds for determining whether the committee becomes a political committee under the Act. Hence, if a committee established by a corporation or labor organization for State or local activity transferred any amount (other than transfers under 11 CFR 102.6(b)) to an affiliated political committee such committee would become a political committee under the Act.

With regard to party committees, subsection (a) provides that transfers of funds may be made without limit between any party committees, regardless of whether or not they are political committees or of whether or not they are affiliated. These transfers would apply toward the threshold in determining whether such committees become political committees under the Act.

Subsection (b) deals with the transfer of contributions collected by a committee which is not a political committee under the Act in joint

fundraising with or as a fundraising agent for an affiliated political committee. In transferring such contributions, a committee which is not a political committee under the Act may either: (1) establish a transmittal account for transferring contributions; (2) transmit the contributions by money order, cashier's check or similar instrument without depositing them in any account; or (3) for collections through joint fundraising or a check-off plan, deposit such contributions in its account and subsequently transfer them to the political committee with which it is affiliated. A committee which deposits contributions into its account prior to making a transfer must keep detailed records of the contributions, deposits and transfers.

Past Commission policy has been to require such committees to establish a transmittal account when engaging in joint fundraising with or when acting as a fundraising agent for a political committee. An exception was created for contributions collected through check-off plans. (See AO 78-42 and 78-98.) The proposed regulations effect a change in Commission policy by permitting contributions collected in joint fundraising to be deposited into a committee's account prior to their transfer to a political committee. This change is based on the legislative history of Public Law 96-187. During debate on H.R. 5010, both Senator Pell and Representative Thompson stated that under the new amendments a committee which is established for non-federal election activity need not establish a separate account when transferring contributions collected in joint fundraising with an affiliated political committee. (125 Cong. Rec. S19,099 (daily ed. December 18, 1979) (remarks of Senator Pell); 125 Cong. Rec. H12,365 (daily ed. December 20, 1979) (remarks of Representative Thompson)).

§ 102.7 Organization of political committee.

Subsection (a) follows the amendment made by 2 U.S.C. 432(a), in that a committee is only required to have a treasurer, and in addition permits the designation of an assistant treasurer as set forth in current regulation 11 CFR 102.7(b)(2).

Subsections (b) and (c) follow 2 U.S.C. 432(a) and current regulation 11 CFR 102.7(d).

Subsection (d) incorporates the provisions of 2 U.S.C. 432(e)(2) and proposed regulation 11 CFR 101.2(a) so as to make it clear that a candidate who receives contributions or makes disbursements in connection with his or her campaign shall be deemed to do so

as an agent of his or her authorized committee(s).

§ 102.8 Receipt of contributions.

Subsections (a) and (b)(1)-(2) basically follow 2 U.S.C. 432(b)(1) and (2)(A)-(B), respectively, and further impose the duty on every person receiving contributions in excess of \$200 to forward the identification of the contributor to the treasurer together with the contribution. Absent such a duty, the treasurer would be unable to keep an account of the identification of such contributors as required by 2 U.S.C. 432(c)(3) in situations where someone other than the treasurer received the contribution.

Similarly, subsection (c) was added to clarify the situation where an intermediary or conduit receives earmarked contributions. Under this subsection, all duties imposed upon those receiving contributions apply to intermediaries and conduits as well. In addition, this subsection makes it clear that the date of receipt of a contribution is the date on which the treasurer or any other person acting on behalf of a committee obtains possession of such contribution.

§ 102.9 Accounting for contributions and expenditures.

Subsections (a) and (b) basically follow 2 U.S.C. 432(c). Subsection (b)(1)(iv) clarifies the meaning of the term "purpose" of the disbursement as used in 2 U.S.C. 432(c)(5) to require a brief description of why the disbursement was made and cites to 11 CFR 104.3(b)(3)(i)(A) for examples of descriptions which would or would not satisfy this requirement.

Subsection (b)(2) essentially follows those provisions of 2 U.S.C. 432(c)(5) concerning documentation for disbursements in excess of \$200. This subsection also sets forth documentation requirements for disbursements made by cash advance, share draft or check drawn on a credit union account, and for credit card transactions, to provide adequate notice to those committees using such methods of disbursements.

Subsection (c) essentially follows 2 U.S.C. 432(d).

Subsection (d) incorporates language from House Report 96-422, p. 14, and details more specific procedures to be followed by the treasurer in satisfying the "best efforts" test set forth in 2 USC 432(i). Unless the treasurer has made at least one written effort per transaction to obtain a duplicate copy of the receipt, invoice or cancelled check, he or she will not be deemed to have exercised his or her best efforts to comply with the

Act's recordkeeping requirements. Recordkeeping requirements for receipts, invoices and cancelled checks are extremely important. Without such documentation, it would be impossible to verify how contributions received by a committee are spent.

Subsection (e) follows current regulation 11 CFR 101.2(d). It should be noted that the procedure set forth in subsection (e) is necessary only where contributions from one contributor exceed \$1,000.

§ 102.10 Disbursement by check.

This section generally follows 2 USC 432(h)(1).

§ 102.11 Petty cash fund.

This section essentially follows 2 USC 432(h)(2).

§ 102.12 Designation of principal campaign committee.

Subsection (a) essentially follows 2 USC 432(e)(1).

Subsection (b) follows current regulation 11 CFR 102.11(b).

Subsection (c)(1) follows 2 USC 432(e)(3)(A)(i).

Subsection (c)(2) follows 2 USC 432(e)(3)(B).

§ 102.13 Authorization of political committees.

Subsections (a) and (b) generally follow current regulations 11 CFR 102.12 (a) and (b).

Subsections (c) (1) and (2) essentially follow 2 USC 432(e)(3)(A)(ii) and (e)(3)(B), respectively. In addition, subsection (c)(2) incorporates the language in House Report 96-422 at page 13 as set forth above regarding a national political party committee which has been designated the principal campaign committee of its Presidential candidate.

§ 102.14 Name of political committees.

Subsection (a) follows 2 USC 432(e)(4).

Subsection (b) (1) and (2) clarify requirements for naming delegate and draft committees. A delegate committee must include the word "delegate(s)" in its name and may also include the name of the presidential candidate it supports. Similarly, a committee established solely to draft a candidate may include the individual's name, provided that the committee's name also clearly indicates that it is a draft committee.

Subsection (c) follows 2 USC 432(e)(5) regarding names of separate segregated funds but also incorporates language from the House Report 96-422 at page 13. A fund may use a clearly recognized abbreviation or acronym by which its

connected organization is commonly known, so long as both its full name and such abbreviation or acronym are included on all required disclosure statements and on all advertisement and solicitation notices. The fund may make contributions in its acronym or abbreviation. While a newly formed labor organization or corporation may not have an acronym or abbreviation with which the public is familiar, the fund of such an organization may use an acronym or abbreviation by which the organization intends to be known. If a corporation with a number of subsidiaries establishes a fund, the fund will not have to include the name of each subsidiary in its name. By the same token, a fund established by a subsidiary is not required to include in its name the name of its parent or another subsidiary of its parent.

§ 102.15. Commingled funds.

This section follows 2 USC 432(b)(3).

§ 102.16. Notice: Solicitation of contribution.

This section was inserted to make it clear that political committees must comply with the notice requirements set forth at 2 USC 441d.

Part 103—Campaign Depositories

§ 103.1 Notification of the Commission.

This section follows current regulations at 11 CFR 103.1.

§ 103.2 Depositories.

This section follows those provisions of 2 USC 432(b)(1) and 432(h)(1) which expanded the permissible types of campaign depositories. In addition, it incorporates the provisions of current regulation 11 CFR 103.2 which permits the establishment of one or more depositories in one or more States and one or more accounts per depository.

§ 103.3 Deposit of receipts and disbursements.

This section follows 2 USC 432(h) (1) and (2) and current regulation 11 CFR 103.3.

§ 103.4 Vice Presidential candidate campaign depository.

This section follows current regulation 11 CFR 103.4.

Part 104—Reports by Political Committees

§ 104.1 Scope.

This section generally follows 2 USC 434(a)(1) and in addition permits voluntary registration and reporting by an individual seeking federal office who has not yet attained candidate status

under the Act. Subsection (b) makes it clear that such an individual does not become a candidate solely by registering and reporting and the individual's committee need not file any reports until the individual becomes a candidate.

§ 104.2 Forms.

This section was added to standardize and clarify reporting formats. Subsection (e) specifies the appropriate FEC forms to be used by various types of reporting committees. Under subsection (d), a committee is permitted to use computer-produced schedules of receipts and disbursements for reporting purposes. However, the schedules must be reduced to the size of FEC forms and the Commission must have approved the proposed format prior to its use.

§ 104.3 Contents of reports.

This section generally follows 2 USC 434. The cash-on-hand requirement of subsection (a)(1) provides a starting point for each report. It requires the reporting of all cash-on-hand, in whatever form, as of the beginning of the reporting period. The section also requires the reporting of the total amount of receipts received during the reporting period.

Subsection (a)(2)(ii) specifies that contributions from all political party committees, including party committees which are not registered committees under the Act, must be reported. The Commission believes that it is important for public disclosure purposes that contributions from unregistered party committees be reported along with contributions from registered political party committees, rather than being reported as "contributions from persons other than political committees." For the same reason, subsection (a)(2)(iii) specified that contributions from committees which are not political committees under the Act must be reported along with contributions from political committees which are registered under the Act.

Under subsection (a)(4)(i), the threshold for itemizing contributions from persons other than committees has been increased from an aggregate amount in excess of \$100 to an aggregate amount in excess of \$200. Also, under subsection (a)(4)(v) and (a)(4)(vi) the threshold for identifying persons who provide a rebate, refund, or other offset to operating expenditures to the reporting committee, or who provide any dividend, interest, or other receipt, has been raised to \$200.

The reporting requirements for disbursements are similar to the reporting requirements for receipts. The threshold for the identification of

persons to whom disbursements are made has been increased to \$200 per disbursement.

Subsection (b)(3)(i)(A) explains the requirement for reporting the "purpose" of an expenditure, and sets forth examples of those statements and descriptions which will meet the requirements, as well as examples of those statements and descriptions which are unacceptable. The latter are illustrative of those descriptions which, in the Commission's view, would not provide sufficient public disclosure of how a committee used its funds.

Subsection (b)(3)(viii) adds the requirement that each person who receives an expenditure from the reporting committee in connection with an expenditure under 2 USC 441a(d) be identified by name and office sought, including the state and congressional district where applicable.

Subsection (c) provides for a summary of contributions and operating expenditures.

Subsection (d) requires disclosure of the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Included are loans obtained by an individual prior to becoming a candidate which are used in connection with the individual's campaign.

Pursuant to 2 USC 438(a)(4), subsection (e) was added to permit a political committee to submit ten (10) pseudonyms on each report filed in order to determine if the names and addresses of its contributors are being used to solicit contributions or for commercial purposes in violation of 11 CFR 104.5. The subsection also includes the proper method of reporting amounts attributed to pseudonyms. A list of such pseudonyms must be submitted to the Commission. In addition, a limitation is placed on the amount of contributions which may be attributed to a pseudonym. This provision is designed to prevent the possibility of pseudonyms becoming the subject of Commission compliance actions.

Subsection (f) explains the method by which a principal campaign committee files consolidated reports based on reports submitted to it by any authorized committees and the principal campaign committee's own report.

Subsection (g) requires the reporting on a separate schedule of any contributions received by a political committee to defray the costs of construction or the purchase of office facilities.

Subsection (h) requires that a committee which receives legal or accounting services report on a separate schedule the amounts paid for these

services by the regular employer of the persons providing such services, the date the services were performed and the name of the person performing such services.

§ 104.4 *Independent expenditures by political committees.*

The reporting requirements for political committees making independent expenditures is now wholly contained in this subsection, which includes instructions on where to file such reports, as well as requirements for reporting certain independent expenditures within 24 hours after they are made.

§ 104.5 *Filing dates.*

Subsection (a) generally follows 2 USC 434(a)(2) and (a)(8).

Subsection (b) generally follows 2 USC 434(a)(3).

Subsection (c) essentially follows 2 USC 434(a)(4) and clarifies the procedures to be followed by political committees who wish to change the frequency of their reporting and limits each committee to no more than one change in its filing status per calendar year.

Subsection (d) follows 2 USC 434(a)(10).

Subsection (e) generally follows 2 USC 434(a)(5) with the added clarification that when reports are sent by first class mail, they must be received by the required filing date.

Subsection (f) follows 2 USC 434(a)(6).

Subsection (g) generally follows the 24 hour reporting requirement for certain independent expenditures set forth in the last paragraph of 2 USC 434(c)(2).

Subsection (h) was added to incorporate 2 USC 434(a)(9).

§ 104.6 *Form and content of internal communication reports.*

Subsection (a) generally follows 2 USC 431(9)(B)(iii).

Subsection (b) generally follows 2 USC 434(a)(4)(A)(i)-(ii).

Subsection (c) incorporates well-established Commission practice regarding the specific information to be included in such reports.

§ 104.7 *Best efforts.*

This subsection incorporates language found in House Report 96-422 at page 14, which gives examples of procedures that may be followed by a treasurer in satisfying the "best efforts" test set forth at 2 USC 432(i). In determining whether or not a committee has exercised "best efforts," the Commission's primary focus will be on the system established by the committee for obtaining disclosure information. The main concern will be

whether the committee has in place a systematized method for complying with the Act's disclosure requirements. Under proposed regulation 11 CFR 104.3(a)(4), the treasurer of a political committee must report the identification of each person whose contributions to such committee and its affiliates aggregate in excess of \$200 per calendar year. The treasurer must make at least one effort, by clear written request or clear oral request contemporaneously documented in writing, to obtain identification information from the contributor. The request must also inform the contributor that the reporting of such information is required by law. The treasurer is provided with the option of making the request orally or in writing. Thus, he or she is given some latitude in deciding which type of request would be more effective in eliciting required information from the contributor. The requirement that the treasurer keep a written record of an oral request will assist in verifying that such a request was indeed made.

§ 104.8 *Uniform reporting of contributions.*

Subsections (a) and (b) were amended to conform to 2 USC 434(b)(3)(A). Subsection (a) also incorporates the provision of current regulation 11 CFR 104.5(a) regarding a change in the contributor's name. Subsection (b) adds to the statutory language by specifying procedures for the reporting of contributions received through a payroll deduction plan.

Subsections (c) and (d) follow current regulations 11 CFR 104.5(c) and (e), respectively.

§ 104.9 *Uniform reporting of expenditures.*

This section was amended to comply with 2 USC 434(b)(5)(A). In addition, the term "purpose" is defined as a brief statement or description of the reason for the disbursement. (See proposed regulation 11 CFR 104.3(b)(3).)

§ 104.10 *Allocation of expenditures among candidates.*

This section follows current regulation 11 CFR 104.7.

§ 104.11 *Continuous reporting of debts and obligations.*

This section follows current regulation 11 CFR 104.8, with the addition of the reporting requirements for those debts which were settled for less than their reported value, the authority for which is found at 2 USC 434(b)(8).

§ 104.12 *Beginning cash on hand for political committees.*

This section essentially follows current regulation 11 CFR 104.10.

§ 104.13 *Disclosure of receipt and consumption of in-kind contributions.*

This section generally follows current regulation 11 CFR 104.3.

§ 104.14 *Formal requirements regarding reports and statements.*

This section generally follows current regulation 11 CFR 104.12.

§ 104.15 *Sale or use restriction.*

This section essentially follows current regulation 11 CFR 104.13. It specifically states that the use of information copied from the FEC reports in newspapers, magazines, and similar communications is permissible so long as the principal purpose is not to communicate contributor information for any commercial purpose.

§ 104.16 *Audits.*

This section has been added to follow 2 USC 438(b).

§ 104.17 *Content of reports; Presidential and Vice Presidential committees.*

This section incorporates the effective dates provided in the footnote to 2 USC 431 and affords authorized committees of Presidential and Vice Presidential candidates for the 1980 elections the option of following the requirements set forth in proposed regulations 11 CFR 104.3 (a) and (b) or adhering to existing reporting procedures.

Part 105—Document Filing

§ 105.1 *Place of filing; House candidates, their principal campaign committees, and committees supporting only house candidates.*

This section follows current regulations at 11 CFR 105.1 and 105.4(a)(1).

§ 105.2 *Place of filing; Senate candidates, their principal campaign committees, and committees supporting only Senate candidates.*

This section follows current regulation at 11 CFR 105.2 and 105.4(a)(2).

§ 105.3 *Place of filing; Presidential candidates and their principal campaign committees.*

This section follows current regulation 11 CFR 105.3.

§ 105.4 *Place of filing; political committees and other persons.*

This section follows current regulation 11 CFR 105.4(b).

§ 105.5 *Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate.*

The two (2) day requirement for transmittal of records in subsection (a) follows 2 USC 432(g)(3) and subsections (b) and (c) follow current regulation 11 CFR 105.5 (a) and (b), respectively.

Part 106—Allocations of Candidate and Committee Activities

§ 106.1 *Allocation of expenditures among (or between) candidates and activities.*

This section follows current regulation 11 CFR 106.1 with the exception of the addition of subsection (c)(3). The addition of this subsection was necessary to make it clear that while payments made for get-out-the vote activities conducted by state and local party organizations on behalf of any Presidential or Vice Presidential candidates are exempt from the definition of expenditure (see 11 CFR 100.8(b)(18)), references to Congressional candidates, unless such references are incidental, are contributions to or expenditures on behalf of such candidates and a proportionate share of the costs will be allocated to such candidates.

§ 106.2 *Allocation of expenditures among states by candidates for Presidential nomination.*

This section essentially follows current regulation 11 CFR 106.2.

§ 106.3 *Allocation of expenses between campaign and non-campaign related travel.*

This section essentially follows current regulation 11 CFR 106.3.

§ 106.4 *Allocation of polling expenses.*

This section follows current regulation 11 CFR 106.4.

Part 108—Filing Copies of Reports and Statements With State Officers

§ 108.1 *Filing requirements.*

This section follows 2 USC 439(a)(1).

§ 108.2 *Filing copies of reports and statements in connection with the campaign of any candidate seeking nomination for election to the office of President or Vice President.*

This section follows current regulations 11 CFR 108.2 as amended by 2 USC 439(a) (1) and (2)(A) in that the requirement for committees of Presidential candidates to file reports pertaining to the general election with any Secretary of State has been

eliminated. See House Report 96-422 at page 25.

§ 108.3 *Filing copies of reports and statements in connection with the campaign of any congressional candidates.*

This section follows current regulation 11 CFR 108.3 and adds the amendment set forth at 2 USC 439(a)(2)(B) that political committees are only required to file and Secretaries of State are only required to keep that portion of each report applicable to candidates seeking election in that State.

§ 108.4 *Filing copies of reports by committees other than principal campaign committees.*

This section generally follows current regulation 11 CFR 108.4.

§ 108.5 *Time and manner of filing copies.*

This section generally follows current regulation 11 CFR 108.5.

§ 108.6 *Duties of state officers.*

This section has been amended to incorporate the changes made by 2 USC 439(b), which were intended to alleviate the burden on Secretaries of State. See House Report 96-422 at page 25.

§ 108.7 *Effect on state law.*

This section follows current regulation 11 CFR 108.7.

§ 108.8 *Exemption for the District of Columbia.*

This section follows current regulation 11 CFR 108.8.

Part 109—Independent Expenditures

§ 109.1 *Definitions.*

This section follows current regulation 11 CFR 109.1.

§ 109.2 *Reporting of independent expenditures by persons other than a political committee.*

This section has been amended to incorporate the changes set forth at 2 USC 434(c) (1) and (2) regarding reporting requirements for persons, other than a political committee, who make independent expenditures.

§ 109.3 *Non-authorization notice.*

This section generally refers to 11 CFR 110.11, which has been amended by 2 USC 441d. Such notice need not appear on the front face or page of the document. See 125 Cong. Rec. H12,366 (daily ed. December 20, 1979) (remarks of Congressman Thompson).

Part 110—Contribution and Expenditure Limitations and Prohibitions

§§ 110.1 through 110.5

These sections follow current regulations 11 CFR 110.1 through 110.5.

§ 110.6 Earmarked contributions.

This section follows current regulation 11 CFR 110.6, except that the contribution threshold for the reporting of the contributor's occupation and employer is raised to \$200.

§ 110.7 Party committee expenditure limitations.

This section follows current regulation 11 CFR 110.7, except that the provisions regarding limitations and allocations of expenditures by State and local party committees (110.7(b)(5) and 110.7(c)(2)(i)-(iii)) are deleted.

§§ 110.8 through 110.10

These sections follow current regulations 11 CFR 110.8 through 110.10.

§ 110.11 Communications; advertising.

This section essentially follows 2 USC 441d (a) and (b) and incorporates the exemption found in current regulation 11 CFR 109.4(a)(1) for small items upon which the disclaimer cannot be conveniently printed. The Act no longer requires that the notice be on the front page or face of any materials. See 125 Cong. Rec. H12,366 (daily ed. December 20, 1979) (remarks of Congressman Thompson).

§ 110.12 Honoraria.

This section was amended to reflect the 1977 Amendments to the Act (Pub. L. No. 95-216).

Subsection (a) was amended to include the guidelines set forth in the 1977 Amendments for determining the aggregate amount of honoraria accepted in a calendar year (2 USC 441i (c) and (d)).

Subsection (b)(5) has been amended to reflect the changes made in the definition of "accepted" by 2 USC 441i(b).

Subsection (b)(6) has been added to include the definition of "charitable organization" found in 2 USC 441i(b).

Part 111—Compliance Procedure

§ 111.1 Scope.

The compliance regulations provide procedures for processing possible violations of the Federal Election Campaign Act of 1971, as amended (2 USC 431, *et seq.*), the Presidential Primary Matching Payment Account Act, as amended (26 USC 9031, *et seq.*) and the Presidential General Election Campaign Fund Act, as amended (26

USC 9001, *et seq.*) (chapters 95 and 96 of the Internal Revenue Code of 1954). The procedures set forth below essentially follow 2 USC 437g and explain the steps by which the Commission exercises its power to investigate, conciliate and redress cases involving violations of those statutory provisions.

§ 111.2 Computation of time.

This section sets forth the rules for computing time to be followed in calculating the date when responses, notifications, *etc.* must be served under this Part. In accordance with House Report 96-422 at page 21, the provision of the Federal Rules of Civil Procedure which governs the calculation of time has been incorporated into this section.

§ 111.3 Initiation of compliance matters.

This section sets forth the two means by which the Commission may begin an enforcement proceeding.

§ 111.4 Complaints.

The manner for filing of complaints by members of the public alleging violations of the statutes within the Commission's jurisdiction is set forth in this section. Subsection (b) sets forth the statutory requirements with which a complaint must comply in order for the Commission to act upon it. A complaint is improper if it does not comply with this subsection, and shall not be acted upon by the Commission. Subsection (d) sets forth additional requirements which should be complied with in order to provide the Commission with sufficient information to address a complaint fully. The Commission may find that a complaint which does not comply with subsection (d) provides insufficient information, and for that reason, may vote to take no action on a complaint.

§ 111.5 Initial complaint processing.

This section sets forth the requirement that a respondent be notified within 5 days of receipt of a complaint. Subsection (b) provides that, in the case of a complaint which does not conform with the requirements of section 111.4(a), the Commission shall notify both the complainant and respondent within 5 days that no action will be taken on the basis of the improper complaint.

§ 111.6 Opportunity to demonstrate that no action should be taken on complaint-generated matters.

For any compliance matter initiated by the filing of a complaint, a respondent shall be given 15 days to respond in writing to the complaint

before the Commission takes any action other than dismissal of the complaint.

§ 111.7 General Counsel's recommendation on complaint-generated matters.

This section describes the first recommendations which the General Counsel may make to the Commission on a compliance matter initiated by the filing of a complaint.

§ 111.8 Internally generated matters; referrals.

This section sets forth the procedure for handling compliance matters initiated on the basis of information ascertained by the Commission in the normal course of its supervisory responsibilities. Referrals from other government agencies are also handled in this manner. The Commission may find reason to believe on such matters without waiting 15 days. If the Commission finds reason to believe, a copy of a staff report setting forth the factual and legal basis of the finding shall accompany the notification to the respondent as set forth in House Report 96-422 at page 22.

Subsection (c) sets forth the additional requirement of publishing the names of persons failing to file pre-election and quarterly disclosure reports due immediately prior to an election. Such names must be published before the Commission may find reason to believe the Act was violated.

§ 111.9 The reason to believe finding; notification.

If the Commission by 4 affirmative votes finds reason to believe in any compliance matter, the notification of such finding shall be signed by the Chairman and shall describe the alleged violation. Notification of any action which terminates the Commission's proceedings shall be made by the General Counsel.

§ 111.10 Investigation.

This section sets forth a general outline of the procedure for Commission investigations which occur after a finding of reason to believe. Review of reports and statements filed with the Commission may constitute an investigation.

§ 111.11 Written questions under oath.

This section sets forth the Commission's power to issue orders.

§ 111.12 Subpoenas and subpoenas duces tecum; depositions.

This section sets forth the Commission's power to issue subpoenas. Subsection (c) provides that

Rule 30(e) of the Federal Rules of Civil Procedure governs the review and signing of depositions. Thus, if a deponent does not expressly waive signature, he or she must sign a deposition within 30 days.

§ 111.13 Service of subpoenas, orders and notifications.

This section describes the proper manner of service of all Commission subpoenas, orders and notifications (including letters). In accordance with House Report 96-422 at page 21, this section tracks the Federal Rules of Civil Procedure for service. Subsection (b) provides that all service shall be made upon the attorney in any case in which a respondent has advised the Commission in writing of representation in accordance with 11 CFR 111.23. Subsection (c) describes proper service on individuals (natural persons) and subsection (d) describes proper service on other persons, such as organizations or corporations.

§ 111.14 Witness fees and mileage.

This section sets forth the requirements for witness fees for depositions. Witness fees must be tendered in advance or within a reasonable time after a deposition.

§ 111.15 Motions to quash or modify a subpoena.

This section provides persons subpoenaed an opportunity to request that the Commission quash or modify a subpoena. Such a motion must be filed within 5 days of receipt of the subpoena.

Subsection (c) provides that the General Counsel and a person subpoenaed may agree to change the place, date or time for a deposition or for production of documents without affecting the validity of the subpoena. Such agreements must be confirmed in writing by one of the parties.

§ 111.16 The probable cause to believe recommendation; briefing procedures.

This section describes the briefing procedures prior to a finding by the Commission of probable cause. If the General Counsel intends to recommend that the Commission vote on whether or not there is probable cause, he or she shall so advise the respondent and shall provide the respondent with a brief setting forth the factual and legal issues of the case. The respondent may submit a brief in response within 15 days of receipt of the General Counsel's brief.

Subsection (d) provides that after review of the respondent's brief, the General Counsel shall notify the Commission in writing if he or she intends to proceed with

recommendation in the General Counsel's brief. Upon receipt of this notification from the General Counsel, the Commission shall consider both briefs (if respondent files one) before it proceeds to a vote.

§ 111.17 The probable cause to believe finding; notification.

The General Counsel shall notify the respondent of a Commission finding of probable cause. If the Commission finds no probable cause or otherwise terminates its proceedings, the General Counsel shall so notify both the complainant and the respondent.

§ 111.18 Conciliation.

This section sets forth the conciliation procedures.

Subsection (d) makes clear that the Commission is not precluded from conciliating, upon request of a respondent, prior to entering into that mandatory conciliation period. For example, if, in the course of an investigation, and prior to any recommendation on probable cause, a respondent indicates in writing a desire to enter conciliation the Commission may enter into conciliation negotiations. Any such conciliation agreement reached without a finding of probable cause shall carry the same force and effect as an agreement reached after a finding of probable cause.

§ 111.19 Civil proceedings.

This section sets forth the procedure for authorizing the General Counsel to seek judicial relief in the event conciliation has failed. Subsection (c) makes it clear that the Commission may enter into a conciliation agreement even after it has authorized the filing of a civil action if a respondent seeks to conciliate instead of awaiting civil suit by the Commission.

§ 111.20 Public disclosure of Commission action.

This section provides that final Commission action on all compliance matters shall be made public no later than 30 days from notification of the respondent and the complainant of such final action. In addition, the Commission shall make public as soon as possible any signed conciliation agreement.

§ 111.21 Confidentiality.

This section sets forth the confidentiality requirements of the Act. Subsection (a) describes the confidentiality provision which governs the Commission's entire compliance proceeding until such time as a case is closed and the provisions of 11 CFR 111.20 apply. Subsection (b) describes

the additional confidentiality requirement which is applicable only to conciliation efforts, and information derived therefrom, which are not finalized.

§ 111.22 Ex parte communications.

This section sets forth the prohibition on *ex parte* communications between Commissioners (and their staffs) and persons outside the Commission on any compliance matter. The section tracks current regulations except that subsection (c) makes it clear that this section does not prohibit staff of the Office of General Counsel from contacting any persons in the course of representing the Commission and conducting its investigation.

§ 111.23 Representation by counsel; Notification.

This section provides that any respondent or witness before the Commission who wishes to be represented by counsel must so notify the Commission in writing. Upon receipt of such a letter, all future communications from the Commission shall be made to the designated representative.

Part 112—Advisory Opinions

§ 112.1 Requests for advisory opinions.

Subsection (a) broadens, to any person, the class of those who have standing to request an advisory opinion, as provided in 2 USC 437f(a)(1).

Subsections (b) and (c) have been amended to follow the language of 2 USC 437f(a)(1) which requires a request to relate to a specific transaction or activity which the person requesting the opinion intends to undertake. Subsection (b) also includes language from House Report 96-422 at page 20, which precludes opinions based on requests which pose a hypothetical situation or which concern the activities of third parties.

Subsection (d) reflects the Commission's current practice of reviewing requests for sufficiency.

Subsections (e) and (f) generally incorporate current regulations 11 CFR 112.1 (d) and (e).

§ 112.2 Public availability of requests.

This section follows the requirements of 2 USC 437f(d).

§ 112.3 Written comments on requests.

This section follows 2 USC 437f(d) and elaborates on the computation of the 10 day period for submitting written comments. It also indicates that the written comment period may be extended, but without affecting the time periods in 11 CFR 112.4.

§ 112.4 Issuance of advisory opinions.

Subsections (a), (b) and (c) incorporate the specific time requirements provided in 2 USC 437f(a) (1) and (2) within which an opinion must be issued by the Commission and include in the definition of response the provision in House Report 96-422 at page 20 that a 3-3 vote by the Commission on a proposed opinion will satisfy the response time requirement.

Subsections (d), (e), (f) and (g) follow the language of 2 USC 437f(b).

§ 112.5 Reliance on advisory opinions.

This section incorporates the provisions of 2 USC 437f(c).

§ 112.6 Reconsideration of advisory opinions.

This section allows for reconsideration of an advisory opinion at the initiative of either the person to whom the opinion is issued or a Commissioner who voted with the majority in the original issuance of the opinion. It also sets forth procedures for reconsideration, and permits the original requestor, in cases where reconsideration is at the initiative of a Commissioner, to rely on the original opinion without being subject to sanction, until the requestor receives notice of the Commission's decision to reconsider its opinion.

Part 113—Excess Campaign Funds and Contributions to Support Federal Officeholder Activities

§ 113.2 Use of funds.

This section has been amended to follow the changes made in 2 USC 439a. In particular, this section includes the new prohibition against using excess campaign funds for any personal use, other congressional officeholders on January 8, 1980. In addition, the prohibition on personal use does not apply to former members of Congress who were retired or no longer officeholders as of January 8, 1980. Those individuals are instead governed by the restrictions in effect at the time they were Members of Congress.

§ 113.3 Deposits of funds donated to a Federal or state officeholder.

This section was expanded to permit funds donated to be deposited in a separate account established for that purpose.

§ 113.4 Contribution and expenditure limitations.

This section was formerly 11 CFR 113.5. Since the 1979 Amendments drop the reporting requirement for office

accounts, former regulation 11 CFR 113.4 has been deleted.

Part 9008—Federal Financing of Presidential Nominating Conventions

§ 9008.3 Entitlement to payments from the fund.

Subsection (a) has been amended to reflect the increase in federal financing of presidential nominating conventions from \$2 million to \$3 million as set forth in 26 USC 9008(b).

Index to Regulations, Parts 100-115

The following subject index to FEC regulations, 11 CFR Parts 100-115, was prepared by the Information Services Division of the Federal Election Commission. The Index covers both the regulations published in this notice, implementing Pub. L. 96-187, and current regulations in Parts 100-115 that were not modified by the regulations being published today.

Advertising/Solicitation

Comparable rate charged, § 110.11(b)
Notice required, § 102.16; § 110.11(a)

Advisory Opinions

Issuance of, § 112.4
Reconsideration of, § 112.6
Reliance on, § 112.5
Requests for, § 112.1
—made public, § 112.2
—written comments on, § 112.3
Standing to receive, § 112.1(a)

Affiliated Committee

Definition, § 100.5(g); § 110.3
Contribution limitations, § 110.3
Disclosure of, § 102.2(b)
Transfers between, § 102.6(a)

Audits

By Commission, § 104.16
Preservation of reports for, § 104.14(b)(3)

Authorized Committee

As affiliated committee, § 100.5(g)
Contributions received by, § 102.8(a)
Definition, § 100.5(d); § 100.5(f)(1)
Designation of, by candidate, § 101.1(b); § 102.13 (a) and (c)
Registration of, § 102.1(b)
Reports by, § 104.3(f)
Restrictions on name of, § 102.14(a)

Campaign Depository

Deposit of receipts in, § 103.3(a)
Designation of, by political committee, § 103.1; § 103.2
Disbursements from, § 102.10; § 103.3(a)
For committees financing both federal and non-federal elections, § 102.5
For joint fundraising, § 102.6(b)
For Vice Presidential candidate campaign, § 103.4

Communications

Newstory exempted from contribution/expenditure, § 100.7(b)(2); § 100.8(b)(2)
Nonpartisan communications by corporations, labor organizations or other

membership organizations, § 114.1(a)(2)(ii); § 114.4
Notice required, § 110.11(a)
Partisan communications by corporations, labor organizations or other membership organizations, § 100.8(b)(4); § 114.1(a)(2)(i); § 114.3

Candidate

As agent of authorized committee, § 101.2; § 102.7(d)
Clearly identified, definition, § 100.17
Contributions to, § 110.1; § 110.2
Definition, § 100.3
Designations by, § 101.1
—of authorized committees, § 101.1(b); § 102.13
—of principal campaign committee, § 101.1(a); § 102.12
—when individual is candidate for more than one federal office, or for federal and state office, § 110.8(d)
Expenditures by, from personal funds, § 110.10
Expenditures made for more than one candidate, § 106.1
Fraudulent misrepresentation by candidate, § 110.9(b)
Living expenses, § 100.8(b)(22)
Presidential candidate expenditure limitations, § 110.8
Travel by, § 106.3

Compliance

Briefing procedures, § 111.16
Civil proceedings, § 111.19
Complaints, § 111.4; § 111.5; § 111.6; § 111.7
Computation of time, § 111.2
Confidentiality, § 111.21
Conciliation agreements, § 111.18
Ex parte communications, § 111.22
Initiation of compliance matters, § 111.3
Internally generated compliance matters, § 111.8
Investigation, § 111.10
Motions to quash or modify subpoenas, § 111.15
Probable cause to believe
—recommendation, § 111.16
—notification, § 111.17
Public disclosure of Commission action, § 111.20
Reason to believe finding, § 111.9
Representation by counsel, notification, § 111.23
Service of subpoenas, orders and notifications, § 111.13
Subpoenas, depositions, § 111.12
Witness fees and mileage, § 111.14
Written questions under order, § 111.11

Connected Organization

Definition, § 100.6
Disclosure of, § 102.2(b)
See also: Affiliated Committee

Contributions

Accounting for, § 102.9(a)
Criteria for establishing candidate status, § 100.3(a)
Definition, § 100.7(a)
Determining candidate "support," § 102.12(c)(2); § 102.13(c)(2)
Earmarked, § 102.8(c); § 110.6
Exemptions from definition, § 100.7(b)
Financing both federal and non-federal elections, § 102.5

- Forty-eight hour notification of, § 104.5(f)
 Identification of contributor, § 104.7(b); § 104.8
 Impermissible, § 101.3; § 103.3(b); § 104.12; § 110.4; § 114.2; § 114.8(b); § 115.2(a)
 In-kind
 —"anything of value" defined, § 100.7(a)(1)(iii); § 100.8(a)(1)(iv)
 —opinion polling expenses, § 106.4(b)
 —reporting of, § 104.13; § 106.1(b); § 106.4(b)
 —when not an independent expenditure, § 109.1(c)
 Limitations on contributions
 —affiliated committees share one limit, § 110.3(a)(1)(i)
 —annual limitations, § 110.5
 —by a minor, § 110.1(i)(2)
 —by candidates, § 110.1(f)
 —by multicandidate committees, § 110.2
 —by partners, § 110.1(e); § 115.4(c)
 —by persons, § 110.1
 —by spouses, § 100.7(c); § 110.1(i)(1)
 —exempted contributions, § 100.7(b) (6), (7) and (8)
 —to both a candidate's authorized committee and a committee that supports the same candidate, § 110.1(h)
 —to retire debts, § 110.1(g)
 —violations of, § 110.9
 Raised jointly by non-political and political committees, § 102.6
 Receipt of, § 102.8
 Received prior to an individual's becoming a candidate, § 101.3
 Reporting of
 —by authorized committees, § 104.3(a)(3); § 104.3(a)(4) (i) and (ii); § 104.3(b)(4)(v)
 —by political committees other than authorized committees, § 104.3(a)(2); § 104.3(a)(4)(i) and (ii); § 104.3(b)(1)(v); § 104.3(b)(3)(iv) and (v)
 —summary, § 104.3(c)(1)
 Solicitation of
 —notices required, § 102.16; § 110.11; § 104.5(a)(3), (4) and (5)
 —restrictions on use of reports for, § 114.15(a) and (b)
 —to retire debts, § 110.1(g)
 —See also: Corporation/Labor Organization/National Bank
Convention, National Nominating
 Reports and registration by
 —host committees, § 107.1
 —organizations and groups representing a local government agency, § 107.1
 —organizations and groups representing a state or municipality, § 107.1
 —political parties, § 107.2
Corporation/Labor Organization/National Bank
 Affiliated committees of, § 110.3(a)
 Candidate and party appearances, § 114.3(c)(2); § 114.4(b)
 Communications to stockholders, executives or members
 —nonpartisan registration and voting information, § 114.4(c)
 —registration and get-out-the-vote drives, § 114.3(c)(4); § 114.4(d)
 —partisan, § 100.8(b)(4); § 114.3
 Connected organization
 —Definition, § 100.6
 —Reported, § 102.2(b)
 Contributions and expenditures prohibited, § 114.2
 Debt settlement, § 114.10(b) and (c)
 Employee participation plan, § 114.11
 Establishment, administration and solicitation costs, § 114.1(a)(2)(iii); § 114.1(b); § 114.5(b)
 Extension of credit by, § 114.10(a)
 Facilities
 —customarily made available to civic organizations, § 114.12(b)
 —isolated use by corporate employees or union members, § 114.9(a) and (b)
 —reimbursement for costs required if used by other persons, § 114.9(d)
 Fringe benefits while employee on leave, § 114.12(c)
 Good Government activities, § 114.3(c)(2); § 114.4(b)
 Incorporation for liability purposes only, § 114.12(a)
 Legal and accounting services, § 114.1(a)(2)(vi) and (vii)
 Partisan communications, § 114.3
 Payroll deduction/check-off plans
 —employee participation plans, § 114.11
 —for executives, shareholders, members, § 114.5(k)
 —Presidential nominating convention activity, § 114.1(a)(2)(viii)
 —prohibited by corporate member to trade association's separate segregated fund, § 114.8(e)(3)
 —prohibited under twice yearly solicitations, § 114.6(e)(1)
 Raffle as fundraiser, § 114.5(b)(2)
 Separate segregated funds
 —coercion prohibited, § 114.5(a)
 —communications paid with voluntary contributions, § 114.5(i)
 —control by parent organization, § 114.5(d)
 —defined as political committee, § 100.5(b)
 —membership in, § 114.5(c)
 —registration of, § 102.1(c)
 —subject to contribution limits, § 114.5(f)
 —voluntary contributions to, § 114.5(a)
 Solicitations
 —accidental or inadvertent, § 114.5(h)
 —methods available, § 114.5(k); § 114.6(e)
 —methods permitted by law to labor unions, § 114.5(l)
 —must inform employee of political purpose and right to refuse, § 114.5(a)(3) and (4)
 —notification required, § 114.5(a)(3), (4) and (5)
 —of all employees twice yearly, § 114.6
 —of members, § 114.5(g)
 —of shareholders and executive and administrative personnel, § 114.5(g)
 Transportation provided to candidate, § 114.9(e)
 Trustee plan
 See: Employee participation plan
 Twice yearly solicitations; § 114.5(e)(3); § 114.6
 See also: Membership Organization; Separate Segregated Fund; Trade Association
Debts
 See: Reporting
Definitions
 Act, § 100.18
 Affiliated committee, § 100.5(g)
 Agent, § 109.1(b)(5)
 Anything of value, § 100.7(a)(1)(iii); § 100.8(a)(1)(iv)
 Authorized committee, § 100.5(d); § 100.5(f)(1)
 Candidate, § 100.3(a)
 Caucus, § 100.2(e)
 Clearly identified candidate, § 100.17
 Commission, § 100.9
 Connected organization, § 100.6
 Contribution, § 100.7(a)
 Contribution exemptions, § 100.7(b)
 Convention, § 100.2(e)
 Corporation, § 100.8(b)(4)(vi)
 Election, § 100.2(a)
 Election cycle, § 100.3(b)
 Employee participation plan, § 114.11(a)
 Employer, § 100.21
 Excess campaign funds, § 113.1(e)
 Executive or administrative personnel, § 100.8(b)(4)(iii); § 114.1(c)
 Expenditure, § 100.8(a)
 Expenditure exemptions, § 100.8(b)
 Expressly advocating, § 109.1(b)(2)
 Federal Election Commission, § 100.9
 Federal office, § 100.4
 Federal officeholder, § 113.1(c)
 File, filed or filing, § 100.19
 Foreign national, § 110.4(a)(3)
 Funds donated, § 113.1(a)
 General election, § 100.2(b)
 Honorarium, § 110.12(b)
 Identification, § 100.12
 Independent expenditure, § 100.16; § 109.1(a)
 Labor organization, § 100.8(b)(4)(i); § 114.1(d)
 Member, § 100.8(b)(4)(iv); § 114.1(e)
 Multicandidate committee, § 100.5(e)(3)
 National committee, § 100.13
 Occupation, § 100.20
 Office account, § 113.1(b)
 Party committee, § 100.5(e)(4)
 Person, § 100.10
 Personal funds, § 110.10(b)
 Petty cash fund, § 102.11
 Political committee, § 100.5
 Political party, § 100.15
 Primary election, § 100.2(c)
 Principal campaign committee, § 100.5(d); § 100.5(e)(1)
 Runoff election, § 100.2(d)
 Single candidate committee, § 100.5(e)(2)
 Special election, § 100.2(f)
 Speech, § 110.12(b)(3)
 State, § 100.11
 State committee, § 100.14(a)
 Subordinate committee of state committee, § 100.14(b)
 Support, § 102.12(c)(2); § 102.13(c)(2)
 Stockholder, § 100.8(b)(4)(ii); § 114.1(h)
 Trade association, § 114.8(a)
 Unauthorized committee, § 100.5(f)(2)
 Voluntary contributions, § 114.1(i)
 Voting age population, § 110.9(d)
Depository
 See: Campaign Depository
Election
 Definition, § 100.2(a)
 —caucus or convention, § 100.2(e)
 —cycle, § 100.3(b)
 —general, § 100.2(b)
 —primary, § 100.2(c)
 —runoff, § 100.2(d)
 —special, § 100.2(f)
Enforcement
 See: Compliance

Excess Campaign Funds

Definition, § 113.1(e)
Use of, § 113.1(e); § 113.2

Expenditures

Accounting for, § 102.9(b)
Allocation of
—among (or between) candidates, § 104.10; § 106.1
—among states, by candidates for Presidential nomination, § 106.2
—between campaign and noncampaign travel, § 106.3
—for polling expenses, § 106.4
Criteria for establishing candidate status, § 100.3
Definition, § 100.8(a)
Disbursement of
—by check, § 102.10
—from petty cash fund, § 102.11
Exemptions from definition, § 100.8(b)
Identifying recipient of, § 104.9
Limitations on
—by candidate, from personal funds, § 110.10
—by party committees, § 110.7
—by Presidential candidate, § 110.8
—exempted expenditures, § 100.8(b) (7), (8) and (9)
—“price index” increase of, § 110.9(c)
—violations of, § 110.9(a)

Independent expenditures
*See: Independent Expenditures**Operating expenditures*

—reporting of
—by authorized committees, § 104.3 (a)(3) (ix); § 104.3 (a)(4) (v); § 104.3 (b)(2) (i)
—by political committees other than authorized committees, § 104.3 (a)(2) (vii); § 104.3 (a)(4) (v); § 104.3 (b)(1) (i)
—summary, § 104.3(c)(2)

*Prohibited expenditures for national banks, corporations and labor organizations, § 114.2**Reporting of*

—by authorized committees, § 104.3(b) (2) and (4)
—by political committees other than authorized committees, § 104.3 (b) (1) and (3)
—in-kind contributions as expenditures, § 104.13(a)(2); § 109.1(c)

Federal Contractor

Contributions and expenditures by, prohibited, § 115.2(a)
Definition, § 115.1(a)
Employee contributions or expenditures, § 115.6
Individuals and sole proprietors, § 115.5
Partnership, § 115.4
Separate segregated funds established by, § 115.3

Federal Election Commission

Advisory opinions
See: Advisory Opinions
Audits and investigations by, § 104.16
Definition, § 100.9
Enforcement by, Part 111

Federal Officeholder

Definition, § 113.1(c)

Filing Reports, Designations and Statements

Definition of filing, § 100.19

Forty-eight hour notification of contribution, § 104.5(f)

Independent expenditure reports, § 104.4; § 109.2

Internal communication reports by membership organizations and corporations, § 104.6; § 105.4

National nominating convention reports, § 107

Postmarks, when filing by mail, § 104.5(e)

Transmittal of documents to Commission by Secretary of Senate and Clerk of House, § 105.5

When to file, § 104.5

With appropriate federal office

—by House candidate committees, § 105.1

—by other committees, § 105.4

—by Presidential and Vice Presidential candidate principal campaign committees, § 105.3

—by Senate candidate committees, § 105.2

With state officers, § 108.1

—by committees and persons other than principal campaigning committees, § 108.4

—by Congressional candidate committees, § 108.3

—by Presidential and Vice Presidential candidate principal campaign committees, § 108.2

—duties of officers, § 108.6

—effect on state law, § 108.7

—exemption for District of Columbia, § 108.8

—time and manner of filing, § 108.5

See also: Forms; Reporting

Forms

Computer-produced schedules in lieu of, § 104.2(d)

Consolidated reports, § 104.3(f)

Donations toward political committee office facilities, separate schedule for, § 104.3(g)

For Congressional candidate committees, § 104.2(e)(2)

For Presidential and Vice Presidential candidate committees, § 104.2(e)(1)

For Presidential candidates and their committees, reporting expenditures by state, § 106.2(a)

For political committees other than authorized committees, § 104.2(e)(3)

Independent expenditures, § 104.4(a); § 109.2(a)

Internal communications by membership organization or labor organization, § 104.6(a)

Legal and accounting services, separate schedule for, § 104.3(h)

Notice of Termination, § 102.3

Obtainable from the Commission, § 104.2(b)

Reproduction of, § 104.2(c)

Statement of Candidate, § 101.1

Statement of Organization, § 102.1; § 102.2

See also: Filing Reports, Designations and Statements; Reporting

Honorarium

Definition, § 110.12(b)

Limitations on accepting, § 110.12(a)

Not a contribution, § 100.7(b)(19)

Independent Expenditures

Certification of, § 109.2(a)(1)

Definition, § 100.16; § 109.1(a)

For public communications, notice required, § 109.4; § 110.11

Made on behalf of more than one candidate, § 106.1(a)

Reporting of, § 100.8(a)(3); § 104.4; § 109.2

—by persons other than a political committee, § 109.2

—by political committees other than authorized committees, § 104.3 (b)(1) (vii) § 104.3 (b)(3) (vii)

—twenty-four hour reports, § 104.4(b)

Labor Organization

See: Corporation/Labor Organization/ National Bank

Legal and Accounting Services

By corporations and labor organizations, § 114.1 (a)(2) (vi) and (vii)

Not a contribution, § 100.7(b) (13) and (14)

Not an expenditure, § 100.8(b) (14) and (15)

Reporting of, § 104.3(h)

Loans

As contribution, § 100.7(a)(1)

As expenditure, § 100.8(a)(1)

Not a contribution, § 100.7(b) (11), (12) and (20); § 102.4(c)(2)

Not an expenditure, § 100.8(b) (12), (13) and (20)

Reporting of

—by authorized committees, § 104.3 (a)(3) (vii); § 104.3 (a)(4) (iv); § 104.3 (b)(2) (iii); § 104.3 (b)(4) (iii) and (iv); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

See also: Reporting

Membership Organizations

As trade association, § 114.7(c)

Definition of “member,” § 114.1(e)

Mutual life insurance companies, § 114.7(i)

Professional organizations, state law determines corporate/noncorporate status, § 114.7(d)

Reporting of communications, § 100.8(b)(4)

Separate segregated fund, established by, § 114.7(g)

Single contribution limitation, § 110.3(a)

Solicitations by, § 114.7 (a), (e), (f) and (j)

See also: Corporation/Labor Organization/ National Bank; Separate Segregated Fund; Trade Association

Multicandidate Committee

Definition, § 100.5(e)(3)

Contribution limitations, § 110.2

National Banks

See: Corporation/Labor Organization/ National Bank

National/State/Local Party Committees

Affiliated committees, § 100.5(c)(2); § 110.3(b)

Allocation of expenditures

—exceptions, § 106.6(c)

—federal/non-federal administrative, § 106.1(e)

—in general, § 106.1(a)

Committees established and maintained by national party committees, § 110.1(b)(2); § 110.2(a)(2)(ii)

Contribution/expenditure exceptions

—ballot access payments, § 100.7(b)(18); § 100.8(b)(19)

—campaign materials for volunteer activities, § 100.7(b)(15); § 100.8(b)(16)

- food, beverages and invitations, § 100.7(b) (6) and (7); § 100.8(b) (7) and (8)
- legal or accounting services, § 100.7(b) (13) and (14); § 100.8(b) (14) and (15)
- nonpartisan activity, § 100.8(b)(3)
- office building fund, § 100.7(b)(12); § 100.8(b)(13)
- recount of results of federal elections, § 100.7(b)(20)
- slate card costs, § 100.7(b)(9); § 100.8(b)(10)
- travel expenses, § 100.7(b)(8); § 100.8(b)(9)
- use of residential premises, church or community room § 100.7(b) (4) and (5); § 100.8(b) (5) and (6)
- voter registration and get-out-the-vote activities for Presidential and Vice Presidential nominees, § 100.7(b)(17); § 100.8(b)(18)

Defined as a political committee, § 100.5(c)

Definitions

- national committee, § 100.13
- party committee, § 100.5(e)(4)
- political party, § 100.15
- state committee, § 100.14(a)
- subordinate committee of state committee, § 100.14(b)

Expenditure limitations, § 110.7

Federal/non-federal election financing, § 102.5

Registration requirements, § 102.1

Separate contribution limits

- for national and state party committees, § 110.3(b)(1)
- for state party and independent subordinate party committees, § 110.3(b)(3)(ii)
- for Senate candidates from national party and Senate campaign committees, § 110.2(c)

Subordinate state committees

- presumed not independent of state committee for contribution limit purposes, § 110.3(b)(2)(ii)
- share state expenditure limit, § 110.7(c)

Transfers between committees of same political party unlimited, § 102.6(a); § 110.3(c)

§ 110.3(c)

Office Accounts

- Appropriated and personal funds not included, § 113.1 (a) and (b)
- Contribution and exemption limits may apply, § 113.4
- Definition, § 113.1(b)
- Funds donated to
 - definition, § 113.1(a)
 - deposit of, § 113.3
 - use of, § 113.1

Party Committee

See: National/State/Local Party Committees

Personal Funds

- For living expenses of candidate, § 100.8(b)(2)
- For travel expenses of candidate, § 106.3(b)(1)
- For unlimited expenditures by candidate, § 110.10
- Segregated from political funds, § 102.15

Political Committee

Accounting for contributions and expenditures, § 102.9

Authorized by candidate, § 102.13

Campaign depository

See: Campaign Depository

Comingled funds of, § 102.15

Definition, § 100.5

- affiliated committee, § 100.5(g)
- authorized committee, § 100.5(d); § 100.5(f)(1)
- multicandidate committee, § 100.5(e)(3)
- principal campaign committee, § 100.5(d) and (e)(1)
- separate segregated fund, § 100.5(b)
- single candidate committee, § 100.5(e)(2)
- unauthorized committee, § 100.5(f)(2)

Delegate committee, restriction on name of, § 102.14(b)(1)

Designation of principal campaign committee, § 102.12

Draft committee, restriction on name of, § 102.14(b)(2)

Financing of, for federal/non-federal election, § 102.5

Identification number, § 102.2(c)

Names of, § 102.14

Organization of, § 102.7

Party committee

See: National/State/Local Party Committees

Registration of, § 102.1

- authorized committees, § 102.1(b)
- other political committees, § 102.1(d)
- principal campaign committees, § 102.1(a)
- separate segregated funds, § 102.1(c)

Reporting

See: Reporting

Statement of Organization, § 102.1; § 102.2(a)

Termination of

- by political committee, § 102.3
- by the Commission, § 102.4

Transfers between § 102.6

See also: Separate Segregated Fund; National/State/Local Party Committees

Principal Campaign Committee

Consolidated report filed by, § 104.3(f)

Definition, § 100.5(d); § 100.5(e)(1)

Designation of

- by candidate, § 101.1(a); § 102.12(a)
- restrictions on, § 102.12 (b) and (c)

Registration of, § 102.1(a)

Termination of, § 102.3(b)

Recordkeeping

Allocation of expenditures among

candidates, § 104.10; § 106.1

Best efforts, § 102.9(d); § 104.7

Disbursements

- account of, § 102.9(b)
- by check, § 102.10; § 103.3(a)
- from petty cash fund, § 102.11; § 103.3(a)

Distinguishing between primary and general election contributions, § 102.9(e)

Federal/non-federal election finance

activities, § 102.5; § 106.1(e)

Identifying contributor, § 104.7(b); § 104.8

Identifying recipient of expenditure, § 104.9

Illegal contributions, § 103.3(b)

In-kind contributions, § 104.13

Joint fundraising, § 102.6(b)

Receipt of contributions, § 102.8; § 102.9(a)

Records

- accuracy of, § 104.14(d)
- maintenance of, § 102.9(d); § 104.14(b)(1)
- preservation of, § 102.9(c); § 104.14 (b) (2) and (3)

See also: Filing Reports, Designations and Statements; Reporting

Reporting

Allocation of expenditures among

candidates, § 104.10; § 106.1

Best efforts, § 104.7

Consolidated, for principal campaign committees, § 104.3(f)

Cumulative, § 104.3(i)

Debts and obligations, § 104.3(d); § 104.11

Disbursements, § 104.3(b)

Donations toward political committee office

facilities, § 100.7(b)(12); § 104.3(g)

Earmarked contributions, § 110.6

Formal requirements, § 104.14

Identifying contributor, § 104.7(b); § 104.8

Identifying recipient of expenditure, § 104.9

Independent expenditures

- by political committees, § 104.4
- by persons other than political committees, § 109.2

In-kind contributions, § 104.13; § 106.1(b) § 106.4(b)

Internal communications by membership organizations and corporations, § 104.6; § 105.4

Legal and accounting services, § 104.3(h)

National nominating convention reports, § 107.1; § 107.2

Presidential and Vice Presidential committee reports for elections prior to January 1, 1980, § 104.12

Receipts, § 104.3(a); § 104.17

Summary of contributions and operating expenditures, § 104.3(c)

Use of pseudonyms, § 104.3(e)

Who reports, § 104.1

Separate Segregated Fund

Affiliated committee, § 100.5(g); § 110.3(a)

Coercion prohibited, § 114.5(a)

Communications to general public, § 114.5(i)

Contribution limits

- affiliated committees share one limit, § 110.3(a)(1)(i)
- application of, § 114.5(f)

Contributions to, § 114.5(a)

Control of funds by parent organization, § 114.5(d)

Costs incurred for establishing, administering and soliciting contributions to fund

- not contribution or expenditure, § 114.1(a)(2)(iii)
- treasury funds used for, § 114.5(b)

Establishment by

- federal contractors, § 115.3
- membership organization, § 114.7
- national banks, corporations, labor unions, § 114.1(a)(2)(iii); § 114.5
- trade associations, § 114.8

Membership in, § 114.5(c)

Name must include name of connected organization, § 102.14(c)

Payroll deduction

See: Corporation/Labor Organization/National Bank

Registration of, § 102.1(c)

State Officeholder

Definition, § 113.1(d)

Testing-the-Waters Activities

Exempted from contribution/expend § 100.7(b)(1); § 100.8(b)(1)

Trade Association

- Affiliated committees of, § 110.3(a)(1)
 Communications
 —to executives, shareholders, § 114.3
 —to members, § 114.3
 —to non-executives, § 114.4
 Definition, § 114.8(a)
 Employees, § 114.8(i)
 —communications to, § 114.3; § 114.4
 —solicitations of, § 114.5; § 114.6
 Federation of trade associations
 —definition, § 114.8(g)(1)
 —solicitations by, § 114.8(g)
 Payroll deductions, § 114.5(k)(1); § 114.8(e)(3)
 Solicitations by, § 114.7(c) and (j); § 114.8(c), (d), (e) and (f)

Transfer of Funds

- As criteria for "affiliation" between committees, § 100.5(g)(2)(ii)(E); § 110.3(a)(1)(iii)(E)
 From excess campaign funds and funds donated, § 113.2(c)
 Joint fundraising contributions, § 102.6(b)
 Reporting
 —by authorized committees, § 104.3(a)(3)(vi); § 104.3(a)(4)(iii)(A); § 104.3(b)(2)(ii); § 104.3(b)(4)(ii)
 —by political committees other than authorized committees, § 104.3(a)(2)(v); § 104.3(a)(4)(iii)(B); § 104.3(b)(1)(ii); § 104.3(b)(3)(ii)
 Unlimited transfers, § 102.6(a); § 110.3(a)(2)

Unauthorized Committee

- Definition, § 100.5(f)(2)
 Contributions from, § 102.8(b)(1)

Volunteer Activities

- Campaign materials
 —used by candidate, § 100.7(b)(16); § 100.8(b)(17)
 —used by party, § 100.7(b)(15); § 100.8(b)(16)
 Church or community room, § 100.7(b)(5); § 100.8(b)(6)
 Invitations, food, beverages, § 100.7(b)(6); § 100.8(b)(7)
 Property, § 100.7(b)(4); § 100.8(b)(5)
 Services, § 100.7(b)(3)
 Travel, § 100.7(b)(8); § 100.8(b)(9)
 Vendor sale of food or beverage, § 100.7(b)(7); § 100.8(b)(8)

Voter Drives

- By corporations and labor organizations, § 100.8(b)(3); § 114.1(a)(2)(ii); § 114.4(a)(2); § 114.4(c); § 114.4(d); § 114.3(c)(4)
 By party committee, § 100.7(b)(17); § 100.8(b)(18)
 11 CFR is amended as follows:
 1. Parts 100 through 105 are revised to read as follows.

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

- Sec.
 100.1 Scope.
 100.2 Election (2 U.S.C. 431(1)).
 100.3 Candidate (2 U.S.C. 431(2)).
 100.4 Federal office (2 U.S.C. 431(3)).
 100.5 Political committee (2 U.S.C. 431 (4), (5), (6)).
 100.6 Connected organization (2 U.S.C. 431(7)).

- 100.7 Contribution (2 U.S.C. 431(8)).
 100.8 Expenditure (2 U.S.C. 431(9)).
 100.9 Commission (2 U.S.C. 431(10)).
 100.10 Person (2 U.S.C. 431(11)).
 100.11 State (2 U.S.C. 431(12)).
 100.12 Identification (2 U.S.C. 431(13)).
 100.13 National committee (2 U.S.C. 431(14)).
 100.14 State committee, subordinate committee (2 U.S.C. 431(15)).
 100.15 Political party (2 U.S.C. 431(16)).
 100.16 Independent expenditure (2 U.S.C. 431(17)).
 100.17 Clearly identified (2 U.S.C. 431(18)).
 100.18 Act (2 U.S.C. 431(19)).
 100.19 File, filed or filing.
 100.20 Occupation (2 U.S.C. 431(13)).
 100.21 Employer (2 U.S.C. 431(13)).

Authority: 2 U.S.C. 431, 438(a)(8).

§ 100.1 Scope.

This subchapter is issued by the Federal Election Commission to implement the Federal Election Campaign Act of 1971 (Public Law 92-225), as amended by Public Law 93-443, Public Law 94-283, Public Law 95-216, and Public Law 96-187.

§ 100.2 Election (2 U.S.C. 431(1)).

(a) "Election" means the process by which individuals, whether opposed or unopposed, seek nomination for election, or election, to Federal office. The specific types of elections, as set forth at 11 CFR 100.2 (b), (c), (d), (e) and (f) are included in this definition.

(b) *General election.* A general election is an election which meets either of the following conditions:

(1) An election held in even numbered years on the Tuesday following the first Monday in November is a general election.

(2) An election which is held to fill a vacancy in a Federal office (i.e., a special election) and which is intended to result in the final selection of a single individual to the office at stake is a general election. see 11 CFR 100.2(f).

(c) *Primary election.* A primary election is an election which meets one of the following conditions:

(1) An election which is held prior to a general election, as a direct result of which candidates are nominated, in accordance with applicable State law, for election to Federal office in a subsequent election is a primary election.

(2) An election which is held for the expression of a preference for the nomination of persons for election to the office of President of the United States is a primary election.

(3) An election which is held to elect delegates to a national nominating convention is a primary election.

(4) With respect to individuals seeking federal office as independent candidates, or without nomination by a

major party (as defined in 26 U.S.C. 9002(6)), the primary election is considered to occur on one of the following dates, at the choice of the candidate:

(i) The day prescribed by applicable State law as the last day to qualify for a position on the general election ballot may be designated as the primary election for such candidate.

(ii) The date of the last major party primary election, caucus, or convention in that State may be designated as the primary election for such candidate.

(iii) In the case of non-major parties, the date of the nomination by that party may be designated as the primary election for such candidate.

(5) With respect to any major party candidate (as defined at 26 U.S.C. 9002(6)) who is unopposed for nomination within his or her own party, and who is certified to appear as that party's nominee in the general election for the office sought, the primary election is considered to have occurred on the date on which the primary election was held by the candidate's party in that State.

(d) *Runoff election.* "Runoff election" means the election which meets either of the following conditions:

(1) The election held after a primary election, and prescribed by applicable State law as the means for deciding which candidate(s) should be certified as a nominee for the Federal office sought, is a runoff election.

(2) The election held after a general election and prescribed by applicable State law as the means for deciding which candidate should be certified as an officeholder elect, is a runoff election.

(e) *Caucus or Convention.* A caucus or convention of a political party is an election if the caucus or convention has the authority to select a nominee for federal office on behalf of that party.

(f) *Special election.* "Special election" means an election which is held to fill a vacancy in a Federal office. A special election may be a primary, general, or runoff election, as defined at 11 CFR 100.2 (b), (c) and (d).

§ 100.3 Candidate (2 U.S.C. 431(2)).

(a) *Definition.* "Candidate" means an individual who seeks nomination for election, or election, to federal office. An individual becomes a candidate for Federal office whenever any of the following events occur:

(1) The individual has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000.

(2) The individual has given his or her consent to another person to receive

contributions or make expenditures on behalf of that individual and such person has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000.

(3) After written notification by the Commission that any other person has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000 on the individual's behalf, the individual fails to disavow such activity by letter to the Commission within 30 days of receipt of the notification.

(4) The aggregate of contributions received under 11 CFR 100.3(a) (1), (2), and (3), in any combination thereof, exceeds \$5,000, or the aggregate of expenditures made under 11 CFR 100.3(a) (1), (2), and (3), in any combination thereof, exceeds \$5,000.

(b) *Election cycle.* For purposes of determining whether an individual is a candidate under this section, contributions or expenditures shall be aggregated on an election cycle basis. An election cycle shall begin on the first day following the date of the previous general election for the office or seat which the candidate seeks, unless contributions or expenditures are designated for another election cycle. For an individual who receives contributions or makes expenditures designated for another election cycle, the election cycle shall begin at the time such individual, or any other person acting on the individual's behalf, first receives contributions or makes expenditures in connection with the designated election. The election cycle shall end on the date on which the general election for the office or seat that the individual seeks is held.

§ 100.4 Federal office (2 U.S.C. 431(3)).

"Federal office" means the office of President or Vice President of the United States, Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

§ 100.5 Political committee (2 U.S.C. 431 (4), (5), (6)).

"Political committee" means any group meeting one of the following conditions:

(a) Except as provided in 11 CFR 100.5(b), (c) and (d), any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 or which makes expenditures aggregating in excess of \$1,000 during a calendar year is a political committee.

(b) Any separate segregated fund established under 2 USC 441b(b)(2)(C) is a political committee.

(c) Any local committee of a political party is a political committee if: it receives contributions aggregating in excess of \$5,000 during a calendar year; it makes payments exempted from the definition of contribution, under 11 CFR 100.7(b)(9), (15) and (17), and expenditure, under 11 CFR 100.8(b)(10), (16) and (18), which payments aggregate in excess of \$5,000 during a calendar year; or it makes contributions aggregating in excess of \$1,000 or makes expenditures aggregating in excess of \$1,000 during a calendar year.

(d) An individual's principal campaign committee or authorized committee(s) becomes a political committee(s) when that individual becomes a candidate pursuant to 11 CFR 100.3.

(e) The following are examples of political committees:

(1) *Principal campaign committee.* "Principal campaign committee" means a political committee designated and authorized by a candidate pursuant to 11 CFR 101.1 and 102.1.

(2) *Single candidate committee.* "Single candidate committee" means a political committee other than a principal campaign committee which makes or receives contributions or makes expenditures on behalf of only one candidate.

(3) *Multi-candidate committee.* "Multi-candidate committee" means a political committee which (i) has been registered with the Commission, Clerk of the House or Secretary of the Senate for at least 6 months; (ii) has received contributions for Federal elections from more than 50 persons; and (iii) (except for any State political party organization) has made contributions to 5 or more Federal candidates.

(4) *Party committee.* "Party committee" means a political committee which represents a political party and is part of the official party structure at the national, State, or local level.

(f) A political committee is either an authorized committee or an unauthorized committee.

(1) *Authorized committee.* An "authorized committee" means the principal campaign committee or any other political committee authorized by a candidate under 11 CFR 102.13 to receive contributions or make expenditures on behalf of such candidate, or which has not been disavowed pursuant to 11 CFR 100.3(a)(3).

(2) *Unauthorized committee.* An "unauthorized committee" is a political committee which has not been authorized in writing by a candidate to

solicit or receive contributions or make expenditures on behalf of such candidate, or which has been disavowed pursuant to 11 CFR 100.3(a)(3).

(g) *Affiliated committee.* (1) All authorized committees of the same candidate are affiliated.

(2) All committees (including a separate segregated fund, see 11 CFR Part 114) established, financed, maintained, or controlled by the same corporation, labor organization, person, or group of persons including any parent, subsidiary, branch, division, department, or local unit thereof, are affiliated.

(i) Application of the rule of this paragraph means that:

(A) All political committees set up by a single corporation and/or its subsidiaries are affiliated;

(B) All political committees set up by a single national or international union and/or its local unions or other subordinate organizations of the national or international union are affiliated;

(C) All of the political committees set up by an organization of national or international unions and all of its State and/or local central bodies are affiliated;

(D) All political committees (other than party committees) established by a member organization, including a trade or professional association (see 11 CFR 114.8(a)), and/or by related State and local entities are affiliated;

(E) All the political committees established by the same person or group of persons are affiliated.

(ii) For organizations not covered by paragraph (g)(2)(i) of this section, indicia of establishing, financing, maintaining, or controlling include:

(A) Ownership of a controlling interest in voting shares or securities;

(B) Provisions of bylaws, constitutions, or other documents by which one entity has the authority, power, or ability to direct another entity;

(C) The authority, power, or ability to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of an entity;

(D) Similar patterns of contributions;

(E) The transfer of funds between committees which represent a substantial portion of the funds of either the transferor or transferee committee, other than the transfer of funds between the committees which jointly raised the funds so transferred.

§ 100.6 Connected organization (2 U.S.C. 431(7)).

(a) "Connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee. A connected organization may be a corporation (including a corporation without capital stock), a labor organization, a membership organization, a cooperative or a trade association.

(b) For purposes of 11 CFR 100.6, organizations which are members of the entity (such as corporate members of a trade association) which establishes, administers, or financially supports a political committee are not organizations which directly or indirectly establish, administer or financially support that political committee.

(c) For purposes of 11 CFR 100.6, the term "financially supports" does not include contributions to the political committee, but does include the payment of establishment, administration and solicitation costs of such committee.

§ 100.7 Contribution. (2 U.S.C. 431(8)).

(a) The term "contribution" includes the following payments, services or other things of value:

(1) A gift, subscription, loan (except for a loan made in accordance with 11 CFR 100.7(b)(11)), advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office is a contribution.

(i) For purposes of 11 CFR 100.7(a)(1), the term "loan" includes a guarantee, endorsement, and any other form of security.

(A) A loan which exceeds the contribution limitations of 2 USC 441a and 11 CFR Part 110 shall be unlawful whether or not it is repaid.

(B) A loan is a contribution at the time it is made and is a contribution to the extent that it remains unpaid. The aggregate amount loaned to a candidate or committee by an individual, when added to other contributions from that individual to that candidate or committee, shall not exceed the contribution limitations set forth at 11 CFR Part 110. A loan, to the extent it is repaid, is no longer a contribution.

(C) A loan is a contribution by each endorser or guarantor. Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Any reduction in the unpaid balance of the loan shall reduce

proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a loan by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

(D) If a political committee makes a loan to any person, such loan shall be subject to the limitations of 11 CFR Part 110. Repayment of the principal amount of such loan to such political committee shall not be a contribution by the debtor to the lender committee. Such repayment shall be made with funds which are subject to the prohibitions of 11 CFR 110.4(a) and Part 114. The payment of interest to such committee by the debtor shall be a contribution only to the extent that the interest paid exceeds a commercially reasonable rate prevailing at the time the loan is made. All payments of interest shall be made from funds subject to the prohibitions of 11 CFR 110.4(a) and Part 114.

(ii) For purposes of 11 CFR 100.7(a)(1), the term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iii) (A) For purposes of 11 CFR 100.7(a)(1), the term "anything of value" includes all in-kind contributions. Unless specifically exempted under 11 CFR 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. Examples of such goods or services include, but are not limited to: securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists. If goods or services are provided at less than the usual and normal charge, the amount of the in-kind contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged the political committee.

(B) For purposes of 11 CFR 100.7(a)(1)(iii)(A), "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution; and "usual and normal charge" for any services, other than those provided by an unpaid volunteer, means the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

(2) The entire amount paid to attend a fundraiser or other political event and the entire amount paid as the purchase price for a fundraising item sold by a political committee is a contribution.

(3) The payment by any person of compensation for the personal services of another person if those services are rendered without charge to a political committee for any purpose, except for legal and accounting services provided under 11 CFR 100.7(b)(13) or (14), is a contribution. No compensation is considered paid to any employee under any of the following conditions:

(i) If an employee is paid on an hourly or salaried basis and is expected to work a particular number of hours per period, no contribution results if the employee engages in political activity during what would otherwise be a regular work period, provided that the taken or released time is made up or completed by the employee within a reasonable time.

(ii) No contribution results where an employee engages in political activity during what would otherwise be normal working hours if the employee is paid on a commission or piecework basis, or is paid only for work actually performed and the employee's time is considered his or her own to use as he or she sees fit.

(iii) No contribution results where the time used by the employee to engage in political activity is bona fide, although compensable, vacation time or other earned leave time.

(4) The extension of credit by any person for a length of time beyond normal business or trade practice is a contribution, unless the creditor has made a commercially reasonable attempt to collect the debt. (See 11 CFR 114.10). A debt owed by a political committee which is forgiven or settled for less than the amount owed is a contribution unless such debt is settled in accordance with the standards set forth at 11 CFR 114.10.

(b) The term "contribution" does not include the following payments, services or other things of value:

(1) Funds received and payments made solely for the purpose of determining whether an individual should become a candidate are not contributions. Activities permissible under this exemption include, but are not limited to expenses incurred for: conducting a poll, telephone calls and travel, to determine whether an individual should become a candidate. The individual shall keep records of all such funds received and payments made. If the individual subsequently becomes a candidate, the funds received and payments made are contributions

and expenditures subject to the limitations, prohibitions and requirements of the Act. Such contributions and expenditures must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the funds were received or the payments made. This exemption does not include funds received or payments made for general public political advertising; nor does this exemption include funds received or payments made for activities designed to amass campaign funds that would be spent after the individual becomes a candidate.

(2) Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication is not a contribution unless the facility is owned or controlled by any political party, political committee, or candidate, in which case the cost for a news story (i) which represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) which is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not a contribution.

(3) The value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee is not a contribution.

(4) No contribution results were an individual, in the course of volunteering personal services on his or her residential premises to any candidate or to any political committee of a political party, provides the use of his or her real or personal property to such candidate for candidate-related activity or to such political committee of a political party for party-related activity. For the purposes of 11 CFR 100.7(b)(4), and individual's residential premises, shall include a recreation room in a residential complex where the individual volunteering services resides, provided that the room is available for use without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not a contribution.

(5) No contribution results where an individual, in the course of volunteering personal services to any candidate or political committee of a political party, obtains the use of a church or community room and provides such room to any candidate for candidate-related activity or to any political committee of a political party for party-related activity, provided that the room

is used on a regular basis by members of the community for noncommercial purposes and the room is available for use by members of the community without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not a contribution.

(6) The cost of invitations, food and beverages is not a contribution where such items are voluntarily provided by an individual volunteering personal services on the individual's residential premises or in a church or community room as specified at 11 CFR 100.7(b)(4) and (5) to a candidate for candidate-related activity or to any political committee of a political party for party-related activity, to the extent that: the aggregate value of such invitations, food and beverages provided by the individual on behalf of the candidate does not exceed \$1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed \$2,000 in any calendar year.

(7) The sale of any food or beverage by a vendor (whether incorporated or not) for use in a candidate's campaign, or for use by a political committee of a political party, at a charge less than the normal or comparable commercial rate, is not a contribution, provided that the charge is at least equal to the cost of such food or beverage to the vendor, to the extent that: the aggregate value of such discount given by the vendor on behalf of any single candidate does not exceed \$1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year.

(8) Any unreimbursed payment for transportation expenses incurred by any individual on behalf of any candidate of any political committee of a political party is not a contribution to the extent that: the aggregate value of the payments made by such individual on behalf of a candidate does not exceed \$1,000 with respect to a single election; and on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal subsistence expenses incidental to volunteer activity is not a contribution.

(9) The payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card, sample ballot, palm card, or other printed listing(s) of three or more candidates for any public office for which an election is held in the State in

which the committee is organized is not a contribution. The payment of the portion of such costs allocable to Federal candidates must be made from funds subject to the limitations and prohibitions of the Act. If made by a political committee, such payments shall be reported by that committee as disbursements, but need not be allocated in committee reports to specific candidates. This exemption shall not apply to costs incurred by such a committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public political advertising such as billboards.

(10) Any payment made or obligation incurred by a corporation or a labor organization is not a contribution if under the provisions of 11 CFR Part 114 such payment or obligation would not constitute an expenditure by the corporation or labor organization.

(11) A loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration is not a contribution by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a contribution by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For purposes of 11 CFR 100.7(b)(11), an overdraft made

on a checking or savings account shall be considered a contribution by the bank or institution unless: the overdraft is made on an account which is subject to automatic overdraft protection; the overdraft is subject to a definite interest rate which is usual and customary; and there is a definite repayment schedule.

(12) A gift, subscription, loan, advance, or deposit of money or anything of value made to a national committee or a State committee of a political party is not a contribution if it is specifically designated to defray any cost incurred for construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office. If such gift, subscription, loan, advance, or deposit of money or anything of value is made to a committee which is not a political committee under 11 CFR 100.5, the amount need not be reported. However, if such gift, subscription, loan, advance, or deposit of money or anything of value is made to a political committee, it shall be reported in accordance with 11 CFR 104.3(g).

(13) Legal or accounting services rendered to or on behalf of any political committee of a political party are not contributions if the person paying for such services is the regular employer of the individual rendering the services and such services are not attributable to activities which directly further the election of any designated candidate for Federal office. For purposes of 11 CFR 100.7(b)(13), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for such services shall be reported by the committee receiving such services in accordance with 11 CFR 104.3(h).

(14) Legal or accounting services rendered to or on behalf of an authorized committee of a candidate or any other political committee are not contributions if the person paying for such services is the regular employer of the individual rendering the services and if such services are solely to ensure compliance with the Act or 26 USC 9001 *et seq.* and 9031 *et seq.* For purposes of 11 CFR 100.7(b)(14), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for these services shall be reported by the committee receiving such services in accordance with 11 CFR 104.3(h).

(15) The payment by a state or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or

newletters, and yard signs) used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not a contribution, provided that the following conditions are met:

(i) Such payment is not for cost incurred in connection with any broadcasting, newspaper, magazine, bill board, direct mail, or similar type of general public communication or political advertising. For purposes of 11 CFR 100.7(b)(15)(i), the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

(ii) The portion of the cost of such materials allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated by the donor to be spent on behalf of a particular candidate or candidates for Federal office. For purposes of 11 CFR 100.7(b)(15)(iii), a contribution shall not be considered a "designated contribution" if the party committee disbursing the funds makes the final decision regarding which candidate(s) shall receive the benefit of such disbursement.

(iv) Such materials are distributed by volunteers and not by commercial or for-profit operations. For the purposes of 11 CFR 100.7(b)(15)(iv), payments by the party organization for travel and subsistence or customary token payments to volunteers do not remove such individuals from the volunteer category.

(v) If made by a political committee such payments shall be reported by the political committee as disbursements in accordance with 11 CFR 104.3 but need not be allocated to specific candidates in committee reports.

(vi) Payments by a State candidate or his or her campaign committee to a State or local political party committee for the State candidate's share of expenses for such campaign materials are not contributions, provided the amount paid by the State candidate or his or her committee does not exceed his or her proportionate share of the expenses.

(vii) Campaign materials purchased by the national committee of a political party and delivered to a State or local party committee, or materials purchased with funds donated by the national committee to such State or local committee for the purchase of such materials, shall not qualify under this exemption. Rather, the cost of such materials shall be subject to the

limitations of 2 USC 441a(d) and 11 CFR 110.7.

(16) The payment by a candidate for any public office (including State or local office), or by such candidate's authorized committee, of the costs of that candidate's campaign materials which include information on or any reference to a candidate for Federal office and which are used in connection with volunteer activities (such as pins, bumper stickers, handbills, brochures, posters, and yard signs) is not a contribution to such candidate for Federal office, provided that the payment is not for the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising. The payment of the portion of the cost of such materials allocable to Federal candidates shall be made from contributions subject to the limitations and prohibitions of the Act. For purposes of 11 CFR 100.7(b)(16), the term "direct mail" means any mailing(s) by commercial vendors or mailing(s) made from lists which were not developed by the candidate.

(17) The payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of the Presidential and Vice Presidential nominee(s) of that party, is not a contribution to such candidate(s) provided that the following conditions are met:

(i) Such payment is not for the costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising. For purposes of 11 CFR 100.7(b)(17)(i), the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

(ii) The portion of the costs of such activities allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated to be spent on behalf of a particular candidate or candidates for Federal office. For purposes of 11 CFR 100.7(b)(17)(iii), a contribution shall not be considered a "designated contribution" if the party committee disbursing the funds makes the final decision regarding which candidate(s) shall receive the benefit of such disbursement.

(iv) For purposes of 11 CFR 100.7(b)(17), if such activities include references to any candidate(s) for the House or Senate, the costs of such activities which are allocable to that

candidate(s) shall be a contribution to such candidate(s) unless the mention of such candidate(s) is merely incidental to the overall activity.

(v) For purposes of 11 CFR 100.7(b)(17), payment of the costs incurred in the use of phone banks in connection with voter registration and get-out-the-vote activities is not a contribution when such phone banks are operated by volunteer workers. The use of paid professionals to design the phone bank system, develop calling instructions and train supervisors is permissible. The payment of the costs of such professional services is not an expenditure but shall be reported as a disbursement in accordance with 11 CFR 104.3 if made by a political committee.

(vi) If made by a political committee, such payments for voter registration and get-out-the-vote activities shall be reported by that committee as disbursements in accordance with 11 CFR 104.3, but such payments need not be allocated to specific candidates in committee reports except as provided in 11 CFR 100.7(b)(17)(iv).

(vii) Payments made from funds donated by a national committee of a political party to a State or local party committee for voter registration and get-out-the-vote activities shall not qualify under this exemption. Rather, such funds shall be subject to the limitations of 2 USC 441a(d) and 11 CFR 110.7.

(18) Payments made to any party committee by a candidate or the authorized committee of a candidate as a condition of ballot access are not contributions.

(19) The payment of any honorarium and related expenses within the meaning of 11 CFR 110.12 is not a contribution.

(20) A gift, subscription, loan, advance, or deposit of money or anything of value made with respect to a recount of the results of a Federal election, or an election contest concerning a Federal election, is not a contribution except that the prohibitions of 11 CFR 110.4(a) and Part 114 apply.

(c) For purposes of 11 CFR 100.7 (a) and (b), any contributions or payments made by a married individual shall not be attributed to that individual's spouse, unless otherwise specified by that individual or by the individual's spouse.

§ 100.8 Expenditure (2 U.S.C. 431(9)).

(a) The term "expenditure" includes the following payments, gifts or other things of value:

(1) A purchase, payment, distribution, loan (except for a loan made in accordance with 11 CFR 100.8(b)(12)), advance, deposit, or gift of money or

anything of value, made by any person for the purpose of influencing any election for Federal office is an expenditure.

(i) For purposes of 11 CFR 100.8(a)(1), the term "payment" includes payment of any interest on an obligation and any guarantee or endorsement of a loan by a candidate or a political committee.

(ii) For purposes of 11 CFR 100.8(a)(1), the term "payment" does not include the repayment by a political committee of the principal of an outstanding obligation which is owed by such committee, except that the repayment shall be reported as disbursements in accordance with 11 CFR 104.3(b).

(iii) For purposes of 11 CFR 100.8(a)(1), the term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iv)(A) For purposes of 11 CFR 100.8(a)(1), the term "anything of value" includes all in-kind contributions. Unless specifically exempted under 11 CFR 100.8(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for the goods or services is an expenditure. Examples of such goods or services include, but are not limited to: securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists. If goods or services are provided at less than the usual and normal charge, the amount of the expenditure is the difference between the usual and normal charge for the goods or services at the time of the expenditure and the amount charged the candidate or political committee.

(B) For the purposes of 11 CFR 100.8(a)(1)(iv)(A), "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the expenditure; and "usual and normal charge" for services, other than those provided by an unpaid volunteer, means the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

(2) A written contract, including a media contract, promise, or agreement to make an expenditure is an expenditure as of the date such contract, promise or obligation is made.

(3) An independent expenditure which meets the requirements of 11 CFR 104.4 or Part 109 is an expenditure, and such independent expenditure is to be reported by the person making the expenditure in accordance with 11 CFR 104.4 and Part 109.

(b) The term "expenditure" does not include the following payments, gifts, or other things of value:

(1) Funds received and payments made solely for the purpose of determining whether an individual should become a candidate are not expenditures. Activities permissible under this exemption include, but are not limited to, expenses incurred for: conducting a poll, telephone calls and travel, to determine whether an individual should become a candidate. The individual shall keep records of all such funds received and payments made. If the individual subsequently becomes a candidate, the funds received and payments made are contributions and expenditures subject to the limitations, prohibitions and requirements of the Act. Such contributions and expenditures must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the funds were received or the payments made. This exemption does not include funds received or payments made for general public political advertising; nor does this exemption include funds received or payments made for activities designed to amass campaign funds that would be spent after the individual becomes a candidate.

(2) Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication is not an expenditure, unless the facility is owned or controlled by any political party, political committee or candidate, in which case the cost for a news story (i) which represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) which is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not an expenditure.

(3) Any cost incurred for nonpartisan activity designed to encourage individuals to register to vote or to vote is not an expenditure, except that corporations and labor organizations shall engage in such activity in accordance with 11 CFR 114.4(c) and (d). For purposes of 11 CFR 100.8(b)(3), "nonpartisan activity" means that no effort is or has been made to determine the party or candidate preference of individuals before encouraging them to register to vote or to vote.

(4) Any cost incurred for any communication by a membership organization to its members, or by a corporation to its stockholders or

executive or administrative personnel, is not an expenditure, so long as the membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization, including a labor organization, or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed \$2,000 per election, be reported to the Commission on FEC Form 7 in accordance with 11 CFR 104.6

(i) For purposes of 11 CFR 100.8(b)(4), "labor organization" means an organization of any kind (any local, national, or international union, or any local or State central body of a federation of unions is each considered a separate labor organization for purposes of this section) or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(ii) For purposes of 11 CFR 100.8(b)(4), "stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(iii) For purposes of 11 CFR 100.8(b)(4), "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(A) This definition includes—

(1) Individuals who run the corporation's business, such as officers, other executives, and plant, division, and section managers; and

(2) Individuals following the recognized professions, such as lawyers and engineers.

(B) This definition does not include—

(1) Professionals who are represented by a labor organization;

(2) Salaried foremen and other salaried lower level supervisors having direct supervision over hourly employees;

(3) Former or retired personnel who are not stockholders; or

(4) Individuals who may be paid by the corporation, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)-(1), of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)-(1).

(C) Individuals on commission may be considered executive or administrative personnel if they have policymaking, managerial, professional, or supervisory responsibility and if the individuals are employees, within the meaning of 26 CFR 31.3401(c)-(1), of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)-(1).

(D) The Fair Labor Standards Act, 29 USC § 201, *et seq.* and the regulations issued pursuant to such Act, 29 CFR 541, *et seq.*, may serve as a guideline in determining whether individuals have policymaking, managerial, professional, or supervisory responsibilities.

(iv) For purposes of 11 CFR 100.8(b)(4), "members" means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock and in the case of a labor organization, persons who are currently satisfying the requirements for membership in a local, national, or international labor organization. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(v) For purposes of 11 CFR 100.8(b)(4), "election" means two separate processes in a calendar year, to each of which the \$2,000 threshold described above applies separately. The first process is comprised of all primary elections for Federal office, whenever and wherever held; the second process is comprised of all general elections for Federal office, whenever and wherever held. The term "election" shall also include each special election held to fill a vacancy in a Federal office (11 CFR 100.2(f)) or each runoff election (11 CFR 100.2(d)).

(vi) For purposes of 11 CFR 100.8(b)(4), "corporation" means any separately incorporated entity, whether or not affiliated.

(vii) When the aggregate costs under 11 CFR 100.8(b)(4) exceed \$2,000 per election, all costs of the communication(s) shall be reported on

the filing dates specified in 11 CFR 104.6, and shall include the total amount expended for each candidate supported.

(5) No expenditure results where an individual, in the course of volunteering personal services on his or her residential premises to any candidate or political committee of a political party, provides the use of his or her real or personal property to such candidate for candidate-related activity or to such political committee of a political party for party-related activity. For the purposes of 11 CFR 100.8(b)(5), an individual's residential premises shall include a recreation room in a residential complex where the individual volunteering services resides, provided that the room is available for use without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not an expenditure.

(6) No expenditure results where an individual, in the course of volunteering personal services to any candidate or political committee of a political party, obtains the use of a church or community room and provides such room to any candidate for candidate-related activity or to any political committee of a political party for party-related activity, provided that the room is used on a regular basis by members of the community for noncommercial purposes and the room is available for use by members of the community without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not an expenditure.

(7) The cost of invitations, food, and beverages is not an expenditure where such items are voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises or in a church or community room as specified in 11 CFR 100.8(b)(5) and (6) to a candidate for candidate-related activity or to a political committee of a political party for party-related activity, to the extent that: the aggregate value of such invitations, food and beverages provided by the individual on behalf of the candidate does not exceed \$1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed \$2,000 in any calendar year.

(8) The sale of any food or beverage by a vendor (whether incorporated or not) for use in a candidate's campaign, or for use by a political committee of a political party, at a charge less than the normal or comparable commercial charge, is not an expenditure, provided that the charge is at least equal to the cost of such food or beverage to the

vendor, to the extent that: the aggregate value of such discount given by the vendor on behalf of any single candidate does not exceed \$1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year.

(9) Any unreimbursed payment for transportation expenses incurred by any individual on behalf of any candidate or political committee of a political party is not an expenditure to the extent that: the aggregate value of the payments made by such individual on behalf of a candidate does not exceed \$1,000 with respect to a single election; and on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal subsistence expenses incident to volunteer activity is not an expenditure.

(10) The payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card, sample ballot, palm card, or other printed listing(s) of three or more candidates for any public office for which an election is held in the State in which the committee is organized is not an expenditure. The payment of the portion of such costs allocable to Federal candidates must be made from funds subject to the limitations and prohibitions of the Act. If made by a political party committee, such payments shall be reported by that committee as disbursements, but need not be allocated in committee reports to specific candidates. This exemption shall not apply to costs incurred by such a committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public political advertising such as billboards.

(11) Any payment made or obligation incurred by a corporation or labor organization is not an expenditure if under the provisions of 11 CFR Part 114 such payment or obligation would not constitute an expenditure by the corporation or labor organization.

(12) A loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration is not an expenditure by the lending institution if such loan is made in accordance with

applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that the loan agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered an expenditure by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For the purposes of 11 CFR 100.8(b)(12), an overdraft made on a checking or savings account shall be considered an expenditure unless: the overdraft is made on an account which is subject to automatic overdraft protection; and the overdraft is subject to a definite interest rate and a definite repayment schedule.

(13) A purchase, payment, distribution, loan, advance, or deposit of money or anything of value made to a national committee or a state committee of a political party is not an expenditure if it is specifically designated to defray any cost incurred for construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office. If such purchase, payment, distribution, loan, advance, or deposit of money or anything of value is made to a committee which is not a political committee under 11 CFR 100.5, the amount need not be reported. However, if such purchase, payment, distribution, loan, advance, or deposit of money or anything of value is made to a political committee, it shall be reported in accordance with 11 CFR 104.3(g).

(14) Legal or accounting services rendered to or on behalf of any political committee of a political party are not expenditures if the person paying for such services is the regular employer of the individual rendering the services and such services are not attributable to

activities which directly further the election of any designated candidate for Federal office. For purposes of 11 CFR 100.8(b)(14), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for such services shall be reported by the committee receiving such services in accordance with 11 CFR 104.3(h).

(15) Legal or accounting services rendered to or on behalf of an authorized committee of a candidate or any other political committee are not expenditures if the person paying for such services is the regular employer of the individual rendering such services and if the services are solely to ensure compliance with the Act or 26 USC 9001 *et seq.* and 9032 *et seq.* For purposes of 11 CFR 100.8(b)(15), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for these services shall be reported by the committee receiving such services in accordance with 11 CFR 104.3(h). Expenditures for these services by a candidate certified to receive Primary Matching Funds under 11 CFR Part 9034 or certified to receive payments from the Presidential Election Campaign Fund under 11 CFR Part 143 do not count against such candidate's expenditure limitations under 11 CFR Part 9035 or 11 CFR 110.8.

(16) The payment by a state or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or newsletters, and yard signs) used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not an expenditure, provided that the following conditions are met.

(i) Such payment is not for costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising. For the purposes of 11 CFR 100.8(b)(16)(i), the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

(ii) The portion of the cost of such materials allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated by the donor to be spent on behalf of a particular candidate or candidates for Federal office. For purposes of 11 CFR 100.8(b)(16)(iii), a contribution shall not be considered a "designated contribution" if the party committee

disbursing the funds makes the final decision regarding which candidate(s) shall receive the benefit of such disbursement.

(iv) Such materials are distributed by volunteers and not by commercial or for-profit operations. For the purposes of 11 CFR 100.8(b)(16)(iv), payments by the party organization for travel and subsistence or customary token payments to volunteers do not remove such individuals from the volunteer category.

(v) If made by a political party committee, such payments shall be reported by that committee as disbursements, in accordance with 11 CFR 104.3, but need not be allocated to specific candidates in committee reports.

(vi) Payments by a State candidate or his or her campaign committee to a State or local political party committee for the State candidate's share of expenses for such campaign materials are not expenditures, provided the amount paid by the State candidate or his or her committee does not exceed his or her proportionate share of the expenses.

(vii) Campaign materials purchased by the national committee of a political party and delivered to a State or local party committee, or materials purchased with funds donated by the national committee to such State or local committee for the purchase of such materials, shall not qualify under this exemption. Rather, the cost of such materials shall be subject to the limitations of 2 USC 441a(d) and 11 CFR 110.7.

(17) The payment by a candidate for any public office (including State or local office), or by such candidate's authorized committee, of the costs of that candidate's campaign materials which include information on or any reference to a candidate for Federal office and which are used in connection with volunteer activities (such as pins, bumper stickers, handbills, brochures, posters, and yard signs) is not an expenditure on behalf of such candidate for Federal office, provided that the payment is not for the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising. The payment of the portion of the cost of such materials allocable to Federal candidates shall be made from contributions subject to the limitations and prohibitions of the Act. For purposes of 11 CFR 100.8(b)(17), the term "direct mail" means mailings by commercial vendors or mailings made from lists which were not developed by the candidate.

(18) The payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of the Presidential and Vice Presidential nominee(s) of that party is not an expenditure for the purpose of influencing the election of such candidates provided that the following conditions are met:

(i) Such payment is not for the costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising. For purposes of 11 CFR 100.8(b)(18)(i), the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

(ii) The portion of the costs of such activities allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated to be spent on behalf of a particular candidate or candidates for Federal office. For the purposes of 11 CFR 100.8(b)(18)(iii), a contribution shall not be considered a "designated contribution" if the party committee disbursing the funds makes the final decision regarding which candidate(s) shall receive the benefit of such disbursement.

(iv) For purposes of 11 CFR 100.8(b)(18), if such activities include references to any candidate(s) for the House or Senate, the costs of such activities which are allocable to that candidate(s) shall be an expenditure on behalf of such candidate(s) unless the mention of such candidate(s) is merely incidental to the overall activity.

(v) For purposes of 11 CFR 100.8(b)(18), payment of the costs incurred in the use of phone banks in connection with voter registration and get-out-the-vote activities is not an expenditure when such phone banks are operated by volunteer workers. The use of paid professionals to design the phone bank system, develop calling instructions and train supervisors is permissible. The payment of the costs of such professional services is not an expenditure but shall be reported as a disbursement in accordance with 11 CFR 104.3 if made by a political committee.

(vi) If made by a political committee, such payments for voter registration and get-out-the-vote activities shall be reported by that committee as disbursements, in accordance with 11 CFR 104.3 but such payments need not be allocated to specific candidates in

committee reports except as provided in 11 CFR 100.8(b)(18)(iv).

(vii) Payments made from funds donated by a national committee of a political party to a State or local party committee for voter registration and get-out-the-vote activities shall not qualify under this exemption. Rather, such funds shall be subject to the limitations of 2 USC 441a(d) and 11 CFR 110.7.

(19) Amounts transferred by a party committee to another party committee or payments made to the appropriate State official of fees collected from candidates or their authorized committees as a condition of ballot access are not expenditures.

(20) A purchase, payment, distribution, loan, advance, or deposit of money or anything of value made with respect to a recount of the results of a Federal election, or an election contest concerning a Federal election, is not an expenditure except that the prohibitions of 11 CFR 110.4(a) and Part 114 apply.

(21) (i) Any costs incurred by a candidate or his or her authorized committees in connection with the solicitation of contributions by a candidate who has been certified to receive Presidential Primary Matching Fund Payments (or a minor or new party candidate receiving general election public financing under 26 USC 9004), the aggregate of which do not exceed 20 percent of the expenditure limitation applicable to that candidate, are not expenditures, but these costs shall be reported as disbursements under 11 CFR Part 104.

(ii) For purposes of 11 CFR 100.8(b)(21), "in connection with the solicitation of contributions" means any cost reasonably related to fundraising activity, including the costs of printing and postage, the production of and space or air time for, advertisements used for fundraising, and the costs of meals, beverages, and other costs associated with a fundraising reception or dinner.

(iii) The fundraising expenditures need not be allocated on a State by State basis, except where the fundraising activity is aimed at a particular State and takes place within 28 days prior to a primary election, convention, or caucus. See 11 CFR 110.8(c).

(22) Payments by a candidate from his or her personal funds, as defined at 11 CFR 110.10(b), for the candidate's routine living expenses which would have been incurred without candidacy, including the costs of food and residence, are not expenditures.

(c) For purposes of 11 CFR 100.8 (a) and (b), any payments made by a married individual shall not be

attributed to that individual's spouse, unless otherwise specified by that individual or by the individuals' spouse.

§ 100.9 Commission (2 U.S.C. 431(10)).

"Commission" means the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

§ 100.10 Person (2 U.S.C. 431(11)).

"Person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization, or group of persons, but does not include the Federal government or any authority of the Federal government.

§ 100.11 State (2 U.S.C. 431(12)).

"State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

§ 100.12 Identification (2 U.S.C. 431(13)).

"Identification" means, in the case of an individual, his or her full name, including: first name, middle name or initial, if available, and last name; mailing address; occupation; and the name of his or her employer; and, in the case of any other person, the person's full name and address.

§ 100.13 National committee (2 U.S.C. 431(14)).

"National committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the national level, as determined by the Commission.

§ 100.14 State committee, Subordinate committee (2 U.S.C. 431(15)).

(a) "State committee" means the organization which by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the State level, as determined by the Commission.

(b) "Subordinate committee of a State committee" means any organization which is responsible for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State or any organization under the control or direction of the State committee.

§ 100.15 Political party (2 U.S.C. 431(16)).

"Political party" means an association, committee, or organization which nominates or selects a candidate for election to any Federal office, whose name appears on an election ballot as the candidate of the association, committee, or organization.

§ 100.16 Independent expenditure (2 U.S.C. 431(17)).

The term "independent expenditure" means an expenditure for a communication by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

§ 100.17 Clearly identified (2 U.S.C. 431(18)).

The term "clearly identified" means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

§ 100.18 Act (2 U.S.C. 431(19)).

"Act" means the Federal Election Campaign Act of 1971 (Public Law 92-225), as amended in 1974 (Public Law 93-443), 1976 (Public Law 94-283), 1977 (Public Law 95-216) and 1980 (Public Law 96-187).

§ 100.19 File, filed or filing (2 U.S.C. 434(a)).

With respect to reports, statements, notices, and designations required to be filed under 11 CFR Parts 101, 102, 104, 105, 107, 108 and 109, and any modifications or amendments thereto, the terms "file", "filed" and "filing" mean either of the following actions:

(A) A document is timely filed upon delivery to the Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463; the Secretary of the United States Senate, Office of Public Records, 119 D Street NE., Washington, D.C. 20510; or the Clerk of the United States House of Representatives, House Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515 as required by 11 CFR Part 105, by the close of the prescribed filing date.

(B) A document is timely filed upon deposit as registered or certified mail in an established U.S. Post Office and postmarked no later than midnight of the day of the filing date, except that pre-election reports so mailed must be postmarked no later than midnight of the fifteenth day before the date of the election. Reports and statements sent by first class mail must be received by the close of business of the prescribed filing date to be timely filed.

§ 100.20 Occupation (2 U.S.C. 431(13)).

"Occupation" means the principal job title or position of an individual and whether or not self-employed.

§ 100.21 Employer (2 U.S.C. 431(13)).

"Employer" means the organization or person by whom an individual is employed, and not the name of his or her supervisor.

PART 101—CANDIDATE STATUS AND DESIGNATIONS (2 U.S.C. 432(e))

Sec.

101.1 Candidate designations (2 U.S.C. 432(e)(1)).

101.2 Candidate as agent of authorized committee (2 U.S.C. 432(e)(2)).

101.3 Funds received or expended prior to becoming a candidate (2 U.S.C. 432(e)(2)).

Authority: 2 U.S.C. 432(e), 438(a) (f).

§ 101.1 Candidate designations (2 U.S.C. 432(e)(1)).

(a) *Principal Campaign Committee.* Within 15 days after becoming a candidate under 11 CFR 100.3, each candidate, other than a nominee for the office of Vice President, shall designate in writing a principal campaign committee in accordance with 11 CFR 102.12. A candidate shall designate his or her principal campaign committee by filing a Statement of Candidacy on FEC Form —, or by filing a letter containing the same information (that is, the individual's name and address, party affiliation and office sought, the District and State in which Federal office is sought, and the name and address of his or her principal campaign committee) at the place of filing specified at 11 CFR Part 105. Each principal campaign committee shall register, designate a depository and report in accordance with 11 CFR Parts 102, 103 and 104.

(b) *Authorized Committees.* A candidate may designate additional political committees in accordance with 11 CFR 102.13 to serve as committees which will be authorized to accept contributions or make expenditures on behalf of the candidate. For each such authorized committee, other than a principal campaign committee, the candidate shall file a written designation with his or her principal campaign committee. The principal campaign committee shall file such designations at the place of filing specified at 11 CFR Part 105.

§ 101.2 Candidate as agent of authorized committee (2 U.S.C. 432(e)(2)).

(a) Any candidate who receives a contribution as defined at 11 CFR 100.7, obtains any loan, or makes any disbursement, in connection with his or her campaign shall be considered as

having received such contribution, obtained such loan or made such disbursement as an agent of his or her authorized committee(s).

(b) When an individual becomes a candidate, any funds received, loans obtained, or disbursements made prior to becoming a candidate in connection with his or her campaign shall be deemed to have been received, obtained or made as an agent of his or her authorized committee(s).

§ 101.3 Funds received or expended prior to becoming a candidate (2 U.S.C. 432(e)(2)).

When an individual becomes a candidate, all funds received or payments made in connection with his or her campaign prior to becoming a candidate shall be considered contributions or expenditures under the Act and shall be reported in accordance with 11 CFR 104.3 in the first report filed by such candidate's principal campaign committee. The individual shall keep records of the name of each contributor, the date of receipt and amount of all contributions received (see 11 CFR 102.9(a)) and all expenditures made (see 11 CFR 102.9(b)) in connection with the individual's campaign prior to becoming a candidate. Contributions received by an individual prior to becoming a candidate, which contributions are not in compliance with the Act, shall be returned to the contributor within ten (10) days after the individual becomes a candidate. The individual shall keep records of all refunds made.

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

Sec.

- 102.1 Registration of political committees (2 U.S.C. 433(a)).
- 102.2 Statement of organization: Forms and committee identification number (2 U.S.C. 433(b), (c)).
- 102.3 Termination of registration (2 U.S.C. 433(d)(1)).
- 102.4 Administrative termination (2 U.S.C. 433(d)(2)).
- 102.5 Organizations financing political activity in connection with Federal and non-Federal elections, other than through transfers and joint fundraisers.
- 102.6 Transfers and joint fundraisers.
- 102.7 Organization of political committees (2 U.S.C. 433(a)).
- 102.8 Receipt of contributions (2 U.S.C. 432(b)).
- 102.9 Accounting for contributions and expenditures (2 U.S.C. 432(c)).
- 102.10 Disbursement by check (2 U.S.C. 432(h)(1)).
- 102.11 Petty cash fund (2 U.S.C. 432(h)(2)).
- 102.12 Designation of principal campaign committee (2 U.S.C. 432(e) (1) and (3)).

102.13 Authorization of political committees (2 U.S.C. 432(e) (1) and (3)).

102.14 Names of political committees (2 U.S.C. 432(e) (4) and (5)).

102.15 Commingled funds (2 U.S.C. 432(a)(3)).

102.16 Notice: Solicitation of contributions (2 U.S.C. 441d).

Authority: 2 U.S.C. 432, 433, 438(a)(8), 441d.

§ 102.1 Registration of Political Committees (2 U.S.C. 433(a)).

(a) *Principal Campaign Committees.*
Each principal campaign committee shall file a Statement of Organization in accordance with 11 CFR 102.2 no later than 10 days after designation pursuant to 11 CFR 101.1. In addition, each principal campaign committee shall file all designations, statements and reports which are filed with such committee at the place of filing specified at 11 CFR Part 105.

(b) *Authorized Committees.*
Each authorized committee(s) shall file only one Statement of Organization in accordance with 11 CFR 102.2 no later than 10 days after designation pursuant to 11 CFR 101.1. Such Statement(s) shall be filed with the principal campaign committee of the authorizing candidate.

(c) *Separate Segregated Funds.*
Each separate segregated fund established under 2 USC 441b(b)(2)(C) shall file a Statement of Organization with the Federal Election Commission no later than 10 days after establishment. This requirement shall not apply to a fund established solely for the purpose of financing political activity in connection with State or local elections. Examples of establishment events after which a fund would be required to register include, but are not limited to: a vote by the board of directors or comparable governing body of an organization to create a separate segregated fund to be used wholly or in part for federal elections; selection of initial officers to administer such a fund; or payment of the initial operating expenses of such a fund.

(d) *Other Political Committees.*
All other committees shall file a Statement of Organization no later than 10 days after becoming a political committee within the meaning of 11 CFR 100.5. Such statement(s) shall be filed at the place of filing specified at 11 CFR Part 105.

§ 102.2 Statement of Organization: Forms and Committee Identification Number (2 U.S.C. 433(b), (c)).

(a) *Forms.*
(1) The Statement of Organization shall be filed in accordance with 11 CFR Part 105 on Federal Election Commission Form 1, which may be obtained from the Federal Election

Commission, 1325 K Street, N.W., Washington, D.C. 20463. The Statement shall be signed by the treasurer and shall include the following information:

- (i) The name, address, and type of committee;
- (ii) The name, address, relationship, and type of any connected organization or affiliated committee in accordance with 11 CFR 102.2(b);
- (iii) The name, address, and committee position of the custodian of books and accounts of the committee;
- (iv) The name and address of the treasurer of the committee;
- (v) If the committee is authorized by a candidate, the name, office sought (including State and Congressional district, when applicable) and party affiliation of the candidate; and the address to which communications should be sent;
- (vi) A listing of all banks, safe deposit boxes, or other depositories used by the committee.

(2) Any change or correction in the information previously filed in the Statement of Organization shall be reported no later than 10 days following the date of the change or correction by filing an amended Statement of Organization or by filing a letter noting the change(s). The amendment need list only the name of such committee and the change or correction.

(b) For purposes of 11 CFR 102.2(a)(1)(ii), political committees shall disclose the names of any connected organization(s) or affiliated committee(s) in accordance with 11 CFR 102.2(b) (1) and (2).

(1) "Affiliated committee" includes any committee defined in 11 CFR 100.5(g).

(i) A principal campaign committee is required to disclose the names and addresses of all other authorized committees which have been authorized by its candidate. Authorized committees need only disclose the name of their principal campaign committee.

(ii)(A) Political committees established by a single parent corporation, a single national or international union, a single organization or federation of national or international unions, a single national membership organization or trade association, or any other similar group of persons (other than political party organizations) are required to disclose the names and addresses of all political committees established by any subsidiary, or by any State, local, or other subordinate unit of a national or international union or federation thereof, or by any subordinate units of a national membership organization, trade association, or other group of persons

(other than political party organizations).

(B) Political committees established by subsidiaries, or by State, local, or other subordinate units are only required to disclose the name and address of each political committee established by their parent or superior body, e.g., parent corporation, national or international union or organization or federation of such unions, or national organization or trade association.

(2) "Connected organization" includes any organization defined at 11 CFR 100.6.

(c) *Committee identification number.* Upon receipt of a Statement of Organization under 11 CFR Part 102 by the Commission, an identification number shall be assigned to the committee, receipt shall be acknowledged, and the political committee shall be notified of the number assigned. This identification number shall be entered by the political committee on all subsequent reports or statements filed under the Act, as well as on all communications concerning reports and statements.

§ 102.3 Termination of registration (2 U.S.C. 433(d)(1)).

(a) A political committee (other than a principal campaign committee) may terminate only upon filing a termination report on FEC Form or upon filing a written statement containing the same information at the place of filing specified at 11 CFR Part 105. Except as provided in 11 CFR 102.4(c), only a committee which will no longer receive any contributions or make any disbursements that would otherwise qualify it as a political committee may terminate, provided that such committee has no outstanding debts and obligations. In addition to the Notice, the committee shall also provide a final report of receipts and disbursements, which report shall include a statement as to the purpose for which such residual funds will be used, including a statement as to whether such residual funds will be used to defray expenses incurred in connection with an individual's duties as a holder of federal office.

(b) Except as provided at 11 CFR 102.4, a principal campaign committee may not terminate until it has met the requirements of 11 CFR 102.3(a) and until all debts of any other authorized committee(s) of the candidate have been extinguished.

§ 102.4 Administrative termination (2 U.S.C. 443(d)(2)).

(a) The Commission, on its own initiative or upon the request of the

political committee itself, may administratively terminate a political committee's reporting obligation on the basis of the following factors:

(1) The committee's aggregate reported financial activity in one year is less than \$5000;

(2) The committee's reports disclose no receipt of contributions for the previous year;

(3) The committee's last report disclosed minimal expenditures;

(4) The committee's primary purpose for filing its reports has been to disclose outstanding debts and obligations;

(5) The committee has failed to file reports for the previous year;

(6) The committee's last report disclosed that the committee's outstanding debts and obligations do not appear to present a possible violation of the prohibitions and limitations of 11 CFR Parts 110 and 114;

(7) The committee's last report disclosed that the Committee does not have substantial outstanding accounts receivable;

(8) The committee's outstanding debts and obligations exceed the total of the committee's reported cash on hand balance.

(b) The Commission shall send a notification to the committee treasurer of its intent to administratively terminate that committee and may request the treasurer to submit information with regard to the factors set forth at 11 CFR 102.4(a). The treasurer shall respond, in writing, within 30 days of receipt of the Commission's notice or request and if the committee objects to such termination, the committee's response shall so state.

(c) The Commission shall administratively terminate a committee if such committee fails to object to the Commission's action under 11 CFR 102.4(b) and the Commission determines that either:

(1) The committee has complied with the debt settlement procedures set forth at 11 CFR 114.10;

(2) The Commission has approved the forgiveness of any loan(s) owed the committee which would have otherwise been considered a contribution under the Act in violation of 11 CFR Part 110;

(3) It does not appear from evidence available that a contribution in violation of 11 CFR Parts 110 and 114 will result.

§ 102.5 Organizations financing political activity in connection with federal and non-federal elections, other than through transfers and joint fundraisers.

(a) Organizations that are political committees under the Act

(1) Each organization, including a party committee, which finances political activity in connection with both federal and non-federal elections and which qualifies as a political committee under 11 CFR 100.5 shall either:

(i) Establish a separate federal account in a depository in accordance with 11 CFR Part 103. Such account shall be treated as a separate federal political committee which shall comply with the requirements of the Act including the registration and reporting requirements of 11 CFR Parts 102 and 104. Only funds subject to the prohibitions and limitations of the Act shall be deposited in such separate federal account. All disbursements, contributions, expenditures and transfers by the committee in connection with any federal election shall be made from its federal account. No transfers may be made to such federal account from any other account(s) maintained by such organization for the purpose of financing activity in connection with non-federal elections. Administrative expenses shall be allocated pursuant to 11 CFR Part 106 between such federal account and any other account maintained by such committee for the purpose of financing activity in connection with non-federal elections; or

(ii) Establish a political committee which shall receive only contributions subject to the prohibitions and limitations of the Act, regardless of whether such contributions are for use in connection with federal or non-federal elections. Such organization shall register as a political committee and comply with the requirements of the Act.

(2) Only contributions meeting the conditions set forth at subsections (i), (ii), and (iii) of this section may be deposited in a federal account established under 11 CFR 102.5(a)(1) or may be received by a political committee established under 11 CFR 102.5(a)(2).

(i) Contributions designated for the federal account;

(ii) Contributions that result from a solicitation which expressly states that the contribution will be used in connection with a federal election; and

(iii) Contributions from contributors who are informed that all contributions are subject to the prohibitions and limitations of the Act.

(b) Organizations that are not political committees under the Act

(1) Any organization that makes contributions or expenditures but does not qualify as a political committee under 11 CFR 100.5 and any State or local party organization that makes contributions, expenditures and

exempted payments under 11 CFR 100.7(b)(9), (15) and (17) and 100.8(b)(10), (16) and (18) shall either:

(i) Establish a separate account to which only funds subject to the prohibitions and limitations of the Act shall be deposited and from which contributions, expenditures and exempted payments shall be made. Such organization shall keep records of deposits to and disbursements from such account and, upon request, shall make such records available for examination by the Commission.

(ii) Demonstrate through a reasonable accounting method that whenever such organization makes a contribution, expenditure or exempted payment, that organization has received sufficient funds subject to the limitations and prohibitions of the Act to make such contribution, expenditure or payment. Such organization shall keep records of amounts received or expended under this subsection and, upon request, shall make such records available for examination by the Commission.

§ 102.6 Transfers and joint fundraisers.

(a) Transfers of funds may be made without limit between affiliated committees, whether or not they are political committees under 11 CFR 100.5; and between or among a national party committee, any State party committee and/or any subordinate party committee whether or not they are political committees under 11 CFR 100.5 and whether or not such committees are affiliated. Transfers will apply toward the thresholds for determining whether a committee is a political committee as defined at 11 CFR 100.5.

(b) For a committee or organization engaging in a joint fundraising with, or acting as a fundraising agent for, any political committee, said committee or organization shall comply with the provisions of 11 CFR 102.8 and in transferring such contributions shall either:

(1) Establish a transmittal account to be used solely for the deposit of funds from a joint fundraiser or collected as a fundraising agent and for forwarding funds to its affiliate. Only funds subject to the prohibitions and limitations of the Act shall be deposited into such account. If any disbursement is made from the account, other than a transfer of funds to an affiliated committee, the account shall be considered a depository of the recipient affiliated political committee and all activity of that account shall be reported; or

(2) Transmit contributions which it has collected as a fundraising agent or in joint fundraising either by money order, cashier's check or similar

instrument without depositing such contributions in any account prior to the transfers; or

(3) Deposit contributions which it has collected in joint fundraising or through a check-off plan in an account established solely for State or local election activity. The committee shall forward such contributions to its affiliate in accordance with 11 CFR 102.8. The committee shall make separate deposits of funds received through joint fundraising activity or through a check-off plan, where any portion of such funds represents contributions to the affiliated political committee. Such record shall include those records required to the kept under 11 CFR 102.8. If contributions of \$50 or less are received at a mass collection, a record shall be kept of the date, the total amount collected, and the name of the function at which the collection was made. For each contribution of \$50 or less which was not received at a mass collection, a record shall be kept of the date and amount of the contribution. Upon request, the organization shall make all records kept under this section available for examination by the Commission.

§ 102.7 Organization of political committees. (2 U.S.C. 432(a)).

(a) Every political committee shall have a treasurer and may designate, on the committee's Statement of Organization, an assistant treasurer who shall assume the duties and responsibilities of the treasurer in the event of a temporary or permanent vacancy in the office or in the event the treasurer is unavailable.

(b) Except as provided in subsection (a), no contribution or expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of the treasurer.

(c) No expenditure shall be made for or on behalf of a political committee without the authorization of its treasurer or of an agent authorized orally or in writing by the treasurer.

(d) Any candidate who receives a contribution, as defined at 11 CFR 100.7, obtains any loan or makes any disbursement in connection with his or her campaign, shall be considered as having received the contribution, obtained the loan or made the disbursement as an agent of such authorized committee(s).

§ 102.8 Receipt of contributions. (2 U.S.C. 432(b)).

(a) Every person who receives a contribution for an authorized political committee shall, no later than 10 days

after receipt, forward such contribution to the treasurer. If the amount of the contribution is in excess of \$50, such person shall also forward to the treasurer the name and address of the contributor and the date of receipt of the contribution. If the amount of the contribution is in excess of \$200, such person shall forward the contribution, the identification of the contributor in accordance with 11 CFR 100.12, and the date of receipt of the contribution. Date of receipt shall be the date such person obtains possession of the contribution.

(b) (1) Every person who receives a contribution of \$50 or less for a political committee which is not an authorized committee shall forward such contribution to the treasurer of the political committee no later than 30 days after receipt.

(2) Every person who receives a contribution in excess of \$50 for a political committee which is not an authorized committee shall, no later than 10 days after receipt of the contribution, forward to the treasurer of the political committee: the contribution; the name and address of the contributor; and the date of receipt of the contribution. If the amount of the contribution is in excess of \$200, such person shall forward the contribution, the identification of the contributor in accordance with 11 CFR 100.12, and the date of receipt of the contribution. Date of receipt shall be the date such person obtains possession of the contribution.

(c) The provisions of 11 CFR 102.8 concerning receipt of contributions for political committees shall also apply to earmarked contributions transmitted by an intermediary or conduit.

§ 102.9 Accounting for contributions and expenditures. (2 U.S.C. 432(c)).

The treasurer of a political committee or an agent authorized by the treasurer to receive contributions and make expenditures shall fulfill all recordkeeping duties as set forth at 11 CFR 102.9(a) through (e):

(a) An account shall be kept by any reasonable accounting procedure of all contributions received by or on behalf of the political committee.

(1) For contributions in excess of \$50, such account shall include the name and address of the contributor and the date of receipt and amount of such contribution.

(2) For contributions from any person whose contributions aggregate more than \$200 during a calendar year, such account shall include the identification of the person, and the date of receipt and amount of such contribution.

(3) For contributions from a political committee, such account shall include

the identification of the political committee and the date of receipt and amount of such contribution.

(b)(1) An account shall be kept of all disbursements made by or on behalf of the political committee. Such account shall consist of a record of:

(i) the name and address of every person to whom any disbursement is made;

(ii) the date, amount, and purpose of the disbursement; and

(iii) if the disbursement is made for a candidate, the name and office (including State and congressional district, if any) sought by that candidate.

(iv) For purposes of 11 CFR 102.9(b)(1), "purpose" has the same meaning given the term at 11 CFR 104.3(b)(3)(i)(A).

(2) In addition to the account to be kept under 11 CFR 102.9(b)(1), a receipt or invoice from the payee or a cancelled check to the payee shall be obtained and kept for each disbursement in excess of \$200 by or on behalf of, the committee, except that credit card transactions, shall be documented in accordance with 11 CFR 102.9(b)(2)(ii) and disbursements by share draft or check drawn on a credit union account shall be documented in accordance with 11 CFR 102.9(b)(2)(iii).

(i)(A) For purposes of 11 CFR 102.9(b)(2), "payee" means the person who provides the goods or services to the committee or agent thereof in return for payment, except for an advance of \$500 or less for travel and subsistence to an individual who will be the recipient of the goods or services.

(B) For any advance of \$500 or less to an individual for travel and subsistence, the expense voucher or other expense account documentation and a cancelled check to the recipient of the advance shall be obtained and kept.

(ii) For any credit card transaction, documentation shall include a monthly billing statement or customer receipt for each transaction and the cancelled check used to pay the credit card account.

(iii) For purposes of 11 CFR 102.9(b)(2), a carbon copy of a share draft or check drawn on a credit union account may be used as a duplicate record of such draft or check provided that the monthly account statement showing that the share draft or check was paid by the credit union is also retained.

(c) The treasurer shall preserve all records and accounts required to be kept under 11 CFR 102.9 for 3 years after the report to which such records and accounts relate is filed.

(d) In performing recordkeeping duties, the treasurer or his or her authorized agent shall use his or her

best efforts to obtain, maintain and submit the required information and shall keep a complete record of such efforts. If there is a showing that best efforts have been made, any records of a committee shall be deemed to be in compliance with this Act. With regard to the requirements of 11 CFR 102.9(b)(2) concerning receipts, invoices and cancelled checks, the treasurer will not be deemed to have exercised best efforts to obtain, maintain and submit the records unless he or she has made at least one written effort per transaction to obtain a duplicate copy of the invoice, receipt, or cancelled check.

(e) If the candidate, or his or her authorized committee(s), receives contributions prior to the date of the primary election, which contributions are designated by the candidate or his or her authorized committee(s) for use in connection with the general election, such candidate or such committees shall use an acceptable accounting method to distinguish between contributions received for the primary election and contributions received for the general election. Acceptable methods include, but are not limited to: (1) the designation of separate accounts for each election, caucus, or convention and (2) the establishment of separate books and records for each election.

§ 102.10 Disbursement by check (2 U.S.C. 432(h)(1)).

All disbursements by a political committee, except for disbursements from the petty cash fund under 11 CFR 102.11, shall be made by check or similar draft drawn on account(s) established at the committee's campaign depository or depositories under 11 CFR Part 103.

§ 102.11 Petty cash fund (2 U.S.C. 432(h)(2)).

A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of \$100 to any person per purchase or transaction. If a petty cash fund is maintained, it shall be the duty of the treasurer of the political committee to keep and maintain a written journal of all disbursements. This written journal shall include the name and address of every person to whom any disbursement is made, as well as the date, amount, and purpose of such disbursement. In addition, if any disbursement is made for a candidate, the journal shall include the name of that candidate and the office (including State and Congressional district) sought by such candidate.

§ 102.12 Designation of principal campaign committee (2 U.S.C. 432(e)(1) and (3)).

(a) Each candidate for Federal office (other than a nominee of a political party to the Office of Vice President) shall designate in writing a political committee to serve as his or her principal campaign committee in accordance with 11 CFR 101.1(a) no later than 15 days after becoming a candidate. Each principal campaign committee shall register, designate a depository and report in accordance with 11 CFR Parts 102, 103 and 104.

(b) No political committee may be designated as the principal campaign committee of more than one candidate.

(c)(1) No political committee which supports or has supported more than one candidate may be designated as a principal campaign committee, except that, after nomination, a candidate for the office of President of the United States nominated by a political party may designate the national committee of such political party as his or her principal campaign committee. A national committee which is so designated shall maintain separate books of account with respect to its function as a principal campaign committee.

(2) For purposes of 11 CFR 102.12(c), the term "support" does not include contributions by an authorized committee in amounts aggregating \$1,000 or less per election to an authorized committee of any other candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's Presidential candidate may contribute to another candidate in accordance with 11 CFR Part 110.

§ 102.13 Authorization of political committees (2 U.S.C. 432(e)(1) and (3)).

(a)(1) Any political committee authorized by a candidate to receive contributions or make expenditures shall be authorized in writing by the candidate. Such authorization must be filed with the principal campaign committee in accordance with 11 CFR 102.1(b).

(2) If an individual fails to disavow activity pursuant to 11 CFR 100.3(a)(3) and is therefore a candidate upon notice by the Commission, he or she shall authorize the committee in writing.

(b) A candidate is not required to authorize a national, State or subordinate State party committee which solicits funds to be expended on the candidate's behalf pursuant to 11 CFR 110.7.

(c)(1) No political committee which supports or has supported more than one candidate may be designated as an authorized committee, except that two or more candidates may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

(2) For purposes of 11 CFR 102.13(c), the term "support" does not include contributions by an authorized committee in amounts aggregating \$1,000 or less per election to an authorized committee of any other candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's Presidential candidate may contribute to another candidate in accordance with 11 CFR Part 110.

§ 102.14 Names of political committees (2 U.S.C. 432(e)(4) and (5)).

(a) The name of each authorized committee shall include the name of the candidate who authorized such committee. Except as provided in subsection (b) of this section, any political committee which is not an authorized committee shall not include the name of any candidate in its name.

(b)(1) A delegate committee, as defined at 11 CFR 100.5(a)(5), shall include the word "delegate(s)" in its name and may also include in its name the name of the presidential candidate which the delegate committee supports.

(2) A political committee established solely to draft an individual or to encourage him or her to become a candidate may include the name of such individual in the name of the committee provided the committee's name clearly indicates that it is a draft committee.

(c) The name of a separate segregated fund established pursuant to 11 CFR 102.1(c) shall include the full name of its connected organization. Such fund may also use a clearly recognized abbreviation or acronym by which the connected organization is commonly known. Both the full name and such abbreviation or acronym shall be included on the fund's Statement of Organization, on all reports filed by the fund, and in all notices required by 11 CFR 109.4 and 110.11. The fund may make contributions using its acronym or abbreviated name. A fund established by a corporation which has a number of subsidiaries need not include the name of each subsidiary in its name. Similarly, a separate segregated fund established by a subsidiary need not include in its name the name of its parent or another subsidiary of its parent.

§ 102.15 Commingled funds (2 U.S.C. 432(a)(3)).

All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members or associates of that committee, or with the personal funds of any other individual. See also 11 CFR 103.3 and Part 114 and 2 USC 441b.

§ 102.16 Notice: Solicitation of contributions (2 U.S.C. 441d).

Each political committee shall comply with the notice requirements for solicitation of contributions set forth at 11 CFR 110.11.

PART 103—CAMPAIGN DEPOSITORIES (2 U.S.C. 432(h))

Sec.

- 103.1 Notification of the commission.
- 103.2 Depositories (2 USC 432(h)(1)).
- 103.3 Deposit of receipts and disbursements (2 USC 432(h)(1)).
- 103.4 Vice Presidential candidate campaign depositories.

Authority: 2 USC 432(h), 438(a)(8).

§ 103.1 Notification of the commission.

Each committee shall notify the Commission of the campaign depository(ies) it has designated, pursuant to 11 CFR 101.1 and 103.2.

§ 103.2 Depositories (2 U.S.C. 432(h)(1)).

Each political committee shall designate one or more State banks, federally chartered depository institutions (including a national bank), or depository institutions the depositor accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. One or more depositories may be established in one or more States. Each political committee shall maintain at least one checking account or transaction account at one of its depositories. Additional accounts may be established at each depository.

§ 103.3 Deposit of receipts and disbursements (2 U.S.C. 432(h)(1)).

(a) All receipts by a political committee shall be deposited in account(s) established pursuant to 11 CFR 103.2. The treasurer of the committee shall be responsible for making such deposits. All deposits shall be made within 10 days of the treasurer's receipt. A committee shall make all disbursements by check or similar drafts drawn on an account at its designated campaign depository, except for expenditures of \$100 or less made from a petty cash fund maintained

pursuant to 11 CFR 102.11. Funds may be transferred from the depository for investment purposes, but shall be returned to the depository before such funds are used to make expenditures.

(b)(1) Contributions which appear to be illegal shall be, within 10 days, either returned to the contributor or deposited into the campaign depository, and reported. If deposited, the treasurer shall make and retain a written record noting the basis for the appearance of illegality. A statement noting that the legality of the contribution is in question should be included in the report. The treasurer shall make his or her best efforts to determine the legality of the contribution.

(2) When a contribution cannot be determined to be legal, refunds shall be made within a reasonable time, and the treasurer shall note the refund by amending the current report or noting the change on the committee's next required report.

§ 103.4 Vice Presidential candidate campaign depositories.

Any campaign depository designated by the principal campaign committee of a political party's candidate for President shall be the campaign depository for that political party's candidate for the office of Vice President.

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

Sec.

- 104.1 Scope (2 USC 434(a))
- 104.2 Forms
- 104.3 Contents of Reports (2 USC 434(b))
- 104.4 Independent Expenditures by Political Committees (2 USC 434(c))
- 104.5 Filing Dates (2 USC 434(a)(2))
- 104.6 Form and Content of Internal Communications Reports (2 USC 431(9)(B)(iii))
- 104.7 Best Efforts (2 USC 432(i))
- 104.8 Uniform Reporting of Contributions
- 104.9 Uniform Reporting of Expenditures
- 104.10 Allocation of Expenditures Among Candidates
- 104.11 Continuous Reporting of Debts and Obligations
- 104.12 Beginning Cash on Hand for Political Committees
- 104.13 Disclosure of Receipt and Consumption of In-Kind Contributions
- 104.14 Formal Requirements Regarding Reports and Statements
- 104.15 Sale or Use Restriction (2 USC 438(a)(4))
- 104.16 Audits (2 USC 438(b))
- 104.17 Content of Reports; Presidential and Vice-Presidential Committees (2 USC 431 note)

Authority: 2 USC 431 note, 431(9)(B)(iii), 432(i), 434, 438(a)(4)(8), 438(b).

§ 104.1 Scope (2 U.S.C. 434(a)).

(a) *Who must report.* Each treasurer of a political committee required to register under 11 CFR Part 102 shall report in accordance with 11 CFR Part 104.

(b) *Who may report.* An individual seeking federal office who has not attained candidate status under 11 CFR 100.3, the committee of such an individual or any other committee may voluntarily register and report in accordance with 11 CFR Parts 102 and 104. An individual shall not become a candidate solely by voluntarily filing a report, nor shall such individual the individual's committee nor any other committee be required to file all reports under 11 CFR 104.5, unless the individual becomes a candidate under 11 CFR 100.3 or unless the committee becomes a political committee under 11 CFR 100.5.

§ 104.2 Forms.

(a) Each report filed by a political committee under 11 CFR Part 104 shall be filed on the appropriate FEC form as set forth below at 11 CFR 104.2(e).

(b) Forms may be obtained from the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(c) A committee may reproduce FEC forms for its own use provided they are not reduced in size.

(d) With prior approval of the Commission a committee may use, for reporting purposes, computer produced schedules of itemized receipts and disbursements provided they are reduced to the size of FEC forms. The committee shall submit a sample of the proposed format with its request for approval.

(e) The following forms shall be used by the indicated type of reporting committee:

(1) *Presidential committees.* The authorized committees of a candidate for President or Vice President shall file on FEC Form 3-P.

(2) *Congressional candidate committees.* The authorized committees of a candidate for the Senate or the House of Representatives shall file on FEC Form 3.

(3) *Political Committees Other than Authorized Committees.* Political committees other than authorized committees shall file reports on FEC Form 3—

§ 104.3 Contents of reports (2 U.S.C. 434(b)).

(a) *Reporting of Receipts.* Except for reports filed in accordance with 11 CFR 104.17, each report filed under 11 CFR 104.1 shall disclose the total amount of receipts for the reporting period and for the calendar year and shall disclose the

information set forth at 11 CFR 104.3(a) (1) through (4). The first report filed by a committee shall also include all amounts received prior to becoming a political committee under 11 CFR 100.5, even if such amounts were not received during the current reporting period.

(1) *Cash on hand.* The amount of cash on hand at the beginning of the reporting period, including: currency; balance on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks owned by the committee; certificates of deposit, treasury bills and any other committee investments valued at cost.

(2) *Categories of receipts for all political committees other than authorized committees.* All committees other than authorized committees shall report the total amount of receipts received during the reporting period and, except for itemized and unitemized breakdowns, during the calendar year for each of the following categories:

(i) Contributions from persons other than any committees;

(A) itemized contributions from persons, other than any committees, including contributions from individuals;

(B) unitemized contributions from persons, other than any committees, including contributions from individuals;

(C) total contributions from persons other than any committees, including contributions from individuals;

(ii) contributions from political party committees, including contributions from party committees which are not political committees under the Act;

(iii) contributions from political committees, including contributions from committees which are not political committees under the Act but excluding contributions from any party committees;

(iv) total contributions;

(v) transfers from affiliated committees or organizations and, where the reporting committee is a political party committee, transfers from other party committees of the same party, regardless of whether such committees are affiliated;

(vi) all loans;

(vii) offsets to operating expenditures;

(A) itemized offsets to operating expenditures (such as rebates and refunds);

(B) unitemized offsets to operating expenditures (such as rebates and refunds);

(C) total offsets to operating expenditures;

(viii) other receipts;

(A) itemized other receipts (such as dividends and interest);

(B) unitemized other receipts (such as dividends and interest);

(C) the total sum of all other receipts.
(ix) the total sum of all receipts.

(3) *Categories of receipts for authorized committees.* An authorized committee of a candidate for Federal office shall report the total amount of receipts received during the reporting period and, except for itemized and unitemized breakdowns, during the calendar year in each of the following categories:

(i) contributions from persons other than any committees;

(A) itemized contributions from persons, other than any committees, including contributions from individuals, but excluding contributions from a candidate to his or her authorized committees;

(B) unitemized contributions from persons, other than any committees, including contributions from individuals, but excluding contributions from a candidate to his or her authorized committees;

(C) total contributions from persons other than any committees, including contributions from individuals, but excluding contributions from a candidate to his or her authorized committees;

(ii) contributions from the candidate, excluding loans which are reported under 11 CFR 104.3(a)(3)(vii);

(iii) contributions from political party committees, including party committees which are not political committees under the Act, except that expenditures made under 11 CFR 110.7 (2 U.S.C. 441a(d)), by a party committee shall not be reported as contributions by the authorized committee on whose behalf they are made;

(iv) contributions from committees, including contributions from committees which are not political committees under the Act, but excluding contributions from any party committees;

(v) total contributions;

(vi) transfers from other authorized committee(s) of the same candidate, regardless of amount;

(vii) loans;

(A) all loans to the committee, except loans made, guaranteed, or endorsed by a candidate to his or her authorized committee;

(B) loans made, guaranteed, or endorsed by a candidate to his or her authorized committee;

(C) total loans;

(viii) for authorized committee(s) of Presidential candidates, federal funds received under Chapters 95 and 96 of the Internal Revenue Code of 1954 (Title 26, United States Code);

(ix) offsets to operating expenditures;

(A) itemized offsets to operating expenditures (such as refunds and rebates);

(B) unitemized offsets to operating expenditures (such as refunds and rebates);

(C) total offsets to operating expenditures;

(x) other receipts;

(A) itemized other receipts (such as dividends and interest);

(B) unitemized other receipts (such as dividends and interest);

(C) total other receipts;

(xi) total receipts.

(4) *Itemization of receipts for all committees including authorized and unauthorized committees.* The identification (as defined at 11 CFR 100.12) of each contributor and the aggregate year-to-date total for such contributor in each of the following categories shall be reported.

(i) Each person, other than any committee, who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions aggregate in excess of \$200 per calendar year, together with the date of receipt and amount of any such contributions, except that the reporting committee may elect to report such information for contributors of lesser amount(s) on a separate schedule;

(ii) All committees (including political committees and committees which do not qualify as political committees under the Act) which make contributions to the reporting committee during the reporting period, together with the date of receipt and amount of any such contribution;

(iii) Transfers;

(A) For authorized committees of a candidate for Federal office, each authorized committee which makes a transfer to the reporting committee, together with the date and amount of such transfer;

(B) For committees which are not authorized by a candidate for Federal office, each affiliated committee or organization which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another party committee regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(iv) Each person who makes a loan to the reporting committee or to the candidate acting as an agent of the committee, during the reporting period, together with the identification of any endorser or guarantor of such loan, the date such loan was made and the amount or value of such loan;

(v) Each person who provides a rebate, refund or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of any such receipt; and

(vi) Each person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of \$200 within the calendar year, together with the date and amount of any such receipt.

(b) *Reporting of Disbursements.*

Except for reports filed in accordance with 11 CFR 104.17, each report filed under 11 CFR 104.1 shall disclose the total amount of all disbursements for the reporting period and for the calendar year and shall disclose the information set forth at 11 CFR 104.3(b) (1) through (4). The first report filed by a committee shall also include all amounts disbursed prior to becoming a political committee under 11 CFR 100.5, even if such amounts were not disbursed during the current reporting period.

(1) *Categories of disbursements for political committees other than authorized committees.* All political committees other than authorized committees shall report the total amount of disbursements made during the reporting period and, except for itemized and unitemized breakdowns, during the calendar year in each of the following categories:

(i) Operating expenditures;

(A) itemized operating expenditures;

(B) unitemized operating expenditures;

(C) total operating expenditures;

(ii) transfers to affiliated committees or organizations and, where the reporting committee is a political party committee, transfers to other political party committees regardless of whether they are affiliated;

(iii) repayment of all loans;

(iv) offsets;

(A) itemized offsets to contributions (including contribution refunds);

(B) unitemized offsets to contributions (including contribution refunds);

(C) total offsets to contributions;

(v) contributions made to other political committees;

(vi) loans made by the reporting committee;

(vii) independent expenditures made by the reporting committee;

(viii) expenditures made under 11 CFR 110.7 (2 U.S.C. 441a(d)), See 11 CFR 104.3(a)(3)(iii);

(ix) other disbursements;

(A) itemized other disbursements;

(B) unitemized other disbursements;

(C) total other disbursements;

(x) total disbursements.

(2) *Categories of disbursements for authorized committees.* An authorized committee of a candidate for Federal office shall report the total amount of disbursements made during the reporting period and, except for itemized and unitemized breakdowns, during the calendar year in each of the following categories:

(i) operating expenditures;

(A) itemized operating expenditures;

(B) unitemized operating expenditures;

(C) total operating expenditures;

(ii) transfers to other committees authorized by the same candidate;

(iii) repayment of loans;

(A) repayment of loans made by or guaranteed by the candidate;

(B) repayment of all other loans;

(C) total loan repayments;

(iv) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitations of 11 CFR 110.8 (2 U.S.C. 441a(b));

(v) offsets;

(A) itemized offsets to contributions (including contribution refunds);

(B) unitemized offsets to contributions (including contribution refunds);

(C) total offsets to contributions;

(vi) other disbursements;

(A) itemized other disbursements;

(B) unitemized other disbursements;

(C) total other disbursements;

(vii) total disbursements.

(3) *Itemization of disbursements by political committees other than authorized committees.* Each political committee, other than an authorized committee, shall report the full name and address of each person in each of the following categories, as well as the information required by each category;

(i) Each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet the committee's operating expenses, together with the date, amount, and purpose of such operating expenditure;

(A) As used in 11 CFR 104.3(b)(3), "purpose" means a brief statement or description of why the disbursement was made.

(B) Examples of statements or descriptions which meet the requirements of 11 CFR 104.3(b)(3) include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs. However, statements or descriptions such as "advance", "election day expenses", "other expenses", "expenses", "expense reimbursement", "miscellaneous",

"outside services", "get-out-the-vote" and "voter registration" would not meet the requirements of 11 CFR 104.3(b)(3) for reporting the purpose of an expenditure.

(ii) Each affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(iii) Each person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment;

(iv) Each person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution refund was reported under 11 CFR 104.3(b)(1)(iv), together with the date and amount of such refund or offset;

(v) Each political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution, and, in the case of a contribution to an authorized committee, the candidate's name and office sought (including State and Congressional district, if applicable);

(vi) Each person who has received a loan from the reporting committee during the reporting period, together with the date and amount or value of such loan;

(vii) (A) Each person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure(s);

(B) For each independent expenditure reported, the committee must also provide a statement which indicates whether such independent expenditure is in support of, or in opposition to a particular candidate, as well as the name of the candidate and office sought by such candidate (including State and Congressional district, when applicable), and a certification, under penalty of perjury, as to whether such independent expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee;

(C) The information required by 11 CFR 104.3(b)(3)(vii)(A) and (B) shall be

reported on Schedule E as part of a report covering the reporting period in which the aggregate disbursements for any independent expenditure to any person exceed \$200 per calendar year. Schedule E shall also include the total of all such expenditures of \$200 or less made during the reporting period.

(viii) Each person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under 11 CFR 110.7 (2 USC 441a(d)), together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by (including State and Congressional district, when applicable), the candidate on whose behalf the expenditure is made; and

(ix) Each person who has received any disbursement within the reporting period not otherwise disclosed in accordance with 11 CFR 104.3(b)(3) to whom the aggregate amount or value of disbursements made by the reporting committee exceeds \$200 within the calendar year, together with the date, amount and purpose of any such disbursement.

(4) *Itemization of disbursements by authorized committees.* Each authorized committee shall report the full name and address of each person in each of the following categories, as well as the information required by each category.

(i) Each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet the committee's operating expenses, together with the date, amount and purpose of each expenditure.

(A) As used in 11 CFR 104.3(b)(4), "purpose" means a brief statement or description of why the disbursement was made. Examples of statements or descriptions which meet the requirements of 11 CFR 104.3(b)(4) include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs. However, statements or descriptions such as "advance", "election day expenses", "other expenses", "expenses", "expense reimbursement", "miscellaneous", "outside services" "get-out-the-vote" and "voter registration" would not meet the requirements of 11 CFR 104.3(b)(4) for reporting the purpose of an expenditure.

(ii) Each authorized committee of the same candidate to which a transfer is made by the reporting committee during the reporting period, together with the date and amount of such transfer;

(iii) Each person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment;

(iv) Each person who receives a loan repayment from the candidate, if the proceeds of such loan were used in connection with the candidate's campaign;

(v) Each person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution refund was reported under 11 CFR 104.3(b)(2)(v), together with the date and amount of such refund or offset.

(vi) Each person who has received any disbursement(s) not otherwise disclosed under 11 CFR 104.3(b)(4) to whom the aggregate amount or value of such disbursements exceeds \$200 within the calendar year, together with the date, amount, and purpose of any such disbursement.

(c) *Summary of contributions and operating expenditures.* Each report filed pursuant to 11 CFR 104.1 shall disclose for both the reporting period and the calendar year:

(1) (i) the total contributions to the reporting committee;

(ii) the total offsets to contributions;

(iii) the net contributions (subtract total offsets from total contributions);

(2) (i) the reporting committee's total operating expenditures;

(ii) the total offsets to operating expenditures;

(iii) the net operating expenditures (subtract total offsets from total operating expenditures).

(d) *Reporting debts and obligations.* Each report filed under 11 CFR 104.1 shall, on Schedule—, disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Loans obtained by an individual prior to becoming a candidate for use in connection with that individual's campaign shall be reported as an outstanding loan owed to the lender by the candidate's principal campaign committee, if such loans are outstanding at the time the individual becomes a candidate. Where such debts and obligations are settled for less than their reported amount or value, each report filed under 11 CFR 104.1 shall contain a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the amount paid. See 11 CFR 114.10.

(e) *Use of Pseudonyms.* (1) To determine whether the names and addresses of its contributors are being used in violation of 11 CFR 104.15 to solicit contributions or for commercial

purposes, a political committee may submit up to ten (10) pseudonyms on each report filed.

(2) For purposes of this section, a pseudonym is a wholly fictitious name which does not represent the name of an actual contributor to a committee.

(3) If a committee uses pseudonyms it shall subtract the total dollar amount of the fictitious contributions from the total amount listed on line— of the Detailed Summary page, "Unitemized contributions from individual persons other than political committees." Thus, the committee will, for this purpose only, be overstating the amount of itemized contributions received and understating the amount of unitemized contributions received.

(4) No authorized committee of a candidate shall attribute more than \$1,000 in contributions to the same pseudonym for each election and no other political committee shall attribute more than \$5,000 in contributions to the same pseudonym in any calendar year.

(5) A committee using pseudonyms shall send a list of such pseudonyms under separate cover directly to the Reports Analysis Division, Federal Election Commission, 1325 K Street N.W., Washington, D.C. 20463, on or before the date on which any report containing such pseudonyms is filed with the Clerk of the House of Representatives, the Secretary of the Senate, or the Commission. The Commission shall maintain the list, but shall exclude it from the public record. A committee shall not send any list of pseudonyms to the Clerk of the House of Representatives, the Secretary of the Senate, or to any Secretary of State or equivalent state officer.

(6) A political committee shall not use pseudonyms for the purpose of circumventing the reporting requirements or the limitations and prohibitions of the Act.

(f) *Consolidated Reports.* Each principal campaign committee shall consolidate in each report those reports required to be filed with it. Such consolidated reports shall include: (1) reports submitted to it by any authorized committees and (2) the principal campaign committee's own report. Such consolidation shall be made on FEC Form— and shall be submitted with the reports of the principal campaign committee and with the reports, or applicable portions thereof, of the committees shown on the consolidation.

(g) *Building Funds.* Gifts, subscriptions, loans, advances, deposits of money or anything of value made to defray costs of construction or purchase of office facilities received by a political

committee in accordance with 11 CFR 100.7(b)(12) shall be reported on Schedule —.

(h) *Legal and Accounting Services.* A committee which receives legal or accounting services pursuant to 11 CFR 100.7(b) (13) and (14) shall report, on Schedule—, the amounts paid for these services by the regular employer of the person(s) providing such services; the date(s) such services were performed; and the name of each person performing such services.

(i) *Cumulative Reports.* The reports required to be filed under 11 CFR 104.5 shall be cumulative for the calendar year to which they relate, but if there has been no change in a category reported in a previous report during that year, only the amount thereof need be carried forward.

§ 104.4 Independent expenditures by political committees (2 U.S.C. 434(c)).

(a) Every political committee which makes independent expenditures shall report all such expenditures on Schedule E in accordance with 11 CFR 104.3(b)(3)(vii). Every person (other than a political committee) shall report independent expenditures in accordance with 11 CFR Part 109.

(b) *24 Hour Reports.* Any independent expenditures aggregating \$1,000 or more made after the 20th day, but more than 24 hours, before 12:01 A.M. of the day of the election, shall be reported within 24 hours after such independent expenditure is made. Such report shall be filed with the appropriate officers listed in 11 CFR 104.4(c) and shall contain the information required by 11 CFR 104.3(b)(3)(vii) indicating whether the independent expenditure is made in support of, or in opposition to, the candidate involved.

(c) *Where to File.* Reports of independent expenditures under 11 CFR 104.4 and Part 109 shall be filed as set forth at 11 CFR 104.4(c)(1) through (3).

(1) For independent expenditures in support of or in opposition to, a candidate for President or Vice-President: with the Commission and the Secretary of State for the State in which the expenditure is made.

(2) For independent expenditures in support of, or in opposition to, a candidate for the Senate: with the Secretary of the Senate and the Secretary of State for the State in which the candidate is seeking election.

(3) For independent expenditures in support of, or in opposition to, a candidate for the House of Representatives: with the Clerk of the House and the Secretary of State for the State in which the candidate is seeking election.

§ 104.5 Filing dates (2 U.S.C. 434(a)(2)).

(a) *Principal Campaign Committee of House or Senate Candidate.* Each treasurer of a principal campaign committee supporting a candidate for the House of Representatives or to the Senate shall file reports on the dates specified at 11 CFR 104.5(a)(1) and (2).

(1) *Election Year Reports.* (i) *Pre-Election Reports.* (A) Pre-election reports for the primary and general election shall be filed no later than 12 days before any primary or general election in which the candidate seeks election. If sent by registered or certified mail, the report shall be mailed no later than the 15th day before any election.

(B) The report shall disclose all receipts and disbursements as of the 20th day before a primary or general election.

(ii) *Post-General Election Report.* (A) The post-general election report shall be filed no later than 30 days after any general election in which the candidate seeks election.

(B) The report shall be complete as of the 20th day after the general election.

(iii) *Quarterly Reports.* (A) Quarterly reports shall be filed no later than the 15th day following the close of the immediately preceding calendar quarter (on April 15, July 15, and October 15), except that the report for the final calendar quarter of the year shall be filed on January 31 of the following calendar year.

(B) The report shall be complete as of the last day of each calendar quarter.

(C) The requirement for a quarterly report shall be waived if, under 11 CFR 104.5(a)(1)(i), a pre-election report is required to be filed during the period beginning on the fifth day after the close of the calendar quarter and ending on the fifteenth day after the close of the calendar quarter.

(2) *Non-Election Year Reports.* (i) *Semi-annual reports.* (A) The first report shall cover January 1 through June 30, and shall be filed no later than July 31.

(B) The second report shall cover July 1 through December 31, and shall be filed no later than January 31 of the following year.

(b) *Principal Campaign Committee of Presidential Candidate.* Each treasurer of a principal campaign committee of a candidate for President shall file reports on the dates specified at 11 CFR 104.5(b)(1) and (2).

(1) *Election Year Reports.* (i) If on January 1 of the election year, the committee has received or anticipates receiving contributions aggregating \$100,000 or more, or has made or anticipates making expenditures aggregating \$100,000 or more, it shall file monthly reports.

(A) Each report shall be filed no later than the 20th day after the last day of each month.

(B) The report shall be complete as of the last day of each month.

(C) In lieu of the monthly reports due in November and December, a pre-election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(i), a post-general election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(ii), and a year-end report shall be filed no later than January 31 of the following calendar year.

(ii) If on January 1 of the election year, the committee does not anticipate receiving or has not received contributions aggregating \$100,000 or does not anticipate making or has not made expenditures aggregating \$100,000, the committee shall file a pre-election report or reports, a post general election report and, quarterly reports, as prescribed in 11 CFR 104.5(a)(1).

(iii) If during the election year, a committee filing under 11 CFR 104.5(b)(1)(ii) receives contributions aggregating \$100,000 or makes expenditures aggregating \$100,000, the treasurer shall begin filing monthly reports at the next reporting period.

(2) Non-Election Year Reports. During a non-election year, the treasurer shall file either (i) monthly reports as prescribed at 11 CFR 104.5(b)(1)(i); or (ii) quarterly reports as prescribed at 11 CFR 104.5(a)(1).

(c) *Committees Other Than Authorized Committees of Candidates.* Each political committee which is not the authorized committee of a candidate shall file either: election year and non-election year reports as prescribed at 11 CFR 104.5(c)(1) and (2); or monthly reports as prescribed at 11 CFR 104.5(c)(3). A political committee reporting under 11 CFR 104.5(c) may elect to change the frequency of its reporting from monthly to quarterly and semi-annually or vice versa. A committee may change its filing frequency only after notifying the Commission in writing of its intention at the time it files a required report under its current filing frequency. Such committee will then be required to file the next required report under its new filing frequency. A committee may change its filing frequency no more than once per calendar year.

(1) Election Year Reports. (i) Quarterly reports. (A) Quarterly reports shall be filed no later than the 15th day following the close of the immediately preceding calendar quarter, (on April 15, July 15, and October 15), except that the report for the final calendar quarter of the year shall be filed on January 31 of the following calendar year.

(B) The reports shall be complete as of the last day of the calendar quarter for which the report is filed.

(C) The requirement for a quarterly report shall be waived if under 11 CFR 104.5(c)(1)(ii) a pre-election report is required to be filed during the period beginning on the fifth day after the close of the calendar quarter and ending on the fifteenth day after the close of the calendar quarter.

(ii) Pre-Election Reports

(A) Pre-election reports for the primary and general election shall be filed by a political committee which makes contributions or expenditures in connection with any such election if such disbursements have not been previously disclosed. Pre-election reports shall be filed no later than 12 days before any primary or general election. If sent by registered or certified mail, the report shall be mailed no later than the 15th day before any election.

(B) The report shall disclose all receipts and disbursements as of the 20th day before a primary or general election.

(iii) Post-General Election Reports

(A) A post-general election report shall be filed no later than 30 days after any general election.

(B) The report shall be complete as of the 20th day after the general election.

(2) Non-Election year

(i) Semi-annual reports

(A) The first report shall cover January 1 through June 30, and shall be filed no later than July 31.

(B) The second report shall cover July 1 through December 31, and shall be filed no later than January 31 of the following year.

(3) Monthly Reports

(i) Except as provided at 11 CFR 104.5(c)(3)(B), monthly reports shall be filed no later than 20 days after the last day of the month.

(ii) In lieu of the monthly reports due in November and December, in any year in which a regularly scheduled general election is held, a pre-election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(i), a post general election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(ii), and a year-end report shall be filed no later than January 31 of the following calendar year.

(d) *Committees supporting Vice Presidential Candidates:*

The treasurer of a committee supporting a candidate for the office of Vice President (other than a nominee of a political party) shall file reports on the same basis that the principal campaign committee of a Presidential candidate must file reports under 11 CFR 104.5(b).

(e) U.S. Post Mark:

A designation, report or statement sent by registered or certified mail shall be considered filed on the date of the U.S. post mark except that a twelve day pre-election report sent by certified or registered mail shall be mailed no later than the 15th day before any election. Designations, reports or statements sent by first class mail must be received by the close of business of the prescribed filing date to be timely filed.

(f) 48 Hour Notification of Contributions

If any contribution of \$1,000 or more is received by any authorized committee of a candidate after the 20th day, but more than 48 hours, before 12:01 A.M. of the day of the election, the principal campaign committee of that candidate shall notify the Commission, the Clerk of the House, the Secretary of the Senate and the Secretary of State, as appropriate, within 48 hours of receipt of the contribution. The notification shall be in writing and shall include the name of the candidate and office sought by the contributor, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be in addition to the reporting of these contributions on the post-election report.

(g) 24 hour Report of Independent Expenditures:

Any independent expenditures aggregating \$1,000 or more made after the 20th day, but more than 24 hours, before 12:01 A.M. of the day of the election, shall be reported within 24 hours after such independent expenditure is made. Such report shall be filed with the appropriate officers listed in 11 CFR 104.4(c) and shall contain the information required by 11 CFR 104.3(b)(3)(vii) indicating whether the independent expenditure is made in support of, or in opposition to, the candidate involved.

(h) Special Election Reports:

(1) Within 5 days of the setting of a special election, the Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and for political committees, other than authorized committees, which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall publish such reporting dates in the *Federal Register* and shall notify the principal campaign committees of all candidates in such election of the reporting dates. The Commission shall not require such committees to file more than one pre-election report for each election and one post-election report for the election which fills the vacancy.

(2) Reports required to be filed under 11 CFR 104.5(a) or (c) may be waived by the Commission for committees filing special election reports if a report under 11 CFR 104.5(a) or (c) is due within 10 days of the date a special election report is due. The Commission shall notify all appropriate committees of reports so waived.

§ 104.6 Form and content of internal communications reports. (2 U.S.C. 431(a)(B)(iii)).

(a) *Form.* Every membership organization or corporation which makes disbursements for communications pursuant to 11 CFR 100.8(b)(4) and 114.3 shall report to the Commission on FEC Form 7 such costs which are directly attributable to any communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the election or defeat of a clearly identified candidate), if such costs exceed \$2,000 for any election.

(1) For the purposes of 11 CFR 104.6(a), "election" means two separate processes in a calendar year, to each of which the \$2,000 threshold described above applies separately. The first process is comprised of all primary elections for federal office, wherever and whenever held; the second process is comprised of all general elections for federal office, wherever and whenever held.

(2) The term election shall also include each special election held to fill a vacancy in a Federal office (11 CFR 100.2(f)) or each runoff election (11 CFR 100.2(d)).

(b) *Filing Dates.* Organizations required to report under 11 CFR 104.6(a) shall file such reports during a calendar year in which a regularly scheduled general election is held. Such reports shall be filed quarterly in accordance with 11 CFR 104.5(a)(1)(iii) and, with respect to any general election, in accordance with 11 CFR 104.5(a)(1)(i). The organization shall be required to file reports beginning with the first reporting period during which the aggregate cost for such communications exceeds \$2,000 per election as defined in 11 CFR 104.6(a)(1), and for each quarter thereafter in which the organization makes additional disbursements in connection with the same election.

(c) Each report filed under 11 CFR 104.6 shall include, for each communication:

- (1) The type of communication (such as direct mail, telephone or telegram);
- (2) The date(s) of the communication;

(3) The name of the candidate, the office sought (and the district and state of the office, if applicable), and whether the communication was for the primary or general election;

(4) Whether the communication was in support of or in opposition to, a particular candidate; and

(5) The cost of the communication.

104.7 Best efforts. (2 U.S.C. 432(i)).

(a) When the treasurer of a political committee shows that best efforts have been used to obtain, maintain and submit the information required by the Act for the political committee, any report of such committee shall be considered in compliance with the Act.

(b) With regard to reporting the identification as defined at 11 CFR 100.12 of each person whose contribution(s) to the committee and its affiliated committees aggregate in excess of \$200 in a calendar year (pursuant to 11 CFR 104.3(a)(4)), the treasurer will not be deemed to have exercised best efforts to obtain the required information unless he or she has made at least one effort per solicitation either by a written request or by an oral request documented in writing to obtain such information from the contributor. For purposes of 11 CFR 104.7(b), such effort shall consist of a clear request for the information (i.e., name, mailing address, occupation, and name of employer) which request informs the contributor that the reporting of such information is required by law.

§ 104.8 Uniform reporting of contributions.

(a) A reporting committee shall disclose the identification of each individual who contributes an amount in excess of \$200. This identification shall include the individual's name, mailing address, occupation, the name of his or her employer, if any, and the date of receipt and amount of any such contribution. If an individual contributor's name is known to have changed since an earlier contribution reported during the calendar year, the exact name or address previously used shall be noted with the first reported contribution from that contributor subsequent to the name change.

(b) In each case where a contribution received from an individual in a reporting period is added to previously unitemized contributions from the same individual and the aggregate exceeds \$200 in a calendar year the reporting committee shall disclose the identification of such individual along with the date of receipt and amount of any such contribution. Except for

contributions by payroll deduction, each additional contribution from the individual shall be separately itemized. In the case of a political committee other than an authorized committee which receives contributions through a payroll deduction plan, such committee is not required to separately itemize each additional contribution received from the contributor during the reporting period. In lieu of separate itemization, such committee may report: the aggregate amount of contributions received from the contributor through the payroll deduction plan during the reporting period; the identification of the individual; and a statement of the amount deducted per pay period.

(c) Absent evidence to the contrary, any contribution made by check, money order, or other written instrument shall be reported as a contribution by the last person signing the instrument prior to delivery to the candidate or committee.

(d) A contribution which represents contributions by more than one person shall indicate on the written instrument, or on an accompanying written statement signed by all contributors, the amount to be attributed to each contributor.

§ 104.9 Uniform reporting of expenditures.

(a) The authorized committees of a candidate shall report the full name and mailing address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet the committee's operating expenses together with the date, amount and purpose of such expenditure. As used in 11 CFR 104.9, "purpose" means a brief statement or description as to the reasons for the disbursement. See 11 CFR 104.3(b)(3)(i)(A).

(b) In each case when an expenditure made to a recipient in a reporting period is added to previously unitemized expenditures to the same recipient and the total exceeds \$200 for the calendar year, the reporting committee shall disclose the recipient's full name and mailing address on the prescribed reporting forms, together with the date, amount and purpose of such expenditure. As used in 11 CFR 104.9, "purpose" means a brief statement or description as to the reason for the disbursement as defined at 11 CFR 104.3(b)(3)(i)(A).

§ 104.10 Allocation of expenditures among candidates.

A political committee making an expenditure on behalf of more than one candidate for Federal office or on behalf

of candidates for both Federal and non-Federal office shall allocate the expenditure(s) among the candidates on a reasonable basis pursuant to 11 CFR Part 106, and report the allocation for each Federal candidate. The treasurer shall retain all documents supporting the allocation in accordance with 11 CFR 104.14.

§ 104.11 Continuous reporting of debts and obligations.

(a) Debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished. See 11 CFR 104.3(d). These debts and obligations shall be reported on separate schedules together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. Where such debts and obligations are settled for less than their reported amount or value, the reporting committee shall include a statement as to the circumstances and conditions under which the debt or obligation was extinguished and the amount paid.

(b) A debt, obligation, or other promise to make an expenditure, the amount of which is \$500 or less, shall be reported as of the time payment is made or no later than 60 days after such obligation is incurred, whichever comes first. Any loan, debt or obligation, the amount of which is over \$500 shall be reported as of the time of the transaction.

§ 104.12 Beginning cash on hand for political committees.

Political committees which have cash on hand at the time of registration shall disclose on their first report the source(s) of such funds, including the information required by 11 CFR 104.3(a)(1). The cash on hand balance is assumed to be composed of those contributions most recently received by the committee. The committee shall exclude from funds to be used for Federal elections any contributions not permissible under the Act. See 11 CFR Parts 110, 114, and 115.

§ 104.13 Disclosure of receipt and consumption of in-kind contributions.

(a) (1) The amount of an in-kind contribution shall be equal to the usual and normal value on the date received. Each in-kind contribution shall be reported as a contribution in accordance with 11 CFR 104.3(a).

(2) Except for items noted in 11 CFR 104.13(b), each in-kind contribution shall also be reported as an expenditure at the same usual and normal value and reported on the appropriate expenditure

schedule, in accordance with 11 CFR 104.3(b).

(b) Contributions of stocks, bonds, art objects, and other similar items to be liquidated shall be reported as follows:

(1) If the item has not been liquidated at the close of a reporting period, the committee shall record as a memo entry (not as cash) the item's fair market value on the date received, including the name and mailing address (and, where in excess of \$200, the occupation and name of employer) of the contributor.

(2) When the item is sold, the committee shall record the proceeds. It shall also report the (i) name and mailing address (and, where in excess of \$200, the occupation and name of employer) of the purchaser, if purchased directly from the candidate or committee (as the purchaser shall be considered to have made a contribution to the committee), and (ii) the identification of the original contributor.

§ 104.14 Formal requirements regarding reports and statements.

(a) Each individual having the responsibility to file a designation, report or statement required under this subchapter shall sign the original designation, report or statement.

(b) Each political committee or other person required to file any report or statement under this subchapter shall maintain all records relevant to such reports or statements as follows:

(1) Maintain records, including bank records, with respect to the matters required to be reported, including vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness;

(2) Preserve a copy of each report or statement required to be filed under 11 CFR Parts 102 and 104;

(3) Keep all reports required to be preserved under 11 CFR 104.14 available for audit, inspection, or examination by the Commission or its authorized representative(s) for a period of not less than 3 years after the report or statement is filed. (See 11 CFR 102.9(c) for requirements relating to preservation of records and accounts.)

(c) Acknowledgements by the Commission, the Clerk of the House, or the Secretary of the Senate, of the receipt of Statements of Organization, reports or other statements filed under 11 CFR Parts 101, 102 and 104 are intended solely to inform the person filing the report of its receipt and neither the acknowledgement nor the acceptance of a report or statement

shall constitute express or implied approval, or in any manner indicate that the contents of any report or statement fulfill the filing or other requirements of the Act or of these regulations.

(d) Each treasurer of a political committee, and any other person required to file any report or statement under these regulations and under the Act, shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it.

§ 104.15 Sale or use restriction (2 U.S.C. 438(a)(4)).

(a) Any information copied, or otherwise obtained, from any report or statement, or any copy, reproduction, or publication thereof, filed with the Commission Clerk of the House, Secretary of the Senate, or any Secretary of State or other equivalent State officer, shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committee.

(b) For purposes of 11 CFR 104.15, "soliciting contributions" includes soliciting any type of contribution or donation, such as political or charitable contributions.

(c) The use of information, which is copied or otherwise obtained from reports filed under 11 CFR Part 104, in newspapers, magazines, books or other similar communications is permissible as long as the principal purpose of such communications is not to communicate any contributor information listed on such reports for the purpose of soliciting contributions or for other commercial purposes.

§ 104.16 Audits (2 U.S.C. 438(b)).

(a) The Commission may conduct audits of any political committee required to register under 11 CFR Part 102 and to report under 11 CFR Part 104. Prior to conducting any such audit or investigation, the Commission shall conduct an internal review of reports filed by selected committees to determine whether reports filed by a particular committee meet thresholds established by the Commission for substantial compliance with the Act. Such thresholds may vary according to the type of political committee being reviewed.

(b) The Commission may, upon affirmative vote of four members, conduct an audit and field investigation of any committee which meets the thresholds established pursuant to 11

CFR 104.16(a). All such audits and investigations shall commence within 30 days of such vote except that any audit or investigation of an authorized committee of a candidate shall be commenced within 6 months of the election for which such committee was authorized.

(c) The Commission may, upon affirmative vote of four members, conduct an audit and field investigation of any committee pursuant to 11 CFR 111.10.

(d) All audits and field investigations concerning the verification for and the receipt and use of payments under Chapters 95 and 96 of Title 26 shall be given priority over any audit or investigation of committees not receiving such payments.

§ 104.17 Content of reports; Presidential and Vice Presidential Committees (2 U.S.C. 431 note).

(a) For all elections occurring prior to January 1, 1981, authorized committees of candidates for President and Vice President may comply with the requirements of 11 CFR 104.17 in lieu of 11 CFR 104.3 (a) and (b).

(b) Each report filed under 11 CFR 104.17 shall include all receipts and disbursements from the close of the last period reported to the close of the current reporting period, and shall disclose—

(1) The amount of cash on hand at the beginning of the calendar year and at the beginning of the reporting period, including currency, balance on deposit in banks and savings and loan institutions, checks, negotiable money orders, and other paper commonly accepted by a bank in a deposit;

(2) The identification, occupation, and principal place of business, if any, of each person who has made a contribution to or for the committee or candidate during the reporting period in an amount or value in excess of \$100, or in an amount of less than \$100 if the person's contributions within a calendar year total more than \$100, together with the amount and date of such contributions;

(3)(i) The total of contributions made to or for a committee or candidate during the reporting period and not reported under (b)(2) above;

(ii) Candidates and committees, which, in addition to the required totals, choose to itemize contributions not in excess of \$100, shall itemize these by attaching a separate schedule. Contributions of \$100 or less shall not be reported on the same schedule with the required itemized contributions in excess of \$100;

(4) The identification of each political committee or other political organization from which the reporting committee or the candidate received, or to which the reporting committee or the candidate made, any transfer of funds in any amount during the reporting period, together with the amounts and dates of all transfers, including aggregate year to date transfers, received from non-affiliated committees, and complete disclosure, pursuant to 11 CFR 110.6 of each transaction involving earmarked funds;

(5) Each loan—

(i)(A) To or from any political committee; or

(B) To a candidate or his or her authorized committees which is—

(ii)(A) Over \$100 in value and made during the reporting period; or

(B) Less than \$100 in value and the total of the loans from one person is over \$100 shall be reported together with the identification, occupation, and principal place of business, if any, of each lender, endorser, or guarantor, as the case may be. The report shall include the date and amount of the loan;

(6) The total amount of proceeds from—

(i) The sale of tickets of each dinner, luncheon, rally, and other fundraising event;

(ii) Mass collections made at these events; and

(iii) Sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, jewelry, and similar materials, as long as the items are sold by the candidate or an authorized committee;

(7) Each receipt in excess of \$100 received during the reporting period, not otherwise listed under (b) (2) through (6) above, together with the identification, date and amount received, occupation, and principal place of business of each such person from whom such receipts have been received during the reporting period; including—

(i) The interest or other proceeds from the investment, in an interest-bearing account, note, bill, stock, bond, or other similar device, of funds transferred out of a checking account in a campaign depository; and

(ii) Rebates and refunds received by the candidate or committee;

(8)(i) The total of all receipts by or for the committee or candidate during the reporting period and the calendar year; and

(ii) Total receipts less transfers between affiliated political committees (as defined in 11 CFR 100.5(g));

(9) The identification of each person to whom expenditures have been made by or on behalf of the committee or

candidate within the reporting period which total more than \$100, or in an amount less than \$100 if the total exceeds \$100 within a calendar year, together with the amount, date and particulars of each such expenditure and the name, address of, and office sought by, each candidate on whose behalf such expenditures were made;

(10) The total of expenditures made by or on behalf of the committee or candidate during the reporting period and the calendar year together with total expenditures less transfers between affiliated political committees (as defined in 11 CFR 100.5) of the candidate;

(11) The amount and nature of outstanding debts and obligations owed by or to the committee including any written contracts, agreements, or promises to make expenditures, see 11 CFR 104.9;

(12) Unpaid expenditures; see 11 CFR Part 104.4.

PART 105—DOCUMENT FILING (2 U.S.C. 432(g))

105.1 Place of filing; House candidates, their principal campaign committees, and committees supporting only House candidates (2 U.S.C. 432(g)(1)).

105.2 Place of filing; Senate candidates, their principal campaign committees, and committees supporting only Senate candidates (2 U.S.C. 432(g)(2)).

105.3 Place of filing; Presidential candidates and their principal campaign committees (2 U.S.C. 432(g)(4)).

105.4 Place of filing; political committees and other persons (2 U.S.C. 432(g)(4)).

105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission (2 U.S.C. 432(g)(3)).

Authority: 2 U.S.C. 432(g), 438(a)(8).

§ 105.1 Place of filing; House candidates, their principal campaign committees, and committees supporting only House candidates (2 U.S.C. 432(g)(1)).

All designations, statements, reports, and notices, as well as any modification(s) or amendment(s) thereto, required to be filed under 11 CFR Parts 101, 102, and 104 by a candidate for nomination or election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, by his or her principal campaign committee or by any other political committee(s) which supports only candidates for nomination for election or election to the House of Representatives, shall be filed in original form with, and received by, the Clerk of the House of Representatives as custodian for the Federal Election Commission.

§ 105.2 Place of filing; Senate candidates, their principal campaign committees, and committees supporting only Senate candidates (2 U.S.C. 432(g)(2)).

All designations, statements, reports, and notices as well as any modification(s) or amendment(s) thereto, required to be filed under 11 CFR Parts 101, 102, and 104 by a candidate for nomination or election to the office of United States Senator, by his or her principal campaign committee or by any other political committee(s) which supports only candidates for nomination for election or election to the Senate of the United States shall be filed in original form with, and received by, the Secretary of the Senate, as custodian for the Federal Election Commission.

§ 105.3 Place of filing; Presidential candidates and their principal campaign committees (2 U.S.C. 432(g)(4)).

All designations, statements, reports, and notices, as well as any modification(s) or amendment(s) thereto, required to be filed under 11 CFR Parts 101, 102 and 104 by a candidate for nomination for election or election to the office of President or Vice President of the United States or by his or her principal campaign committee shall be filed in original form with the Federal Election Commission.

§ 105.4 Place of filing; political committees and other persons (2 U.S.C. 432(g)(4)).

All designations, statements, reports, and notices, as well as any modifications or amendments thereto, required to be filed under 11 CFR Parts 101, 102, and 104 by a political committee other than any principal campaign committee or any committee referred to in 11 CFR 105.1, 105.2, or 105.3, by persons other than political committees making independent expenditures under 11 CFR Part 109, and by persons required to report the cost of communications under 11 CFR 104.6, shall be filed in original form with the Federal Election Commission.

§ 105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission (2 U.S.C. 432(g)(3)).

(a) Either a microfilmed copy or photocopy of all original designations, statements, reports, modifications or amendments required to be filed pursuant to 11 CFR 105.1 and 105.2 shall be transmitted by the Clerk of the House or the Secretary of the Senate to the Commission as soon as possible, but in any case no later than two (2) working days after receiving such designations,

statements, reports, modifications, or amendments.

(b) The Clerk of the House and the Secretary of the Senate shall then forward to the Commission a microfilm copy and a photocopy of each designation, statement, and report, or any modification or amendment thereto, filed with them pursuant to 11 CFR 105.1 and 105.2.

(c) The Clerk of the House and the Secretary of the Senate shall place a time and date stamp on each original designation, statement, report, modification or amendment received.

PART 106—ALLOCATION OF CANDIDATE AND COMMITTEE ACTIVITIES

2. In Part 106, § 106.1(c)(3) is added; §§ 106.2(a), and 106.3(d) are revised to read as follows:

§ 106.1 Allocation of expenditures among (or between) candidates and activities.

* * * * *

(c) * * *

(3) Payments made for the cost of certain voter registration and get-out-the-vote activities conducted by State or local party organizations on behalf of any Presidential or Vice-Presidential candidate(s) are exempt from the definition of a contribution or an expenditure under 11 CFR 100.7(b)(17) and 100.8(b)(18). If the State or local party organization includes references to any candidate(s) seeking nomination or election to the House of Representatives or Senate of the United States the portion of the cost of such activities allocable to such candidate(s) shall be considered a contribution to or an expenditure on behalf of such candidate(s), unless such reference is incidental to the overall activity. If such reference is incidental to the overall activity, such costs shall not be considered a contribution to or expenditure on behalf of any candidate(s).

* * * * *

§ 106.2 Allocation of expenditures among States by candidates for Presidential nomination.

(a) Expenditures made by a candidate's authorized committee(s) which seek to influence the nomination of that candidate for the office of President of the United States with respect to a particular State shall be allocated to that State. This allocation of expenditures shall be reported on FEC Form 3c.

* * * * *

§ 106.3 Allocation of expenses between campaign and non-campaign related travel.

* * * * *

(d) Costs incurred by a candidate for the United States Senate or House of Representatives for travel between Washington, D.C. and the State or district in which he or she is a candidate need not be reported herein unless the costs are paid by the candidate's authorized committee(s), or by any other political committee(s).

* * * * *

(2 U.S.C. 438(a)(8))

3. Parts 108 and 109 are revised to read as follows:

PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS (2 USC 439)

Sec.

108.1 Filing requirements (2 U.S.C. 439(a)(1)).

§ 108.2 Filing copies of reports and statements in connection with the campaign of any candidate seeking nomination for election to the Office of President or Vice-President (2 U.S.C. 439(a)(2)).

§ 108.3 Filing copies of reports and statements in connection with the campaign of any Congressional Candidate (2 U.S.C. 439(a)(2)).

108.4 Filing copies of reports by committees other than principal campaign committees (2 U.S.C. 439(a)(2)).

108.5 Time and Manner of filing copies (2 U.S.C. 434(a)(2)).

108.6 Duties of State officers (2 U.S.C. 439(b)).

108.7 Effect on State law (2 U.S.C. 453).

108.8 Exemption for the District of Columbia.

Authority: 2 U.S.C. 434(a)(2) 438(a)(8), 439, 453.

§ 108.1 Filing requirements (2 U.S.C. 439(a)(1)).

A copy of each report and statement required to be filed by any person under the Act shall be filed either with the Secretary of State of the appropriate State or with the State officer who is charge by State law with maintaining state election campaign reports. In States where reports are to be filed with a designated officer other than the Secretary of State, the chief executive officer of that State shall notify the Commission of such designation.

§ 108.2 Filing copies of reports and statements in connection with the campaign of any candidate seeking nomination for election to the Office of President or Vice-President (2 U.S.C. 439(a)(2)).

A copy of each report and statement required to be filed by a Presidential or Vice Presidential candidate's principal campaign committee under the Act,

including 11 CFR Part 104, or by any other person making independent expenditures in connection with a candidate seeking nomination for election to the office of President or Vice-President under 11 CFR 104.4 or Part 109, shall be filed with the State officer of each State in which an expenditure is made in connection with the campaign of a candidate seeking nomination for election to the office of President or Vice-President. The report and statement shall contain all transactions pertaining to that State during the reporting period. Any committee, other than a Presidential or Vice Presidential candidate's principal campaign committee and the candidate's authorized committee(s) shall also file a copy of each report and statement with the appropriate State officer of the State in which such committee has its headquarters pursuant to 11 CFR 108.4.

§ 108.3 Filing copies of reports and statements in connection with the campaign of any congressional candidate (2 U.S.C. 439(a)(2)).

A copy of each report and statement required to be filed by a committee under 11 CFR Part 104, or by any other person under 11 CFR Part 109 shall be filed with the appropriate State officer of that State in which an expenditure is made in connection with the campaign of a candidate for nomination for election or election, to the office of Senator, Representative in, Delegate or Resident Commissioner to the Congress except that political committees other than authorized committees are required to file, and the Secretary of State is required to retain only that portion of the report applicable to candidates seeking election in that State.

§ 108.4 Filing copies of reports by committees other than principal campaign committees (2 U.S.C. 439(a)(2)).

Any authorized committee, which makes contributions in connection with a Presidential election and which is required to file a report(s) and statement(s) under the Act shall file a copy of such report(s) and statement(s) with the State officer of the State in which both the recipient and contributing committees have their headquarters.

§ 108.5 Time and manner of filing copies (2 U.S.C. 434(a)(2)).

A copy of any report or statement required to be filed with a State officer under 11 CFR Part 108 shall be filed at the same time as the original report is filed. Each copy of such report or statement shall be a complete, true, and

legible copy of the original report or statement filed.

§ 108.6 Duties of State officers (2 U.S.C. 439(b)).

The Secretary of State, or the equivalent State officer shall carry out the duties set forth in 11 CFR 108.5(a) through (d):

(a) Receive and maintain in an orderly manner all reports and statements required to be filed;

(b) Preserve such reports and statements (either in original form or in facsimile copy by microfilm or otherwise) filed under the Act for a period of 2 years from the date of receipt;

(c) Make the reports and statements filed available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during office hours and permit copying of any such reports or statements by hand or by duplicating machine, at the request of any person except that such copying shall be at the expense of the person making the request and at a reasonable fee;

(d) Compile and maintain a current list of all reports and statements or parts of such reports and statements pertaining to each candidate.

§ 108.7 Effect on State law (2 U.S.C. 453).

(a) The provisions of the Federal Election Campaign Act of 1971, as amended, and rules and regulations issued thereunder, supersede and preempt any provision of State law with respect to election to Federal office.

(b) Federal law supersedes State law concerning the—

(1) Organization and registration of political committees supporting Federal candidates;

(2) Disclosure of receipts and expenditures by Federal candidates and political committees; and

(3) Limitation on contributions and expenditures regarding Federal candidates and political committees.

(c) The Act does not supersede State laws which provide for the—

(1) Manner of qualifying as a candidate or political party organization;

(2) Dates and places of elections;

(3) Voter registration;

(4) Prohibition of false registration, voting fraud, theft of ballots, and similar offenses; or

(5) Candidate's personal financial disclosure.

§ 108.8 Exemption for the District of Columbia

Any copy of a report required to be filed with the equivalent officer in the

District of Columbia shall be deemed to be filed if the original has been filed with the Clerk, Secretary, or the Commission, as appropriate.

PART 109—INDEPENDENT EXPENDITURES (2 U.S.C. 431(17), 434(c))

Sec.

109.1 Definitions (2 U.S.C. 431(17)).

109.2 Reporting of independent expenditures by persons other than a political committee (2 U.S.C. 434(c)).

109.3 Non-authorization notice (2 U.S.C. 441d).

Authority: 2 U.S.C. 431(17), 434(c), 438(a)(8), 441d.

§ 109.1 Definitions (2 U.S.C. 431(17)).

(a) "Independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate.

(b) For purposes of this definition—
(1) "Person" means an individual, partnership, committee, association, or any organization or group of persons, including a separate segregated fund established by a labor organization, corporation, or national bank (see Part 114) but does not mean a labor organization, corporation, or national bank.

(2) "Expressly advocating" means any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as "vote for," "elect," "support," "cast your ballot for," and "Smith for Congress," or "vote against," "defeat," or "reject."

(3) "Clearly identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(4) "Made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate" means—

(i) Any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be so made when it is—

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents,

with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent;

(ii) But does not include providing to the expending person upon request Commission guidelines on independent expenditures.

(5) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures.

(c) An expenditure not qualifying under this section as an independent expenditure shall be a contribution in-kind to the candidate and an expenditure by the candidate, unless otherwise exempted.

(d)(1) The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered a contribution for the purpose of contribution limitations and reporting responsibilities by the person making the expenditure but shall not be considered an expenditure by the candidate or his authorized committees unless made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any authorized agent or committee thereof.

(2) This paragraph does not affect the right of a State or subordinate party committee to engage in such dissemination, distribution, or republication as agents designated by the national committee pursuant to § 110.7(a)(4).

(e) No expenditure by an authorized committee of a candidate on behalf of that candidate shall qualify as an independent expenditure.

§ 109.2 Reporting of independent expenditures by persons other than a political committee. (2 U.S.C. 434(c)).

(a) Every person other than a political committee, who makes independent expenditures aggregating in excess of \$250 during a calendar year shall file a signed statement or report on FEC Form

with the Commission, the Clerk of the House or Secretary of the Senate in accordance with 11 CFR 104.4(c).

(1) If a signed statement is submitted, the statement shall include: (i) the reporting person's name mailing address, occupation and the name of his or her employer, if any; (ii) the identification (name and mailing address) of the person to whom the expenditure was made; (iii) the amount, date and purpose of each expenditure; (iv) a statement which indicates whether such expenditure was in support of, or in opposition to a candidate, together with the candidate's name and office sought; (v) a notarized certification under penalty of perjury as to whether such expenditure was made in cooperation, consultation or concert with, or at the request or suggestion of any candidate or any authorized committee or agent thereof; and (vi) the identification of each person who made a contribution in excess of \$200 to the person filing such report, which contribution was made for the purpose of furthering the reported independent expenditure.

(2) Reports or statements filed under this section shall be filed at the end of the reporting period (quarterly pre-election post-election semi-annual annual) (See 11 CFR 104.5) during which any independent expenditure which aggregates in excess of \$250 is made and in any reporting period thereafter in which additional independent expenditures are made.

(b) Independent expenditures aggregating \$1,000 or more made by any person after the twentieth day, but more than 24 hours before 12:01 A.M. of the day of an election shall be reported within 24 hours after such independent expenditure is made. Such report or statement shall contain the information required by 11 CFR 109.2(a) indicating whether the independent expenditure is made in support of, or in opposition to, a particular candidate and shall be filed with the appropriate officers in accordance with 11 CFR 104.4(c).

§ 109.3 Non-authorization notice. (2 U.S.C. 441d).

Whenever any person makes an independent expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, such person shall comply with the requirements of 11 CFR 110.11.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS (2 U.S.C. 441a)

4. In Part 110, § 110.2(b), 110.6(c)(4), (c)(4)(i), and 110.7(c)(2) are revised; 110.7(c)(3) is deleted; 110.11(a)(1) and (2) are revised and 110.11(c) is deleted; 110.12(a) and 110.12(b)(5) are revised, 110.12(b)(6) is added. The amended provisions read as follows:

§ 110.2 Contributions by multi-candidate committees. (2 U.S.C. 441a(a)(2)).

(b) "Multi-candidate political committee" means a committee as defined in 11 CFR 100.5(e)(3).

§ 110.6 Earmarked contributions. (2 U.S.C. 441a(a)(7)(A)).

(c) * * *

(4) The reports in (1) and (2) above shall contain the information required in 11 CFR 110.6(c)(4) (i) through (iii).

(i) The name and mailing address of the contributor and if the contribution exceeds \$200, the contributor's occupation and the name of his or her employer.

§ 110.7 Party committee expenditure limitations. (2 U.S.C. 441a(d)).

(c) * * *

(2) Any other method, submitted in advance and approved by the Commission which permits control over expenditures.

§ 110.11 Communications; advertising. (2 U.S.C. 441d).

(a)(1) Except as provided at 11 CFR 110.11(a)(2) whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political advertising, a disclaimer meeting the requirements of 11 CFR 110.11(a)(1) (i), (ii), (iii), or (iv) shall appear or be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of persons who paid for or who authorized the communication; but such person is not required to place a disclaimer on the front face or page of any such material:

(i) Such communication is paid for and authorized by a candidate, an authorized committee of a candidate, or its agent(s), shall clearly state that the

communication has been paid for by such authorized political committee; or

(ii) Such communication, if authorized by a candidate, an authorized committee of a candidate or an agent thereof, but is paid for by any other person(s), shall clearly state that the communication is authorized by such candidate, authorized committee or agent and is paid for by such other persons; or

(iii) For solicitations on behalf of a candidate, such communication if not authorized by a candidate, an authorized political committee of a candidate, or its agents shall clearly state the full name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

(iv) Such communication, if paid for and authorized by a political committee, other than an authorized committee of a candidate(s) shall clearly state that the communication has been paid for by such political committee.

(2) The requirements of 11 CFR 110.11(a)(1) do not apply to bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed.

* * * * *

§ 110.12 Honoraria. (2 U.S.C. 441f).

(a) No individual while an elected or appointed officer or employee of any branch of the federal government shall accept any honorarium which exceeds the limitations of 11 CFR 110.12(a) (1) and (2).

(1) Any honoraria which exceeds \$2,000 shall not be accepted.

(2) The aggregate amount of all honorarium accepted by any individual in any calendar year, which honoraria are not otherwise prohibited by 11 CFR 110.12(a)(1), shall not exceed \$25,000.

(3) For purposes of 11 CFR 110.12(a), amounts which are returned to the person who paid for the honorarium before the end of the calendar year in which it was received shall not be added to the aggregate amount of honoraria received by an individual during any calendar year.

(4) For purposes of 11 CFR 110.12(a), an honorarium shall be treated as accepted only in the year in which that honorarium is received.

(b) * * *

(5) *Accepted*. "Accepted" means that there has been actual or constructive receipt of the honorarium and that the federal officeholder or employee exercises dominion or control over it and determines its subsequent use. However, an honorarium is not accepted if the federal officeholder or employee makes a suggestion that the honorarium

be given instead to a charitable organization which is selected by the person paying the honorarium from a list of 5 or more charitable organizations provided by the officeholder or employee. Nothing in this paragraph shall be construed as an interpretation of relevant provisions of the Internal Revenue Service Code (Title 26, United States Code).

(6) *Charitable Organization*. "Charitable organization" means any organization described in 26 U.S.C. § 170(c).

* * * * *
(2 U.S.C. 438(a)(8), 441a, 441d, 441e, 441f, 441g, 441h, 441i).

5. Parts 111, 112, and 113 are revised to read as follows:

PART 111—COMPLIANCE PROCEDURE (2 U.S.C. 437g, 2 U.S.C. 437d(a))

- Sec.
- 111.1 Scope
- 111.2 Computation of Time
- 111.3 Initiation of Compliance Matters (2 U.S.C. 437g(a)(1), (2))
- 111.4 Complaints (2 U.S.C. 437g(a)(1))
- 111.5 Initial Complaint Processing; Notification (2 U.S.C. 437g(a)(1))
- 111.6 Opportunity to Demonstrate That No Action Should Be Taken on Complaint-Generated Matters (2 U.S.C. 437g(a)(1))
- 111.7 General Counsel's Recommendation on Complaint-Generated Matters (2 U.S.C. 437g(a)(1))
- 111.8 Internally Generated Matters; Referrals (2 U.S.C. 437g(a)(2))
- 111.9 The Reason to Believe Finding; Notification (2 U.S.C. 437g(a)(2))
- 111.10 Investigation (2 U.S.C. 437g(a)(2))
- 111.11 Written Questions Under Order (2 U.S.C. 437d(a)(1))
- 111.12 Subpoenas and Subpoenas Duces Tecum; Depositions (2 U.S.C. 437d(a)(3), (4))
- 111.13 Service of Subpoenas, Orders and Notifications (2 U.S.C. 437d(a)(3), (4))
- 111.14 Witness Fees and Mileage (2 U.S.C. 437d(a)(5))
- 111.15 Motions to Quash or Modify a Subpoena (2 U.S.C. 437d(a)(3), (4))
- 111.16 The Probable Cause to Believe Recommendation; Briefing Procedures (2 U.S.C. 437d(a)(3))
- 111.17 The Probable Cause to Believe Finding; Notification (2 U.S.C. 437d(a)(4))
- 111.18 Conciliation (2 U.S.C. 437g(a)(4))
- 111.19 Civil Proceedings (2 U.S.C. 437g(a)(6))
- 111.20 Public Disclosure of Commission Action (2 U.S.C. 437g(a)(4))
- 111.21 Confidentiality (2 U.S.C. 437g(a)(12))
- 111.22 Ex parte Communications
- 111.23 Representation by Counsel; Notification
- Authority: 2 U.S.C. 437g, 437d(a), 438(a)(8).

§ 111.1 Scope. (2 U.S.C. 437g).

These regulations provide procedures for processing possible violations of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431, *et seq.*) and

chapters 95 and 96 of the Internal Revenue Code of 1954 (26 U.S.C. 9001, *et seq.* and 9031 *et seq.*).

§ 111.2 Computation of time.

(a) *General rule*: In computing any period of time prescribed or allowed by this part, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. As used in this section, the term "legal holiday" includes New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday for employees of the United States by the President or the Congress of the United States.

(b) *Special Rule for Periods Less Than Seven Days*: When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(c) *Special Rule for Service By Mail*: Whenever the Commission of any person has the right or is required to do some act within a prescribed period after the service of any paper by or upon the Commission or such person and the paper is served by or upon the Commission or such person by mail, three (3) days shall be added to the prescribed period.

§ 111.3 Initiation of compliance matters. (2 U.S.C. 437g(a)(1), (2)).

(a) Compliance matters may be initiated by a complaint or on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities.

(b) Matters initiated by complaint are subject to the provisions of 11 CFR 111.4 through 111.7. Matters initiated on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities are subject to the provisions of 11 CFR 111.8. All compliance matters are subject to the provisions of 11 CFR 111.2 and 111.9 through 111.23.

§ 111.4 Complaints. (2 U.S.C. 437g(a)(1)).

(a) Any person who believes that a violation of any statute or regulation over which the Commission has jurisdiction has occurred or is about to occur may file a complaint in writing to the General Counsel, Federal Election Commission, 1325 K Street, N.W.,

Washington, D.C. 20463. If possible, three (3) copies should be submitted.

(b) A complaint shall comply with the following:

(1) It shall provide the full name and address of the complainant; and
(2) The contents of the complaint shall be sworn to and signed in the presence of a notary public and shall be notarized.

(c) All statements made in a complaint are subject to the statutes governing perjury and to 18 U.S.C. 1001. The complaint should differentiate between statements based upon personal knowledge and statements based upon information and belief.

(d) The complaint should conform to the following provisions:

(1) It should clearly identify as a respondent each person or entity who is alleged to have committed a violation;
(2) Statements which are not based upon personal knowledge should be accompanied by an identification of the source of information which gives rise to the complainant's belief in the truth of such statements;

(3) It should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction; and

(4) It should be accompanied by any documentation supporting the facts alleged if such documentation is known of, or available to, the complainant.

§ 111.5 Initial complaint processing; Notification. (2 U.S.C. 437g(a)(1)).

(a) Upon receipt of a complaint, the General Counsel shall review the complaint for substantial compliance with the technical requirements of 11 CFR 111.4, and, if it complies with those requirements shall within five (5) days after receipt notify each respondent that the complaint has been filed, advise them of Commission compliance procedures, and enclose a copy of the complaint.

(b) If a complaint does not comply with the requirements of 11 CFR 111.4, the General Counsel shall so notify the complainant and any person(s) or entity(ies) identified therein as respondent(s), within the five (5) day period specified in 11 CFR 111.5(a), that no action shall be taken on the basis of that complaint. A copy of the complaint shall be enclosed with the notification to each respondent.

§ 111.6 Opportunity to demonstrate that no action should be taken on complaint-generated matters. (2 U.S.C. 437g(a)(1)).

(a) A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a

complaint by submitting, within fifteen (15) days from receipt of a copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action.

(b) The Commission shall not take any action, or make any finding, against a respondent other than action dismissing the complaint, unless it has considered such response or unless no such response has been served upon the Commission within the fifteen (15) day period specified in 11 CFR 111.6(a).

§ 111.7 General Counsel's recommendation on complaint-generated matters. (2 U.S.C. 437g(a)(1)).

(a) Following either the expiration of the fifteen (15) day period specified by 11 CFR 111.6(a) or the receipt of a response as specified by 11 CFR 111.6(a), whichever occurs first, the General Counsel may recommend to the Commission whether or not it should find reason to believe that a respondent has committed or is about to commit a violation of statutes or regulations over which the Commission has jurisdiction.

(b) The General Counsel may recommend that the Commission find that there is no reason to believe that a violation has been committed or is about to be committed, or that the Commission otherwise dismiss a complaint without regard to the provisions of 11 CFR 111.6(a).

§ 111.8 Internally generated matters; Referrals. (2 U.S.C. 437g(a)(2)).

(a) On the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities, or on the basis of a referral from an agency of the United States or of any state, the General Counsel may recommend in writing that the Commission find reason to believe that a person or entity has committed or is about to commit a violation of statutes or regulations over which the Commission has jurisdiction.

(b) If the Commission finds reason to believe that a violation has occurred or is about to occur the notification to respondent required by 11 CFR 111.9(a) shall include a copy of a staff report setting forth the legal basis and the alleged facts which support the Commission's action.

(c) Prior to taking any action pursuant to this section against any person who has failed to file a disclosure report required by 11 CFR 104.5(a)(1)(i) for the calendar quarter immediately preceding the election involved or 104.5(a)(1)(iii), the Commission shall notify such person of failure to file the required reports. If a satisfactory response is not received within four (4)

business days, the Commission shall publish before the election the name of the person and the report or reports such person has failed to file.

§ 111.9 The reason to believe finding; Notification. (2 U.S.C. 437g(a)(2)).

(a) If the Commission, either after reviewing a complaint-generated recommendation as described in 11 CFR 111.7 and any response of a respondent submitted pursuant to 11 CFR 111.6, or after reviewing an internally-generated recommendation as described in 11 CFR 111.8, determines by an affirmative vote of four (4) of its members that it has reason to believe that a respondent has violated a statute or regulation over which the Commission has jurisdiction, its Chairman or Vice Chairman shall notify such respondent of the Commission's finding by letter, setting forth the sections of the statute or regulations alleged to have been violated and the alleged factual basis supporting the finding.

(b) If the Commission finds no reason to believe, or otherwise terminates its proceedings, the General Counsel shall so advise both complainant and respondent by letter.

§ 111.10 Investigation. (2 U.S.C. 437g(a)(2)).

(a) An investigation shall be conducted in any case in which the Commission finds reason to believe that a violation of a statute or regulation over which the Commission has jurisdiction has occurred or is about to occur.

(b) In its investigation, the Commission may utilize the provisions of 11 CFR 111.11 through 111.15. The investigation may include, but is not limited to, field investigations, audits, and other methods of information-gathering.

§ 111.11 Written questions under order. (2 U.S.C. 437d(a)(1)).

The Commission may authorize its Chairman or Vice Chairman to issue an order requiring any person to submit sworn written answers to written questions and may specify a date by which such answers must be submitted.

§ 111.12 Subpoenas and subpoenas duces tecum; Depositions. (2 U.S.C. 437d(a)(3), (4)).

(a) The Commission may authorize its Chairman or Vice Chairman to issue subpoenas requiring the attendance and testimony of any person by deposition and to issue subpoenas duces tecum for the production of documentary or other tangible evidence in connection with a deposition or otherwise.

(b) If oral testimony is ordered to be taken by deposition or documents are ordered to be produced, the subpoena shall so state and shall advise the deponent or person subpoenaed that all testimony will be under oath. A deposition may be taken before any person having the power to administer oaths.

(c) The Federal Rules of Civil Procedure, Rule 30(e), shall govern the opportunity to review and sign depositions taken pursuant to this section.

§ 111.13 Service of subpoenas, orders and notifications. (2 U.S.C. 437d(a) (3), (4)).

(a) Service of a subpoena, order or notification upon a person named therein shall be made by delivering a copy to that person in the manner described by 11 CFR 111.13 (b), (c), and (d). In the case of subpoenas, fees for one day's attendance and mileage shall be tendered as specified in 11 CFR 111.14.

(b) Whenever service is to be made upon a person who has advised the Commission of representation by an attorney pursuant to 11 CFR 111.23, the service shall be made upon the attorney by any of the methods specified in 11 CFR 111.13(c).

(c) Delivery of subpoenas, orders and notifications to a natural person may be made by handing a copy to the person, or leaving a copy at his or her office with the person in charge thereof, by leaving a copy at his or her dwelling place or usual place of abode with some person of suitable age and discretion residing therein, or by mailing a copy by registered or certified mail to his or her last known address, or by any other method whereby actual notice is given.

(d) When the person to be served is not a natural person delivery of subpoenas, orders and notifications may be made by mailing a copy by registered or certified mail to the person at its place of business or by handing a copy to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing a copy by registered or certified mail to such representative at his or her last known address, or by any other method whereby actual notice is given.

§ 111.14 Witness fees and mileage (2 U.S.C. 437d(a)(5)).

Witnesses subpoenaed to appear for depositions shall be paid the same fees and mileage as witnesses in the courts of the United States. Such fees may be tendered at the time the witness appears for such deposition, or within a reasonable time thereafter.

§ 111.15 Motions to quash or modify a subpoena (2 U.S.C. 437d(a) (3), (4)).

(a) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of receipt of such subpoena, apply to the Commission to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. Motions to quash shall be filed with the General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. If possible, three (3) copies should be submitted.

(b) The Commission may deny the application or quash the subpoena or modify the subpoena.

(c) The person subpoenaed and the General Counsel may agree to change the date, time, or place of a deposition or for the production of documents without affecting the force and effect of the subpoena, but such agreements shall be confirmed in writing.

§ 111.16 The probable cause to believe recommendation; briefing procedures (2 U.S.C. 437g(a)(3)).

(a) Upon completion of the investigation, the General Counsel shall prepare a brief setting forth his or her position on the factual and legal issues of the case and containing a recommendation on whether or not the Commission should find probable cause to believe that a violation has occurred or is about to occur.

(b) The General Counsel shall notify each respondent of the recommendation and enclose a copy of his or her brief.

(c) Within fifteen (15) days from receipt of the General Counsel's brief, respondent may file a brief with the Commission Secretary, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463, setting forth respondent's position on the factual and legal issues of the case. If possible, ten (10) copies of such brief should be filed with the Commission Secretary and three (3) copies should be submitted to the General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

(d) After reviewing the respondent's brief, the General Counsel shall advise the Commission in writing whether he or she intends to proceed with the recommendation or to withdraw the recommendation from Commission consideration.

§ 111.17 The probable cause to believe finding; notification (2 U.S.C. 437g(a)(4)).

(a) If the Commission, after having found reason to believe and after following the procedures set forth in 11

CFR 111.16, determines by an affirmative vote of four (4) of its members that there is probable cause to believe that a respondent has violated a statute or regulation over which the Commission has jurisdiction, the Commission shall authorize the General Counsel to so notify the respondent by letter.

(b) If the Commission finds no probable cause to believe or otherwise orders a termination of Commission proceedings, it shall authorize the General Counsel to so notify both respondent and complainant by letter.

§ 111.18 Conciliation (2 U.S.C. 437g(a)(4)).

(a) Upon a Commission finding of probable cause to believe, the Office of General Counsel shall attempt to correct or prevent the violation by informal methods of conference conciliation and persuasion, and shall attempt to reach a tentative conciliation agreement with the respondent.

(b) A conciliation agreement is not binding upon either party unless and until it is signed by the respondent and by the General Counsel upon approval by the affirmative vote of four (4) members of the Commission.

(c) If the probable cause to believe finding is made within forty-five days prior to any election, such conciliation attempt shall continue for at least fifteen (15) days from the date of such finding. In all other cases such attempts by the Commission shall continue for at least thirty (30) days, not to exceed ninety (90) days.

(d) Nothing in these regulations shall be construed to prevent the Commission from entering into a conciliation agreement with a respondent prior to a Commission finding of probable cause if a respondent indicates by letter to the General Counsel a desire to enter into negotiations directed towards reaching such a conciliation agreement. However, the Commission is not required to enter into any negotiations directed towards reaching a conciliation agreement unless and until it makes a finding of probable cause to believe. Any conciliation agreement reached under this subsection is subject to the provisions of subsection (b) of this section and shall have the same force and effect as a conciliation agreement reached after a Commission finding of probable cause to believe.

(e) If a conciliation agreement is reached between the Commission and the respondent, the General Counsel shall send a copy of the signed agreement to both complainant and respondent.

§ 111.19 Civil proceedings (2 U.S.C. 437g(a)(6)).

(a) If no conciliation agreement is finalized within the applicable minimum period specified by 11 CFR 111.18(c) the General Counsel may recommend to the Commission that the Commission authorize a civil action for relief in an appropriate court of the United States.

(b) Upon recommendation of the General Counsel, the Commission may, by an affirmative vote of four (4) of its members, authorize the General Counsel to commence a civil action for relief in an appropriate court of the United States.

(c) The provisions of 11 CFR 111.18(c) shall not preclude the Commission upon request of a respondent, from entering into a conciliation agreement even after a recommendation to file a civil action has been made pursuant to this section. Any conciliation agreement reached under this subsection is subject to the provisions of 11 CFR 111.18(b) and shall have the same force and effect as a conciliation agreement reached under 11 CFR 111.18(c).

§ 111.20 Public disclosure of Commission action (2 U.S.C. 437g(a)(4)).

(a) If the Commission makes a finding of no reason to believe or no probable cause to believe or otherwise terminates its proceedings, it shall make public such action and the basis therefor no later than thirty (30) days from the date on which the required notifications are sent to complainant and respondent.

(b) If a conciliation agreement is finalized, the Commission shall make public such conciliation agreement forthwith.

§ 111.21 Confidentiality (2 U.S.C. 437g(a)(12)).

(a) Except as provided in 11 CFR 111.20, no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.

(b) Except as provided in 11 CFR 111.20(b), no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.

(c) Nothing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.

§ 111.22 Ex parte communications.

(a) In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to 11 CFR Part 111, except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of any Commissioner's staff any ex parte communication relative to the factual or legal merits of any enforcement action, nor shall any Commissioner or member of any Commissioner's staff make or entertain any such ex parte communications.

(b) The prohibition of this regulation shall apply from the time a complaint is filed with the Commission pursuant to 11 CFR Part 111 or from the time that the Commission determines on the basis of information ascertained in the normal course of its supervisory responsibilities that it has reason to believe that a violation has occurred or may occur pursuant to 11 CFR Part 111, and remains in force until the Commission has finally concluded all action with respect to the enforcement matter in question.

(c) Nothing in this section shall be construed to prohibit contact between a respondent or respondent's attorney and any attorney or staff member of the Office of General Counsel in the course of representing the Commission or the respondent with respect to an enforcement proceeding or civil action. No statement made by such a Commission attorney or staff member during any such communication shall bind or estop the Commission in any way.

§ 111.23 Representation by counsel; notification.

(a) If a respondent wishes to be represented by counsel with regard to any matter pending before the Commission, respondent shall so advise the Commission by sending a letter of representation signed by the respondent, which letter shall state the following:

(1) The name, address, and telephone number of the counsel;

(2) A statement authorizing such counsel to receive any and all

notifications and other communications from the Commission on behalf of respondent.

(b) Upon receipt of a letter of representation, the Commission shall have no contact with respondent except through the designated counsel unless authorized in writing by respondent.

PART 112—ADVISORY OPINIONS (2 U.S.C. 437f)**Sec.**

112.1 Requests for Advisory Opinions (2 U.S.C. 437f(a)(1))

112.2 Public Availability of Requests (2 U.S.C. 437f(d))

112.3 Written Comments on Requests (2 U.S.C. 437f(d))

112.4 Issuance of Advisory Opinions (2 U.S.C. 437f (a) and (b))

112.5 Reliance on Advisory Opinions (2 U.S.C. 437f(c))

112.6 Reconsideration of Advisory Opinions
Authority: 2 U.S.C. 437f, 438(a)(8).

§ 112.1 Requests for advisory opinions (2 U.S.C. 437f(a)(1)).

(a) Any person may request in writing an advisory opinion concerning the application of the Act, chapters 95 or 96 of the Internal Revenue Code of 1954, or any regulation prescribed by the Commission. An authorized agent of the requesting person may submit the advisory opinion request, but the agent shall disclose the identity of his or her principal.

(b) The written advisory opinion request shall set forth a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future. Requests presenting a general question of interpretation, or posing a hypothetical situation, or regarding the activities of third parties, do not qualify as advisory opinion requests.

(c) Advisory opinion requests shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made.

(d) The Office of General Counsel shall review all requests for advisory opinions submitted under 11 CFR 112.1. If the Office of General Counsel determines that a request for an advisory opinion is incomplete or otherwise not qualified under 11 CFR 112.1, it shall, within 10 calendar days of receipt of such request, notify the requesting person and specify the deficiencies in the request.

(e) Advisory opinion requests should be sent to the Federal Election Commission, Office of General Counsel, 1325 K Street, N.W., Washington, D.C. 20463.

(f) Upon receipt by the Commission, each request which qualifies as an advisory opinion request (AOR) under 11 CFR 112.1 shall be assigned an AOR number for reference purposes.

§ 112.2 Public availability of requests (2 U.S.C. 437f(d)).

(a) Advisory opinion requests which qualify under 11 CFR 112.1 shall be made public at the Commission promptly upon their receipt.

(b) A copy of the original request and any supplements thereto, shall be available for public inspection and purchase at the Public Disclosure Division of the Commission.

§ 112.3 Written comments on requests (2 U.S.C. 437f(d)).

(a) Any interested person may submit written comments concerning advisory opinion requests made public at the Commission.

(b) The written comments shall be submitted within 10 calendar days following the date the request is made public at the Commission. However, if the 10th calendar day falls on a Saturday, Sunday, or Federal holiday, the 10 day period ends at the close of the business day next following the weekend or holiday. Additional time for submission of written comments may be granted upon written request for an extension by the person who wishes to submit comments or may be granted by the Commission without an extension request.

(c) Comments on advisory opinion requests should refer to the AOR number of the request, and statutory references should be to the United States Code citations, rather than to Public Law citations.

(d) Written comments and requests for additional time to comment shall be sent to the Federal Election Commission, Office of General Counsel, 1325 K Street, N.W., Washington, D.C. 20463.

(e) Before it issues an advisory opinion the Commission shall accept and consider all written comments submitted within the 10 day comment period or any extension thereof.

§ 112.4 Issuance of advisory opinions (2 U.S.C. 437f(a) and (b)).

(a) Within 60 calendar days after receiving an advisory opinion request that qualifies under 11 CFR 112.1, the Commission shall issue to the requesting person a written advisory opinion or shall issue a written response stating that the Commission was unable to approve an advisory opinion by the required affirmative vote of 4 members.

(b) The 60 calendar day period of 11 CFR 112.4(a) is reduced to 20 calendar days for an advisory opinion request

qualified under 11 CFR 112.1 provided the request:

(1) is submitted by any candidate, including any authorized committee of the candidate (or agent of either), within the 60 calendar days preceding the date of any election for Federal office in which the candidate is seeking nomination or election; and

(2) presents a specific transaction or activity related to the election that may invoke the 20 day period if the connection is explained in the request.

(c) The 60 day and 20 day periods referred to in 11 CFR 112.4(a) and (b) only apply when the Commission has received a qualified and complete advisory opinion request under 11 CFR 112.1, and when the 60th or 20th day occurs on a Saturday, Sunday or Federal holiday, the respective period ends at the close of the business day next following the weekend or holiday.

(d) The Commission may issue advisory opinions pertaining only to the Federal Election Campaign Act of 1971, as amended, chapters 95 or 96 of the Internal Revenue Code of 1954, or rules or regulations duly prescribed under those statutes.

(e) Any rule of law which is not stated in the Act or in chapters 95 or 96 of the Internal Revenue Code of 1954, or in a regulation duly prescribed by the Commission, may be initially proposed only as a rule or regulation pursuant to procedures established in 2 USC 438(d) or 26 USC 9009(c) and 9039(c) as applicable.

(f) No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with 11 CFR Part 112; however, this limitation does not preclude distribution by the Commission of information consistent with the Act and chapters 95 or 96 of the Internal Revenue Code of 1954.

(g) When issued by the Commission, each advisory opinion or other response under 11 CFR 112.4(a) shall be made public and sent by mail, or personally delivered to the person who requested the opinion.

§ 112.5 Reliance on advisory opinions (2 U.S.C. 437f(c)).

(a) An advisory opinion rendered by the Commission under 11 CFR Part 112 may be relied upon by:

(1) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered, and

(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity

with respect to which such advisory opinion is rendered.

(b) Notwithstanding any other provision of law, any person who relies upon an advisory opinion in accordance with 11 CFR 112.5(a) and who acts in good faith in accordance with that advisory opinion shall not, as a result of any such act, be subject to any sanction provided by the Federal Election Campaign Act of 1971, as amended, or by chapters 95 or 96 of the Internal Revenue Code of 1954.

§ 112.6 Reconsideration of advisory opinions.

(a) The Commission may reconsider an advisory opinion previously issued if the person to whom the opinion was issued submits a written request for reconsideration within 30 calendar days of receipt of the opinion and if, upon the motion of a Commissioner who voted with the majority that originally approved the opinion, the Commission adopts the motion to reconsider by the affirmative vote of 4 members.

(b) The Commission may reconsider an advisory opinion previously issued if, upon the motion of a Commissioner who voted with the majority that originally approved the opinion and within 30 calendar days after the date the Commission approved the opinion, the Commission adopts the motion to reconsider by the affirmative vote of 4 members.

(c) In the event an advisory opinion is reconsidered pursuant to 11 CFR 112.6(b), the action taken in good faith reliance on that advisory opinion by the person to whom the opinion was issued shall not result in any sanction provided by the Act or chapters 95 or 96 of the Internal Revenue Code of 1954. 11 CFR 112.6(c) shall not be effective after the date when the person to whom the advisory opinion was issued has received actual notice of the Commission's decision to reconsider that advisory opinion.

(d) Adoption of a motion to reconsider vacates the advisory opinion to which it relates.

PART 113—EXCESS CAMPAIGN FUNDS AND FUNDS DONATED TO SUPPORT FEDERAL OFFICEHOLDER ACTIVITIES (2 U.S.C. 439a)

Sec.

- 113.1 Definitions (2 USC 439a).
- 113.2 Use of funds (2 USC 439a).
- 113.3 Deposits of funds donated to a Federal or State officeholder.
- 113.4 Contribution and expenditure limitations (2 USC 441a).

Authority: 2 U.S.C. 432(h), 438(a)(8), 439a, 441a.

§ 113.1 Definitions (2 U.S.C. 439a).

When used in this Part—

(a) *Funds donated.* "Funds donated" means all funds, including, but not limited to, gifts, loans, advances, credits or deposits of money which are donated for the purpose of supporting the activities of a Federal or State officeholder; but does not mean funds appropriated by Congress, a State legislature, or another similar public appropriating body, or personal funds of the officeholder donated to an account containing only those personal funds.

(b) *Office account.* "Office account" means an account established for the purposes of supporting the activities of a Federal or State officeholder which contains excess campaign funds and funds donated, but does not include an account used exclusively for funds appropriated by Congress, a State legislature, or another similar public appropriating body, or an account of the officeholder which contains only the personal funds of the officeholder, or an account containing only appropriated funds and only personal funds of the officeholder.

(c) *Federal officeholder.* "Federal officeholder" means an individual elected to or serving in the office of President or Vice President of the United States; or a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

(d) *State officeholder.* "State officeholder" means an individual elected to or serving in any elected public office within a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any subdivision thereof.

(e) *Excess campaign funds.* "Excess campaign funds" means amounts received by a candidate as contributions which he or she determines are in excess of any amount necessary to defray his or her campaign expenditures.

§ 113.2 Use of funds (2 U.S.C. 439a).

Excess campaign funds and funds donated:

(a) May be used to defray any ordinary and necessary expenses incurred in connection with the recipient's duties as a holder of Federal office, if applicable; or

(b) May be contributed to any organization described in section 170(c) of Title 26, of the United States Code; or

(c) May be transferred without limitation to any national, State, or local committee or any political party; or

(d) May be used for any other lawful purpose, except that, with respect to any individual who is not a Senator or

Representative in, or Delegate or Resident Commissioner to, the Congress on the date of the enactment of the Federal Election Campaign Act Amendments of 1979 (January 8, 1980), no such amounts may be converted by any person to any personal use, other than: to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, or to repay to a candidate any loan the proceeds of which were used in connection with his or her campaign.

§ 113.3 Deposits of funds donated to a Federal or state officeholder (2 U.S.C. 432(h)).

All funds donated to a federal officeholder, or State officeholder who is a candidate for federal office, shall be deposited into one of the following accounts:

(a) An account of the officeholder's principal campaign committee or other authorized committee pursuant to 11 CFR Part 103;

(b) An account to which only funds donated to an individual to support his or her activities as a holder of federal office are deposited (including an office account).

§ 113.4 Contribution and expenditure limitations (2 U.S.C. 441a).

(a) Any contributions to, or expenditures from an office account which are made for the purpose of influencing a federal election shall be subject to 2 U.S.C. 441a and 11 CFR Part 110 of these regulations.

(b) If any treasury funds of a corporation or labor organization are donated to an office account, no funds from that office account may be transferred to a political committee account or otherwise used in connection with a federal election.

7. In Part 114, § 114.1(a)(2)(v), § 114.6(c) (3), (d), (d)(2)(ii), (d)(3) (i) and (ii) are revised to read as follows:

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY**§ 114.1 Definitions.**

(a) * * *

(2) * * *

(v) The sale of any food or beverage by a corporate vendor for use in a candidate's campaign or for use by a political committee of a political party at a charge less than the normal of comparable commercial rate, if the charge is at least equal to the costs of such food or beverage to the vendor, to the extent that: the aggregate value of such discount by the vendor on behalf of a single candidate does not exceed \$1,000 with respect to any single

election; and on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year.

* * * * *

§ 114.6 Twice yearly solicitations.

* * * * *

(c) * * *

(3) That persons who, in a calendar year make a single contribution of \$50 or less, or multiple contributions aggregating \$200 or less may maintain their anonymity by returning their contributions to the custodian.

(d) *The custodial arrangement.* In order to maintain the anonymity of persons who do not wish to contribute and of persons who wish to respond with a single contribution of \$50 or less, or multiple contributions aggregating \$200 or less in a calendar year, and to satisfy the recordkeeping provisions, the corporation, labor organization, or separate segregated fund of either shall establish a custodial arrangement for collecting the contributions under this section.

* * * * *

(2) * * *

(ii) Provide the fund with the identification of any person who makes a single contribution of more than \$50 and the identification of any person who makes multiple contributions aggregating more than \$200. The custodian must provide this information within a reasonable time prior to the reporting date of the fund under Part 104;

* * * * *

(3) * * *

(i) Make the records of persons making a single contribution of \$50 or less, or multiple contributions aggregating \$200 or less, in a calendar year, available to any person other than representatives of the Federal Election Commission, the Clerk of the House or the Secretary of the Senate, as appropriate, and law enforcement officials or judicial bodies.

(ii) Provide the corporation or labor organization or the separate segregated fund of either with any information pertaining to persons who, in a calendar year, make a single contribution of \$50 or less or multiple contributions aggregating \$200 or less except that the custodian may forward to the corporation, labor organization or separate segregated fund of either the total number of contributions received; or

* * * * *

(2 U.S.C. 431(8)(B)(iii), 432(c)(3), 438(a)(8))

§ 9008.3 [Amended]

8. In Part 9008, § 9008.3(a) is amended by deleting "2 million" and inserting "3 million".

Dated: February 28, 1980.

Robert O. Tiernan,

Chairman, Federal Election Commission.

[FR Doc. 80-7109 Filed 3-6-80; 8:45 am]

BILLING CODE 6715-01-M

federal register

**Friday
March 7, 1980**

Part V

Department of the Interior

Geological Survey

**Oil and Gas and Sulphur Operations in
the Outer Continental Shelf; Final Rule
and Proposed Rulemaking**

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule establishes a regulatory program to implement Section 5(a)(8) of the Outer Continental Shelf (OCS) Lands Act Amendments of 1978, Pub. L. 95-372 (herein referred to as the "Act"), concerning the regulation of air emissions from oil and gas operations on the OCS. The regulations revise 30 CFR 250.2 and 250.34 and create a new section 30 CFR 250.57.

DATE: This rule shall become effective on June 2, 1980.

ADDRESSES: A copy of this final rule may be obtained from the following offices of the Geological Survey:

Chief Conservation Division, U.S. Geological Survey, National Center Mail Stop 600, Reston, Virginia 22092.

Conservation Manager—Eastern Region, U.S. Geological Survey, 1725 K Street, NW., Suite 204, Washington, D.C. 20006.

Conservation Manager—Gulf of Mexico OCS Region, U.S. Geological Survey, 336 Imperial Office Building, P.O. Box 7944, Metairie, Louisiana 70010.

Conservation Manager—Pacific OCS Region, U.S. Geological Survey, 1340 West Sixth Street, Room 160, Los Angeles, California 90017.

Conservation Manager—Alaska Region, U.S. Geological Survey, 800 "A" Street, Suite 109, Anchorage, Alaska 99501.

FOR FURTHER INFORMATION CONTACT:

John Goll, U.S. Geological Survey, National Center Mail Stop 600, Reston, Virginia 22092 (703) 860-7136.

AUTHORS: Thomas McCloskey, Office of the Assistant Secretary—Energy and Minerals, Department of the Interior; Theresa Hooks, Office of the Solicitor, Department of the Interior; R. A. Karam, Office of OCS Program Coordination, Office of Assistant Secretary—Policy, Budget and Administration, Department of the Interior; John Goll, U.S. Geological Survey, Department of the Interior.

SUPPLEMENTARY INFORMATION:**Background**

The Act requires that the Secretary of the Interior prescribe regulations with provisions for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), to the extent that activities authorized under the Act significantly

affect the air quality of any State (Section 5(a)(8), 43 U.S.C. 1334). By Notice of December 28, 1978, (43 FR 60612) public comments were requested to assist the Department of the Interior in the identification and selection of a regulatory program to control air emissions from activities authorized under the Act which significantly affect onshore air quality. On May 10, 1979, proposed regulations on this subject were published in the *Federal Register* (44 FR 27449).

Comments

Fifty-five sets of comments and recommendations were submitted in response to the invitation contained in the notice of proposed rule. The comments and recommendations varied widely in nature, scope, and content. Several of the commenters included studies and analyses as part of their submission. The comments represented the views of 6 public interest and environmental groups, 20 Federal, State, and local government agencies, and 29 industry and trade organizations.

Public Hearings

Oral testimony relating to the proposed regulations was taken at public hearings held in Los Angeles, California on June 7, 1979, New Orleans, Louisiana on June 12, 1979, and Washington, D.C. on June 14, 1979.

Discussion of Major Issues

1. *Need for Regulations.* Several commenters asserted that the promulgation of the air quality regulations is premature. They argued that no regulatory action should be taken until the Department makes a formal determination that OCS operations are having or could have significant effects on the air quality of an onshore area of a State.

The Department has rejected this argument. The procedures outlined in the final regulations are to be used to determine whether emissions from an OCS facility significantly affect an onshore area. The regulations are necessary to insure that all concerned are aware of these procedures and are advised as to how the Secretary intends to fulfill the statutory responsibilities related to the protection of onshore air quality. This approach is similar to that followed under other regulatory programs and is fully consistent with the Department's statutory mandate.

A number of commenters asserted that the regulations are excessively stringent and unnecessarily broad and complex. They argued that the regulations would delay and add unnecessary expense to the exploration

for and development of OCS oil and gas resources and characterized the program as a clear case of overregulation that ignores Congressional intent and exceeds the statutory mandate. One commenter remarked that a decision to publish such complex regulations should be coupled with a commitment to establish a training program for industry. The Department believes that the regulations are reasonable, practical, and consistent with the statutory mandate. This preamble contains a detailed discussion of the regulations which explains the necessity and rationale for each regulatory requirement. Air quality considerations are complicated, particularly as they relate to the unique circumstances encountered on the OCS. However, every effort has been made to make the Department's OCS air quality regulations as clear and straightforward as possible.

Although a number of commenters expressed support for the overall regulatory framework and the adoption of significance levels and prevention of significant deterioration (PSD) increments from the Environmental Protection Agency (EPA), others argued that EPA standards and practices were inappropriate in the regulations. The Department has developed a regulatory framework which is similar, in many respects, to the one employed by EPA. The Department decided to follow EPA's program, to the maximum extent possible, because of that agency's air quality expertise. The Department's program differs in some respects, however, because the Department's mandate under the Act is different than EPA's mandate under the Clean Air Act and because offshore conditions differ from those encountered onshore. The Clean Air Act gives EPA the authority to regulate air pollution sources onshore. The Act, on the other hand, authorizes the Department to regulate OCS activities only if the emissions from the activities have significant effects on onshore air quality. Also, all OCS sources are external to the areas whose air quality they may affect, a situation not commonly encountered in EPA's regulatory program. Thus, the Department has used only those aspects of EPA's program that are adaptable to the offshore situation. In doing so, we have fulfilled the Congressional intent that the Department be "guided by the Clean Air Act, in consultation with the Environmental Protection Agency" in devising this air quality program.

One commenter requested that the final regulations explain the relationship of section 25(a)(1) of the Act to the air

regulatory scheme. Section 25(a)(1) provides for the creation of a less burdensome regulatory program in the western Gulf of Mexico. Under regulations governing the submission and approval of exploration plans and development and production plans, (see 44 FR 53686, September 14, 1979) OCS leases in the western Gulf of Mexico will be treated differently from leases in other OCS areas. Environmental Reports, for example, will not be required unless an affected State has an approved coastal zone management plan. If a report is requested, the Director of the U.S. Geological Survey (GS) will allow a lessee to submit only that information the State indicates it needs to make its consistency determination. The different treatment accorded for western Gulf of Mexico leases does not, however, extend to air quality reporting and control requirements. Nothing in the language of the statute or the legislative history suggests that the provisions of Section 25(a)(1) of the Act exempt lessees from the air quality regulatory program. Section 5(a)(8) of the Act requires "compliance * * * to the extent that activities authorized under this Act significantly affect the air quality of any State." A lessee submitting a new or revised plan after June 2, 1980, will be required to submit the information needed to make the findings under § 250.57-1(d)-(i), and to take the necessary measures to control emissions regardless of whether an Environmental Report is required. Likewise, existing facilities in the Gulf of Mexico may be reviewed in the same manner as existing facilities in other parts of the OCS.

Finally, several commenters objected to the regulatory scheme because the lessee, instead of the Department, "controls" the information. These commenters criticized the "passive" role of the Department and asserted that the regulator, not the regulated, should be responsible for collecting and interpreting data and making decisions concerning the applicability of the regulations to OCS operations. We do not believe that this is an accurate characterization of the role of the Department in implementing these regulations. The regulations place initial responsibility for all information gathering on the lessee. However, the Director has clear authority to require supplementary information and to take whatever action is necessary to validate the information. Additionally, the GS will review and evaluate all information submitted by the lessee and will make

all final decisions concerning the necessity for controls and offsets.

2. Need for Regulatory Analysis. Several commenters argued that implementation of the regulations represents a significant regulatory action and, pursuant to Executive Order 12044, requires preparation of a regulatory analysis. Prior to the publication of the proposed regulations, the Department prepared a Negative Declaration and Regulatory Analysis. That document examined the criteria for determining whether the proposed regulations constituted a significant regulatory action. The Department found that: (1) Failure to promulgate rules could have a major regionwide impact on state and local governments because a failure to adequately control air emissions could affect the eligibility of state and local governments to receive Federal financial assistance. The Clean Air Act requires that state and local governments achieve national ambient air quality standards by specific dates in order to maintain eligibility for specified Federal grants; (2) The proposed regulations would impose new recordkeeping and reporting requirements on the oil and gas industry. However, the impact of these requirements was diminished for certain lessees operating in certain areas because they had already voluntarily compiled air quality information for proposed activities which corresponded to that required under the proposed regulations; (3) The proposed regulations would not involve a potential conflict between environmental and other considerations; (4) Although the proposed regulations would have a modest impact on the budget and personnel of the GS, they would not have a major impact on other programs of the Department, other Federal agencies, or the allocation of Federal funds; and (5) Based on an analysis of the projected cost to industry of complying with the proposed regulations, they were not estimated to have an annual economic consequence of \$100 million or more. Based on these conclusions, the Department determined that the implementation of the regulations, as proposed, was a significant action but, because the potential cost of compliance was under \$100 million, the preparation of a regulatory analysis was not required.

A review of that determination, in light of the comments received, failed to show any basis for changing the determination. In fact, the adoption of emission exemption rate formulas will reduce the overall cost of compliance by increasing the number of lessees exempt

from regulatory review under the program and, thereby, decreasing the number of lessees who will have to model emissions to determine whether they produce onshore ambient air concentrations above the significant levels. We therefore maintain our finding that a regulatory analysis is not called for by the criteria set out in Executive Order 12044.

3. Exemptions. The proposed regulations exempted from further regulatory review OCS facilities with less than 100 tons per year uncontrolled emissions of each pollutant or less than 50 tons per year of controlled emissions of each pollutant. These exemption levels were applied to all facilities regardless of their distance from shore. In the preamble to the proposed regulations, the Department cited an analysis by EPA which indicated that emissions of less than 100 tons per year would not cause onshore ambient concentrations of air pollutants that exceed the 24-hour, 3-hour, and 1-hour EPA significance levels. The Department also noted that although a distance exemption could be established, data were insufficient to justify such an exemption in the proposed rule.

Several commenters favored the development of an exemption formula which incorporates a distance consideration. The American Petroleum Institute (API) derived an emission rate-distance formula which received wide industry backing. API began their analysis by using EPA's emission exemption rate of 100 tons per year for a source locating in a nonattainment area. Based on assumed and observed meteorological data, API then calculated the maximum ground level ambient air concentration of emissions from the source and substituted this concentration for the EPA significance levels. Then API calculated the emission rates and offshore source distances that would produce this concentration at the shoreline. The API formula is $E=80D$, where E is emissions of air pollutants expressed in tons per year and D is distance from an onshore area expressed in miles. Thus, facilities with emissions of less than 240 tons per year at 3 miles, 800 tons per year at 10 miles, and 4,000 tons per year at 50 miles would be exempt.

Most of those who favored the adoption of the API formula said that if the Department decides to retain exemptions based on an emission rate alone, the distinction drawn between controlled and uncontrolled emissions should be dropped and the Clean Air Act exemption levels of 100 tons per year for facilities impacting

nonattainment areas and 250 tons per year for facilities impacting attainment areas should be adopted. Other commenters recommended exempting facilities more than 8 miles from shore, and there was a scattering of support for more lenient emission rate exemptions (e.g. one commenter recommended 750 tons per year, and another 400 tons per year at 8 miles.)

Many commenters argued that the proposed exemption levels were not stringent enough and that, when this fact is coupled with other alleged deficiencies in the proposed regulatory scheme (i.e. the recognition of atmospheric dilution, the adoption of significance levels, and the absence of controls for cumulative effects), the result is insufficient protection for the air quality of areas with more stringent State standards. They recommended the adoption of exemption levels equivalent to those allowed by the onshore jurisdiction potentially affected by emissions from offshore facilities (e.g. 250 pounds per hour, or 250 pounds per day for facilities located adjacent to many jurisdictions in California).

Emission rate-distance formulas, developed by the GS, have been incorporated into the final regulations. However, an approach different from that recommended by API has been adopted. The GS adopted an approach suggested by EPA which is designed to insure that exempt OCS facilities will not produce onshore ambient air concentrations above the adopted significance levels. Because of the decision to rely on significance levels to make the "significantly affected" determination (except for volatile organic compounds (VOC)—see "Volatile Organic Compounds"), the distance-emission rate approach designed by GS is preferable to that suggested by API.

In developing the exemption formulas, the GS assumed source characteristics and meteorological conditions similar to those encountered on the OCS. Working with the adopted significance levels, the GS then calculated, for each pollutant and averaging time, the emission rates that would produce, from OCS sources at varying distances from shore, onshore ambient air concentrations equivalent to the significance levels. Three pollutants (total suspended particulates (TSP), sulfur dioxide (SO₂) and nitrogen oxides (NO_x)) produced approximately the same results showing that a 100 tons per year emission rate for a facility located three statute miles from shore would not exceed significance levels onshore. This emission rate is the exemption level used by EPA for new sources locating in

nonattainment areas onshore. Because of the higher allowed concentration for carbon monoxide, the GS developed a separate formula for carbon monoxide (CO).

The Department's exemption formulas are: $E = 3400D^{2/3}$ for CO and $E = 33.3D$ for TSP, SO₂, NO_x, and VOC (see "Volatile Organic Compounds"), where E is the emission exemption amount expressed in tons per year and D is distance from an onshore area expressed in statute miles. Under these formulas, facilities with emissions of SO₂, for example, of 100 tons or less at 3 miles 333 tons or less at 10 miles, and 1665 tons or less at 50 miles would be exempt from further air quality review.

The adopted exemption formulas are more conservative than that developed by API because they were based on different assumptions concerning the effective release height and meteorological conditions. It is important to remember that an exemption level serves only as a screen to eliminate from review those sources which, when considered alone, will have no significant effect on the air quality of any onshore area.

In response to the comments concerning the ability of the proposed regulatory scheme to protect more stringent State standards, the Department is publishing, in a separate Notice, proposed regulations which would establish a more stringent program for application to those OCS facilities located off the coast of California.

4. Modeling and Atmospheric Dilution. The proposed regulations required a lessee to model emissions other than volatile organic compounds (hereinafter called "non-VOC emissions") from a non-exempt facility to determine whether they would produce onshore ambient air concentrations above the significance levels. The lessee was required to use a model approved by EPA.

Several commenters pointed out that there is no overwater model which EPA has "approved for use." They argued that the EPA approved models, especially when they are applied to overwater conditions, have unacceptably high margins of error—being overly conservative or not conservative enough depending on the respondent. They recommended dropping the EPA approval provision to allow the use of new models which better predict overwater plume behavior and more accurately describe offshore conditions. One commenter expressed opposition to any provision which would mandate the use of a given model, and another opposed the use of

models altogether. The latter commenter suggested conducting actual monitoring to determine whether emissions from an OCS facility have a significant onshore effect.

Some commenters recommended that the Department should develop a list of acceptable models for offshore application, and one commenter suggested that the acceptable model or models contain guidelines on the factors to be considered in using the model. Another commenter objected to the use of models for predicting long term impacts. This respondent argued that models are capable of predicting short term impacts but are not suited for measurement of long term impacts and recommended the development of a model validation process. A number of commenters believed that the model approval process should be expanded to include a role for States.

Many commenters also criticized the establishment of an exemption formula which incorporates a distance consideration and opposed any regulatory provision that allows the dilution of air pollutants during atmospheric transport to be considered in determining whether emissions from an offshore facility significantly affect an onshore area. They argued that such an approach is analogous to the use of tall stacks as a control measure—a technique designed to lower ground-level air concentrations which has not been allowed by some courts.

The Act requires that the Department devise a regulatory scheme which requires the control of emissions from OCS facilities *only* when these emissions would have significant effects on the air quality of an onshore area. It is the position of the Department that this compels development of a method of calculating the onshore concentration of an offshore emission. Modeling is a common and accepted method of predicting the impact of emissions on ambient air concentrations. EPA, for example, uses the results of such models for determining the applicability of certain new source requirements, such as offsets. Thus, the agency with primary responsibility for protecting the Nation's air quality recognizes the ability of the atmosphere to dilute emissions during transport, as long as excessive stack heights and other illegal dispersion techniques are not used. The Department has adopted this analysis.

The Department has retained the modeling requirement established in the proposed regulations but, in recognition of the comments received, has initiated a step-by-step process which will lead to the development of an acceptable overwater model or models. At the

present time, GS is reviewing the list of EPA approved models and will select one or two which lessees must use in the air quality program. During the next year, these models will be adapted for overwater applications. Also, during the next two to three years, the Bureau of Land Management (BLM), Department of the Interior, will conduct actual field tests off the coast of southern California to develop diffusion coefficients for overwater conditions. These diffusion coefficients will be used to validate models the Director has approved for use. Finally, the GS will establish a mechanism, similar to the one used by EPA, under which interested outside parties can recommend new models or adaptations to existing models to the GS. Each recommendation will be subject to public review and comment before being added to the list of approved models.

It is the Department's position that the benefits to be derived from requiring the use of an approved model or models outweigh the loss of "flexibility" advocated by some commenters. Despite the deficiencies in existing EPA models, their use, in the short term, is preferable to the controversies that would arise if all the parties involved were allowed to pick different models to predict and analyze the onshore air quality impacts of offshore operations.

It should be noted that EPA provides information on its approved models explaining how they work and how to use them. The Survey plans to provide similar information on the models which the Director approves for use. Finally, the Department disagrees with those who contend that, although the EPA models can estimate short term impacts, they cannot estimate long term (i.e. annual) impacts. Several EPA models calculate one hour averages of relative concentrations and sum these to estimate the annual average impact of the source. Thus the long term impacts are based on the cumulative effect of short term impacts.

The Department disagrees with comments concerning the impact of atmospheric dilution in its regulatory program. Any effort to equate atmospheric dilution of offshore emissions to using tall stacks is faulty for three reasons. First, the use of models to predict onshore impacts of offshore emissions does not constitute, as the commenters suggest, a "form of emission regulation." Instead, the models are used to answer the threshold question—is there a significant impact on the air quality of an onshore area? If the models predict an impact in excess of that level which is defined as

significant, then emission limitations and, in some instances, offsets are required. Second, the outcome in the "tall stack" cases cited by commenters was based on the court's interpretation of specific language in Section 110(a)(2)(b) of the Clean Air Act, as amended (42 U.S.C. 1857c-5(a) (2)(B)). No similar language appears in the OCS Lands Act Amendments of 1978. Third, it is clear that Congress intended that the Department should consider distance in determining whether emissions from an OCS facility should be controlled:

It is expected that some activities may not have significant effects because of distance from shore or meteorological conditions that blow the pollution out to sea. If an OCS activity or facility is determined to have no such significant effect, when, for example, it is located many miles from the coast, the requirement of the regulations under section 5(a)(8) would not apply. (see House Conf. Rep. No. 95-1474, p. 86).

This statement reflects the understanding that emissions further from shore are less likely to cause increases in the onshore ambient air concentrations than emissions released closer to the onshore area. Thus, a regulatory program which considers atmospheric dilution is consistent with this mandate.

5. *Significance Levels.* The proposed regulations adopted the significance levels established by EPA to control sources locating in a "clean" area but which would impact a nonattainment area. (see "Emission Offset Interpretive Ruling", 44 FR 3283 January 16, 1979). Non-VOC emissions from a non-exempt OCS facility were compared to these EPA significance levels to determine whether the emissions would significantly affect the air quality of an onshore area. These significance levels are approximately two percent of the national ambient air quality standards and correspond closely to the Class I increments under the Prevention of Significant Deterioration (PSD) program.

Several commenters argued that the proposed significance levels were too stringent and they recommended the adoption of levels that are 10 percent of the national ambient air quality standards. They maintained that this level would account for the natural variability of atmospheric background concentrations of the pollutants of concern and the limitations inherent in equipment and techniques which measure ambient pollutant concentrations. Other commenters, noting the relationship between the significance levels and the Class I increments, recommended basing the significance levels on the Class II

increments, which are 25% of the national ambient air quality standards. They pointed out that Class II increments apply to the areas where most people live and would be more reasonable for determining a significant effect than the Class I increments.

Other commenters argued that the significance levels are not stringent enough and that an increase in air contaminants of up to two percent of the national ambient air quality standards is too much for nonattainment areas which are struggling to meet the standards. They recommended reducing the exemption level (see "Exemptions"), eliminating the modeling requirement (see "Modeling") and the significance levels, and requiring all emissions from non-exempt facilities to be fully reduced or offset.

It is the position of the Department that the use of EPA's significance levels in these air quality regulations is prudent. To fulfill the requirements of the Act, a regulatory scheme must be designed so that offshore emissions are converted into onshore ambient air concentrations which are then measured against a criterion to determine whether the onshore air quality is sufficiently affected to warrant regulation of the offshore source. EPA encounters an analogous situation where emissions from new sources locating in "clean" areas may adversely affect a nonattainment area. To address this situation EPA established a set of significance levels and stipulated that if the emissions from the new source locating in the "clean" area would cause ambient air concentrations in excess of these levels in the actual area of nonattainment, mitigation measures are necessary. Because the onshore situation for which the EPA significance levels were designed is similar to the offshore situation, the levels have been incorporated into this regulatory program. The levels are stringent enough to assure that onshore effects from offshore operations will be inconsequential but are not overly burdensome to operators on the OCS.

6. *Volatile Organic Compounds (VOCs).* Under the proposed regulations, a "36-hour travel time" criterion was used to determine whether emissions of VOCs (i.e. compounds which react with other pollutants in the atmosphere to form ozone) from a non-exempt facility significantly affect the air quality of a State. The "36-hour travel time" criterion, adopted from EPA, was selected because EPA informed the Department that acceptable reactive models for calculating ozone concentrations resulting from VOC

emissions from individual sources do not exist. EPA's rationale for this criterion was that most reactions leading to the formation of ozone occur during this 36-hour timeframe.

In the preamble to the proposed regulations, the Department noted that EPA was reevaluating the "36-hour travel time" criterion and might change it after the department published its proposed or final regulations.

The Department indicated that it would evaluate any new EPA approach for inclusion in the air quality regulations. On September 5, 1979, EPA withdrew the "36-hour travel time" criterion and proposed a requirement that sources locating in attainment or unclassifiable areas (the location of all OCS sources) monitor for one year (or for a shorter period specified by EPA) to determine whether there is an ozone violation at the site. If at least one ozone violation occurs during the monitoring period, the source generally would be subject to all EPA regulations which apply to sources locating in nonattainment areas. If no onsite violation occurred, the source would be subject to all EPA regulations which apply to sources locating in attainment areas.

Commenters on the proposed regulations gave very little support for the retention of the "36-hour travel time" criterion. Many commenters claimed that the criterion had no scientific basis and that the regulatory requirements were difficult to understand and apply. Alternative recommended approaches included adopting any future EPA approach, treating VOCs like the other criteria pollutants, or requiring control of all non-exempt VOC sources.

The Department has dropped the "36-hour travel time" criterion and has decided against following EPA's new approach to VOC emission control. An approach has been adopted which will require control of all facilities not exempt for VOC. The Department will treat offshore VOC emissions much like EPA treats them onshore. That is to say, the exemption level of 100 tons per year at three miles will apply. Sources at distances of more than three miles from shore will be exempt in accordance with the emission exemption amount determined by using the formula $E = 33.3D$ (see Exemption). All VOC emissions which are not exempted will be controlled.

The decision not to adopt EPA's new approach was based on the belief that onsite ambient air monitoring would pose unacceptable technologic and economic problems. It is unclear how sensitive monitoring equipment would react to the marine environment, and the

placement of a monitoring buoy or tower on the OCS does not appear to be worth the cost, compared to the regulatory approach adopted. The decision not to treat VOCs like the other criteria pollutants was based on the absence of an acceptable reactive model. Should EPA approve a reactive model, the Department will reevaluate the regulations to determine the feasibility of treating VOCs as other criteria pollutants.

7. Best Available Control Technology (BACT). Under the proposed regulations, any lessee proposing a facility whose non-VOC air pollutants would significantly affect the air quality of a nonattainment area would have been required to take any measures necessary to reduce or offset the emissions from the facility so that the pollutant concentrations would not affect the nonattainment area. In determining the appropriate level of control for facilities with non-VOC emissions that significantly affect the air quality of an attainment or unclassifiable area, the lessee would follow a two-step approach.

First, the lessee would have identified BACT in the exploration plan or development and production plan. Next, assuming the application of BACT, the lessee would have modeled emissions of SO_2 and TSP to determine whether they would have produced ambient air concentrations in the attainment or unclassifiable area above the maximum allowable increments prescribed in the proposed regulations. If concentrations exceeded the maximum allowable increments, the lessee, in addition to applying BACT, would have been required to take whatever additional measures were necessary to reduce or offset the emissions down to a level at which the maximum allowable increments would not have been exceeded. The same general approach would have been followed for a facility with VOC emissions which were within 36 hours travel time of a nonattainment, attainment, or unclassifiable area. Finally, when modeling indicated that emissions from an existing or temporary facility would have significantly affected any nonattainment, attainment, or unclassifiable area of a State, the lessee would have been required to install BACT.

Many commenters complained that the imposition of the BACT requirement will impede the installation of the most cost effective technologies. They like the approach that would be followed when emissions significantly affect a nonattainment area (where some level of control less than BACT might be

adequate) and complained that it is excessive to require a more stringent level of control when the same emissions significantly affect an attainment or unclassifiable area. They recommended deleting the BACT requirement and allowing the lessee to use a combination of controls and offsets to achieve the necessary reductions.

Other commenters pointed to the discrepancy between the level of control required for emissions significantly affecting a nonattainment area and those significantly affecting an attainment or unclassifiable area, and recommended modifying the regulations to more closely correspond with the level of control required by EPA in nonattainment areas (i.e. EPA's lowest achievable emission rate (LAER) standard). They did, however, support the use of BACT to control emissions significantly affecting attainment or unclassifiable areas.

The Department has decided to adopt an approach which more closely parallels the one used by EPA to control emissions which significantly affect a nonattainment area. The Department believes that it is important to require the installation of control equipment on OCS sources affecting the air quality of nonattainment areas. However, the Department has rejected the recommendation that EPA's standard of LAER be imposed on sources significantly affecting a nonattainment area. The LAER standard, unlike the BACT standard, gives no consideration to economic, environmental, or technological factors and thus conflicts with the best available and safest technologies standard contained in Section 21(b) of the Act. For this reason, the Department will require the use of BACT to control emissions which significantly affect a nonattainment area. In addition to applying BACT, a lessee of a facility which significantly affects a nonattainment area will also be required to install additional control equipment, obtain offsets, in order to fully reduce the emissions from the facility. For example, assume that a facility is found to significantly affect a nonattainment area, and that the total emissions of a particular air pollutant which must be fully reduced are 500 tons per year. Under the final regulations the lessee first must apply BACT. Assume that the installation of BACT reduces the emission of the pollutant down to 200 tons per year. In this instance, the lessee would then be required to install additional control equipment or obtain offsets (or a combination of the two) to fully reduce or offset the remaining

emissions attributable to the facility by 200 tons.

The Department has also retained the requirement that BACT be applied when emissions would significantly affect an attainment area and when emissions from a temporary facility would significantly affect a nonattainment, attainment, or unclassified area. Additionally, the installation of BACT may be required, in some instances, for existing facilities.

8. Prevention of Significant Deterioration (PSD). The proposed regulations required lessees to control emissions from facilities which significantly affect the air quality of onshore areas where the air quality is better than the primary or secondary ambient air quality standards.

A number of commenters argued that the Secretary does not have the authority, under Section 5(a)(8) of the Act, to include PSD requirements in the regulations. They asserted that the statutory language, which mandates "compliance with the national ambient air quality standards," limits the Department's regulatory authority to those onshore situations where the primary and secondary ambient air quality standards, established by the Clean Air Act, are being violated. They also asserted that the regulatory program established for nonattainment areas is totally separate and independent of the PSD regulatory program and that by using the term "national ambient air quality standards" Congress was referring only to the nonattainment program. Finally, some commenters pointed out that the offshore operations, unlike land based operations, usually are confined to the location where the oil or gas are discovered and cannot be relocated.

Other commenters, however, supported the imposition of controls on OCS facilities which significantly affect attainment or unclassifiable areas. They argued that the legislative history clearly indicates that the Department's regulations must insure that OCS sources will not have an adverse effect upon the air quality or attainment areas. One commenter pointed out that the PSD increments are federally-established and nationally applicable standards for attainment areas and operate in much the same way as the primary and secondary standards operate for nonattainment areas. Further, they argued that the PSD program, when incorporated into the State Implementation Plan, becomes a more stringent State program which, according to the Conference Report, must not be adversely affected by the offshore drilling program. Another

commenter agreed that the PSD program should be included in the final regulations, but complained that the regulatory scheme as proposed is not sufficiently stringent. The commenter suggested that all OCS facilities should be required to install LAER whether or not the facility would significantly affect an attainment or nonattainment area. This commenter also asserted that in order to prevent the significant deterioration of onshore air quality, it would be necessary for the Department to require, in all cases, the modeling of cumulative impacts.

Also, one commenter believed that the proposed rules failed to recognize that some of the allowable increment may have been consumed by other new sources which have previously been located in an area. This commenter also argued that the OCS facility should not be allowed to consume the entire PSD increment because the clean air area would then be put at the same economic disadvantage as a nonattainment area when attempting to site new sources. The commenter recommended that the regulations should limit the offshore facilities to a certain percentage of the annual and short term increment (25 percent and 75 percent, respectively). Finally, one commenter suggested that the decision on the PSD requirements be delayed until the D.C. Court of Appeals issued its final ruling in *Alabama Power Co. v. Costle*.

After carefully considering the arguments presented by the many commenters, the Department has decided that it is legally authorized to retain the provisions which require compliance with standards established by EPA to prevent the significant deterioration of onshore air quality in attainment areas.

The Department believes that commenters are mistaken in their argument that, because of the statutory reference to "national ambient air quality standards," the authority of the Secretary is limited to control of OCS emissions affecting the air quality of nonattainment areas. We believe that Congress used the term "national ambient air quality standards pursuant to the Clean Air Act" in a broad sense to mean that the Secretary should promulgate regulations which insure the protection of air quality in attainment as well as nonattainment areas from degradation resulting from emissions from OCS operations. This interpretation is entirely consistent with the intent of Congress as expressed in the legislative history. Statements made on the House floor during the debate over the air quality provisions of the Act

clearly demonstrate that Congress intended that all applicable aspects of the air quality regulatory program established under the Clean Air Act be extended to the program established under the Act (see 1978 Cong. Rec. H. 415-416, January 31, 1978). That the provisions of Part C of the Clean Air Act are "applicable" is underscored by the debates which occurred among the conferees during Conference Committee meetings. The point was made emphatically that if emissions from offshore operations are not regulated to the same extent as emissions from onshore operations, then onshore growth will be slowed in favor of offshore development (see Transcript of Conference Committee on OCS Lands Act Amendments, June 19, 1978). No distinction was made between attainment and nonattainment areas, strongly suggesting that Congress had no intention of creating a special exemption for offshore operations significantly affecting the air quality of an attainment area. Indeed, the legislative history indicates that once it is determined that offshore emissions significantly affect the air quality onshore areas, these emissions are to be regulated regardless of attainment status.

The commenter who argued that the regulations fail to recognize that some of the allowable increases may have already been consumed is mistaken. The regulations clearly indicate that the "maximum allowable increases" for SO₂ and TSP are ceilings which cannot be exceeded within the applicable area. To calculate the acceptable emission level, a lessee must combine the ambient air concentrations resulting from the projected emissions of TSP and SO₂ from the proposed OCS facility with those emissions of TSP and SO₂ from other onshore and offshore sources which contribute to the consumption of the maximum allowable increases.

The Department has rejected the suggestion that a lessee be limited to a percentage of the maximum allowable increases. Since EPA has not established this requirement for onshore sources, the Department has decided not to impose such a requirement on offshore operations. Finally, the D.C. Court of Appeals issued its final ruling in *Alabama Power v. Costle* on December 14, 1979. These final regulations contain no provisions or requirements which conflict with the ruling in that case.

9. Offsets. Under the proposed regulations, the lessees were allowed to use offsets instead of controls to reduce the emissions significantly affecting an

onshore nonattainment area. In each instance, the lessee would be given a choice between the use of controls or offsets, or a combination of the two.

Several commenters questioned the Department's authority to require emission offsets from onshore facilities since these facilities are outside the Department's jurisdiction under the Act. Other commenters, who supported giving the lessees the choice of controlling or offsetting emissions, argued that the amount of offset required should be only that necessary to reduce the emissions to that level which would prevent violations of the national ambient air quality standards. They also argued that offsets should never be necessary where only an attainment area is affected. Finally, some commenters argued that the Department should require greater than one-to-one (1:1) offsets when emissions significantly affect nonattainment areas.

The Department has retained offset provisions in its final regulations. The offset requirement is discretionary; no absolute requirement for onshore offsets exists in the final regulations. Instead, lessees are given the choice, after the application of BACT (*see* "Best Available Control Technology"), of installing additional controls or obtaining onshore or offshore offsets.

It is the position of the Department that it would be unwise to limit the use of offsets as the commenters recommended. The decision to require full reduction of emissions which affect the air quality of nonattainment areas (through the application of BACT and whatever additional controls or offsets are necessary) is consistent with EPA's regulatory program. The provision regarding the use of offsets to prevent a violation of the PSD increment is consistent with EPA's program and is reasonable because it provides lessees with an alternative to installing more control equipment.

Finally, the Department has rejected the recommendation that the offset requirement for emissions significantly affecting a nonattainment area should be greater than 1:1. The Department believes that such a requirement would conflict with its legislative mandate. The Department is limited to preventing significant onshore effects and cannot impose a level of control which would leave the air cleaner, in effect, than it would have been if the OCS facility had never located offshore.

10. *Temporary Facilities.* The proposed regulations contained a definition of "temporary activities" which indicated that construction and drilling activities that occur in one location for less than three years would

be considered temporary. The proposed rule required a lessee to apply BACT to temporary activities which significantly affect the air quality of any state.

Several commenters supported this approach. Others agreed with the BACT requirement but recommended shortening the timeframe provided in the definition of "temporary activities" from three years to one year. One respondent noted that EPA uses a two year exemption period onshore and suggested that two years is also appropriate offshore.

Many other commenters argued for a total exemption of all temporary activities, including all mobile drilling equipment and pipeline and platform construction activities, from the regulatory requirements. They asserted that extensive experience has shown that temporary facilities have no adverse onshore air quality impacts. They argued that the cost of regulating temporary activities is far greater than the benefits and reiterated that onshore temporary activities are exempt under EPA's regulations. Finally, several commenters took the position that temporary facilities, if regulated at all, should only be regulated if they affect nonattainment areas.

The Department has decided to retain the approach to the regulation of temporary facilities which appeared in the proposed regulations. First, the Act does not distinguish between temporary and permanent facilities; it directs the Secretary to control *all* activities authorized under the Act that would have significant effects on onshore air quality. In fact, Section 11(c)(1) of the Act specifically directs the Secretary to insure that air quality impacts from exploratory activities do not have adverse effects on a State's air quality. Second, the information available to the Department indicates that substantial emissions (in excess of 100 tons per year) may be associated with temporary drilling activities.

Finally, application of the BACT requirement to temporary facilities is consistent with EPA practices in that temporary activities are exempt from other regulatory requirements but, nevertheless, must install BACT. The Department's approach is different, however, from EPA's because OCS lessees will be required to install BACT *only* if their temporary activities cause significant onshore effects. Only the BACT level of control is required for temporary facilities, and not more stringent controls or offsets, because of the limited time that these activities will emit pollutants and the difficulties and inequities that would be involved in obtaining offsets for temporary facilities.

The Department also intends to retain a definition of "temporary facility" which includes exploration and development drilling activities which are conducted in one location for less than three years. The definition also encompasses construction activities. The decision to classify construction activities as temporary was adopted from EPA's regulations. The three year time frame is based on the GS's experience with the time normally associated with exploration or development drilling activities.

11. *Existing Facilities.* Under the proposed regulations, an activity which had commenced operations prior to the effective date of the final regulations was subject to control if an affected State could demonstrate, and subsequent analyses would affirm, that emissions from the facility were significantly affecting the air quality of an onshore area. The criteria used to make the necessary determinations were the same as those applied to new or modified facilities, but the maximum level of control was different. Existing facilities with emissions which significantly affect onshore areas were required only to apply BACT.

Many commenters argued that existing facilities should be exempt from any regulatory requirements related to air emissions. They argued that Congress did not intend to regulate emissions from existing facilities, that retrofitting existing facilities is very difficult and expensive, and that existing facilities are not known to have any detectable impact on onshore air quality.

The Department has retained the regulatory requirements of the proposed rules which are applicable to existing facilities. There is no evidence to suggest that Congress intended to exempt existing facilities from the regulatory program. Section 5(a)(8) of the Act draws no distinction between existing and proposed facilities. Indeed, section 5(a) of the Act specifically states that rules and regulations promulgated under the Act shall apply as of their effective date, to all operations conducted under a lease issued or maintained under the provisions of the Act. The House Conference Report explains this language by stating that regulations are to be applicable to any lease in effect at the date of promulgation, as well as to any lease to be let in the future (*see* House Conf. Rep. No. 95-1474 p. 82).

The Department believes that the approach adopted gives adequate consideration to the problems associated with retrofitting existing facilities, particularly since the

application of BACT takes into account economic factors.

12. *Cumulative Effects.* The proposed regulations contained no specific provisions addressing the possible cumulative effects of sources locating in close proximity to each other. Numerous commenters argued that the final regulations must address more adequately the problem of cumulative effects. The Department's analysis of technical reports submitted to substantiate both sides on this issue convinced us that, in certain infrequent instances, it is possible for emissions from OCS sources to interact in such a way as to increase notably onshore ambient air concentrations of pollutants. Spacing of facilities is such, however, that it would be unusual for this to occur. However, to insure that cumulative effects are recognized and, if necessary, regulated, a provision has been added to the final regulations which gives the Director the authority to require a lessee to use models which demonstrate the effect on onshore air quality of emissions from a proposed OCS facility in combination with emissions from other OCS facilities in the area. Thus, the Director can require the lessee to use multi-source models to provide information concerning cumulative effects.

Additionally, a section has been added which provides that if a State demonstrates to the Director that emissions from an otherwise exempt facility will, either individually or in combination with other OCS emissions, significantly affect the air quality of an onshore area, or the Director believes that an otherwise exempt facility may cause significant air quality effects onshore, the Director may require the lessee to submit additional information. This provision was added to address the situation in which a State or the Director believes that an OCS facility is having significant impacts on the air quality of an onshore area even though the emissions from the facility are below the exemption level. This might occur if the emissions from the facility are acting in combination with emissions from a nearby OCS facility to cause cumulative impacts. It is the position of the Department that the incorporation of these provisions insures that cumulative impacts of OCS facilities on the air quality of onshore areas will be identified and effectively controlled.

Section-by-Section Discussion

1. Section 250.2 Definitions

Attainment areas.— One commenter urged that the definition of "attainment area" be rephrased to make it absolutely

clear that an area can be "in attainment" for one pollutant and "in nonattainment" for another. The definition that appeared in the proposed regulations and that has been adopted in the final regulations is the same as EPA's definition. Retention of this definition is important because the final regulations incorporate most of EPA's PSD program and the classification system employed by the two agencies must be consistent. In any case, the definition is sufficiently clear to indicate that an area may be in attainment status for one air pollutant and in nonattainment status for another air pollutant.

Best Available Control Technology (BACT).—Several commenters raised objections to the definition of "best available control technology". One respondent urged the Department to adopt, word for word, EPA's definition of BACT. Another argued that the definition of BACT should not encompass production processes. One commenter argued that the BACT definition should be modified to recognize the paramount importance of safety and economic factors and space and weight limitations on OCS facilities. This person recommended allowing BACT certification of individual rigs and other portable equipment. Finally, one respondent suggested that lessees should be required to identify and justify the technology chosen only if the GS has specifically identified BACT equipment which the lessee does not propose to use.

The Department has decided to modify its definition of BACT to more closely parallel EPA's definition. The definition in the proposed regulations gave the mistaken impression that methods, such as offsets, which do not result in an actual decrease in emissions could be employed to satisfy the BACT requirement. This is not the case and language has been added to make this clear. The BACT determination process was chosen because it gives recognition to energy, environmental, and economic impacts and other costs. The Department recognizes the space and weight limitations on OCS facilities and will consider these and other factors in the BACT determination process. The Department also believes that it is appropriate, particularly in the initial stages, for lessees to identify BACT. As time goes on, certain technologies, methods, systems, and techniques will be recognized as BACT, and the burden of identifying BACT will be reduced.

In developing these regulations, the Department must comply with the provisions of Section 21(b) of the Act

which requires, "on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies." Control equipment installed to satisfy the BACT requirement will be deemed to satisfy the Department's best available and safest technology requirement as well.

Commence, Facilities and Source.—The proposed regulations contained the terms "activities", "facilities", "sources", and "commenced", but none of these terms was defined. The absence of definitions for these terms, and the way they were used throughout the proposed regulations, confused reviewers. A number of commenters suggested that definitions of these terms be included in the final regulations. Several felt that the term "facilities" should be substituted for the word "activities". Others suggested that "activity" should be defined as broadly as possible to avoid situations where a number of individual activities in close proximity to each other, which in aggregate may have a significant onshore impact, are exempt from the regulatory requirement. One commenter believed that the term "activity" should be defined to include all emissions at an individual platform and should include emissions from ships and barges associated with the platform. Several commenters suggested that "facility" be defined as all emission points on an individual platform and "source" be defined as each specific piece of equipment that results in emissions. Another recommended that "OCS activity" and "facility" both be defined as "an installation including all platforms joined above water."

In response to these comments the term "facility" has been substituted for the term "activities" and definitions of the terms "facility" and "source" have been incorporated into the regulations. A platform and all equipment directly associated with a platform will be considered to be one facility. Each emission point on the facility is a source.

Multiple installations or devices may be considered part of a single facility if they are related directly to the production of oil or gas from a single site. Emissions from an offshore storage and treatment unit are to be treated as if

from a source that is part of the facility. Also, vessels used to transfer production away from a facility on the OCS shall be considered part of the facility for the entire period of time that the vessel is moored or otherwise physically attached to the facility. Thus, for purposes of calculating the total emissions, all emissions from such a vessel must be treated as emissions from a source on the facility during that period in which the vessel is physically attached to the facility. Sources on support vessels other than vessels used to transfer production from a facility will not be considered part of the facility.

The term "commenced" has been deleted from the regulations and a definition of "existing facility" has been added to establish a more precise criterion that the GS will apply to determine whether a facility is regulated by § 250.57-1 or § 250.57-2.

Onshore Area of a State.—One commenter suggested that the definition of "onshore area of a State" be extended to the three mile territorial limit of the State rather than landward of the mean high water mark. According to the commenter this is necessary because air pollutants can be deposited on surface waters.

The Department has not made this change because it would conflict with the intent of Congress. The primary concern under section 5(a)(8) is the protection of the air quality of onshore areas of the States. This is evidenced by language in the Conference Report which states "[T]he standards of applicability the conferees intended * * * is that when a determination is made that offshore operations may have or are having a significant effect on the air quality of an adjacent onshore area * * * regulations are to be promulgated." Accordingly, the Department believes that it is appropriate to measure the impact of the offshore emission landward of the shoreline instead of at the 3-mile territorial limit.

Projected Emissions.—The final regulations contain a definition of the term "projected emissions". This change was incorporated in response to many commenters who questioned the validity of the distinction drawn in the proposed regulations between controlled and uncontrolled emissions. They pointed out that the D.C. Circuit Court of Appeals in *Alabama Power Co. v. Costle*, No. 78-1006, (D.C. Cir. 1979) (Summary Opinion, June 18, 1979; final decision December 14, 1979) invalidated an EPA regulation which required calculation of emissions based on uncontrolled emissions. The Court held

that the "potential to emit" of a source must be calculated on the basis of the actual levels of emissions which would result after the application of whatever air pollution control equipment may be incorporated into the design of the facility. The Department agrees with the commenters that, in light of the court's opinion, it would be inappropriate for its air quality regulations to distinguish between controlled and uncontrolled emissions. Accordingly, the term "projected emissions" was added to clarify the basis for calculating emissions from OCS facilities.

Volatile Organic Compound (VOC).—Several commenters suggested that the definition of "Volatile Organic Compound" be modified to exclude methane and ethane. Another recommended that the definition should create an exception for carbon monoxide, carbon dioxide, carbonic acid, metallic carbides and carbonates, and ammonium carbonate. Finally, two commenters recommended a change in the definition to make it clear that the unreactive compounds specified are exempt, in all cases, from the definition.

The Department has adopted the recommendation that the exempt status of the unreactive compounds be clarified by changing the term "may be exempt" to "are exempt". However, the definition has not been changed to name the exempt unreactive hydrocarbons or to expand the list. The definition provides that unreactive compounds specified by EPA in Table I of 42 FR 35314, July 8, 1977 are not to be treated as volatile organic compounds. This list includes methane; ethane; 1,1,1-Trichloroethane (Methyl Chloroform); and Trichlorotrifluoroethane (Freon 113). Because this table is referenced, methane and ethane clearly are excluded from the definition. The reference to the EPA table has been retained so that future changes in the table will be incorporated automatically into these regulations.

2. Section 250.34-3 Information Requirements

This section requires the submission of air pollution emission data as a part of the exploration plans or development and production plans which must be submitted and approved under 30 CFR 250.34 prior to the initiation of exploration, development, or production activities on any leased OCS area. One commenter objected to making air quality determinations a part of the plan approval process. This commenter suggested that the proper time for a decision is during the preparation of the environmental impact statement for each lease sale. This suggestion is

impractical. The onshore effects of offshore operations cannot be assessed adequately until detailed information about each facility, such as the exact distance from shore and the number of wells and type of generators to be used, is available. This type of information is not available until after a lease sale. For this reason a case-by-case examination of the potential of each facility to significantly affect the air quality of onshore areas is necessary at the time that detailed plans for exploration or development and production activities on the lease are submitted.

Several commenters urged that the Department reduce the information requirements to the minimum necessary to determine whether emission controls are required. They referred to the President's recent Executive Order No. 12044 which calls for regulations to be as simple and clear as possible. The regulations are designed to comply with the President's order by eliminating all unnecessary reporting. To implement this, the regulations state that the lessee is required to submit only that information needed to make the requisite findings under the regulatory program. Thus, a lessee who finds that emissions from the proposed facility fall under the exemption level would not be required to provide any further information because it would be clear, as a result of calculating the projected emissions, that no emission control is required. In addition, 30 CFR 250.34-3(a) and 250.34-3(b) allow a lessee to reference information in earlier Environmental Reports prepared for the geographic area by identifying the information and indicating a source for obtaining copies of the cited materials. Thus it is unnecessary for the lessee to resubmit information which has appeared in earlier Environmental Reports. For these reasons, the Department has rejected the suggestion of one commenter that the lessee be required, in every instance, to provide all the information listed in § 250.34-3(a)(4)(ii).

Several commenters recommended deletion of the provisions requiring a lessee to provide information on each onshore source of air pollution associated with the proposed offshore facility. They argued that the requirement for information about onshore emissions is duplicative, irrelevant, and not within the authority of the Secretary. This information requirement first appeared in the January 1978 regulations issued by the Department of Interior (30 CFR 250.34, 43 FR 3880) as a result of an agreement between the Department and the

National Oceanic and Atmospheric Administration. The regulations required the submission of air quality information to assist States with approved coastal zone management programs in evaluating consistency determinations. It has been included in these regulations for that same purpose.

One commenter urged that the regulations clarify the meaning of the term "load factor," which appeared in the proposed regulations in the information requirements section. The term "load factor" has been eliminated from the final regulations. To calculate whether a projected emission is exempt from control under the regulations, the lessee must use the anticipated highest annual total emissions from each facility for each air pollutant.

One commenter recommended that lessees be required to note specifically which emission factors were used in the calculation of the projected emissions. The regulations require that the lessee describe the bases of all calculations; this would include the emission factors used.

Several comments were received concerning the provision in the proposed regulations requiring the lessee to identify any emission reduction control technology which exists that would achieve a greater reduction in emissions than the technology the lessee proposes to use and present the reasons why the lessee should not be required to use this technology. One commenter argued that such a requirement is unnecessary and unreasonable. Other commenters, on the other hand, supported this requirement. The requirement for submitting information on alternative control technologies has been deleted in the final regulations. However the lessee is required to explain the basis for the technology proposed as BACT. This would include a discussion of alternative technologies.

One commenter asserted that operators in the Western Gulf of Mexico should be required to submit air quality information regardless of their Environmental Report exemption status. The Department agrees with this comment and has incorporated language in §§ 250.34-1(a)(2) and 250.34-2(a)(3) to indicate that the Director has the authority to require such information in the absence of an Environmental Report.

Several other changes have been made in §§ 250.34-3(a)(4)(ii)(A) and 250.34-3(b)(4)(ii)(A) related to the calculation of projected emissions from a facility. The requirement for expressing the emission from each source in "maximum anticipated pounds per hour" has been eliminated. Instead, for facilities described in development

and production plans, a requirement for a frequency distribution of total emission from a facility, expressed in pounds per day, is included. This change enables the Department to evaluate whether any short term fluctuations in emissions from development and production facilities could cause problems. Additionally, lessees proposing modifications to existing facilities are required to submit information on both the incremental amount of the modified emissions and the total of any new and pre-existing emissions from the modified facility. This language was added to make it clear that when a lessee adds one or more new sources to an existing facility, the total emissions from the facility must be recalculated to determine whether the exemption levels are exceeded. In adopting this approach the Department rejected the suggestion of some commenters that only the additional emissions resulting from the new sources on the existing facility be considered in calculating whether emissions significantly affect the air quality of an onshore area. If this suggestion were adopted, modifications could result in emissions which, when considered alone, would be under the exemption levels but which would cause, when combined with the existing emissions, significant effects on a State's air quality. The Department chose to require an analysis of the total emissions from a modified facility to insure adequate long term protection of onshore air quality.

A provision has been added which indicates that the Director may require a lessee to use models which demonstrate the onshore effect of emissions from a proposed facility in combination with the emissions from other OCS facilities in the area (see "Cumulative Effects").

The final regulations indicate that models must be approved by the Director instead of by EPA (see "Models") and require the use of the best meteorological information and data available. Many commenters legitimately pointed out that the quantity and quality of meteorological information and data vary from area to area and that the proposed regulations, which cited EPA's "Guidelines on Air Quality Models," did not give any direction on what type of information or data would be required. The new language is designed to provide the necessary direction.

3. Section 250.57-1 Facilities Described in a New or Revised Exploration Plan or Development and Production Plan

Sections 250.57-1(a) and (c) provide that all new or modified exploration plans and development and production plans deemed submitted under §§ 250.34-1(a) or 250.34-2(a) on or after June 2, 1980 shall be subject to the regulatory program established in § 250.57-1.

Section 250.57-1(b) authorizes the Director to review any exploration plan and development and production plan which was deemed submitted or approved by GS prior to June 2, 1980 to determine whether any facility described in such a plan should, because it has the potential to significantly affect onshore air quality, be subject to § 250.57-1. It also sets forth some general criteria which the Director shall apply in determining whether this review should be conducted and whether the facility reviewed should be subject to § 250.57-1. Any facility deemed submitted or approved prior to June 2, 1980 which is identified by the Director, on the basis of the criteria, as having the potential to significantly affect the air quality of an onshore area of any State shall be required to submit the information specified in § 250.34-3(a)(4) or § 250.34-3(b)(4) and comply with the applicable requirements of § 250.57-1.

Many commenters argued that the regulations should not apply to activities covered under an approved exploration plan or development or production plan. Other commenters indicated their strong support for the revision of such plans but suggested that the language of the regulations be clarified to insure that there was no confusion on this issue.

In order to clarify the ambiguities of the proposed regulations and to respond to commenter's criticisms, §§ 250.57-1(a), (b) and (c) have been substantially revised. First, the reference to the filing of plans prior to the effective date of the regulations has been deleted. Instead, to be consistent with §§ 250.34-1(a)(6) and 250.34-2(b)(6), the term "filing" has been deleted and the term "deemed submitted" has been added. The status of a plan is to be determined by the date that the plan is deemed submitted by the GS. Additionally, instead of referring to the "effective date of these regulations," the actual effective date—June 2, 1980—has been incorporated into the regulations.

The second major change from the proposed regulatory scheme concerns facilities described in development and production plans deemed submitted or

approved prior to June 2, 1980, which have the potential to significantly affect onshore air quality. The overall goal of the Department's air quality program is to prevent significant onshore air quality effects from OCS facilities. Several major emission sources covered under development and production plans which have already received GS approval have not yet commenced operations. Also, the possibility exists that some plans which are deemed submitted before these regulations become effective may cover sources which have the potential to significantly affect the air quality of an onshore area. The release of emissions from these sources could result in substantial adverse onshore air quality effects. To avoid such effects, the regulations have been structured to give the Director the discretion to require that plans which were deemed submitted or approved by the GS prior to June 2, 1980 (existing facilities) be subject to the provisions of § 250.57-1 instead of § 250.57-2.

To determine whether such a facility should be treated as a new facility under § 250.57-1 or an existing facility under § 250.57-2, the Director will consider the size of the facility, the distance of the facility from shore, the number of sources planned for the facility and their operational status; and the air quality status of the onshore area. It is the intent of the Department that use of this discretionary authority will generally be restricted to those situations where a large emission source, which is part of a facility located rather close to a nonattainment area, has not yet commenced operations. For instance, it is possible that some facilities in the Santa Barbara Channel and possibly in other OCS areas off California will be subject to review under this provision.

It should be noted that the discretion created under this section is sufficient to allow the Director to review any existing facility, regardless of the operational status of the sources on the facility, if the Director has reason to believe, after evaluation of the facility according to the criteria set out in § 250.57-1(b)(1), that the facility may be significantly affecting the air quality of an onshore area. However, we believe that the Director will rarely have reason to exercise the authority under § 250.57-1(b) for existing facilities on which most or all of the sources are operating. Such existing facilities will, however, be subject to State review as described in § 250.57-2.

Section 250.57-1(d) establishes the formulas to be used in determining whether projected emissions from a

facility are exempt from the regulatory program. For a detailed discussion of these provisions, see "Exemptions."

Section 250.57-1(e) identifies the "significance levels." For a discussion of this provision, see "Significance Levels."

Section 250.57-1(f) explains how significance determinations will be made for non-VOC pollutants and for VOC pollutants. For non-VOC pollutants, any emission which would result in an onshore ambient air concentration above the significance level for that pollutant is deemed to "significantly affect" the air quality of an onshore area. For VOCs, any emission in excess of the exemption level "E" is deemed to significantly affect the air quality of an onshore area. The rationale for choosing these levels and a discussion of the comments received on this issue are included in other sections of this preamble (see "Modeling", "Significance Levels" and "Volatile Organic Compounds.")

Section 250.57-1(g)(1) requires lessees to fully reduce any non-VOC pollutant which significantly affects a nonattainment area. This must be done through the application of BACT and, if additional reductions are necessary, through the application of additional emission controls or the acquisition of offshore or onshore offsets. A discussion of the comments received concerning the application of BACT and the offset requirement is included in another section of this preamble (see "Best Available Control Technology" and "Offsets").

Section 250.57-1(g)(2) requires lessees to apply BACT to control non-VOC emissions significantly affecting attainment or unclassifiable areas. Assuming the application of BACT, the lessee is then directed to model emissions to determine whether the emissions of TSP or SO₂ which remain after the application at BACT would cause the PSD maximum allowable increases (established in the Clean Air Act) to be exceeded. If the increases are exceeded, the lessee must apply additional emission controls or obtain offsets so that the concentrations of TSP and SO₂ in the onshore ambient air of an attainment area do not exceed the maximum allowable increases.

The reference to the EPA regulations (40 CFR 52.21(d) and (f)), which appeared in the proposed regulations, has been deleted. The provisions of 40 CFR 52.21(f) apply to onshore areas and are independent of OCS operations. However, the provision of 40 CFR 52.21(d) has been retained and incorporated into the regulations.

Section 250.57-1(g)(3) provides that VOC emissions, except those from a

temporary facility, which significantly affect a non-attainment area shall be fully reduced. The lessee must apply BACT to the facility and, if further reductions are necessary, the lessee must apply additional controls or obtain onshore or offshore offsets. This section also requires that VOC emissions which significantly affect an attainment area be reduced through the application of BACT. For a detailed discussion of these decisions, see "Volatile Organic Compounds."

A new § 250.57-1(g)(4) has been added which provides that, in those instances when emissions from a facility significantly affect both a nonattainment and an attainment or unclassifiable area, the regulatory requirements applicable to emissions significantly affecting a nonattainment area shall apply. This section also includes a requirement that, in those instances when emissions from a facility significantly affect more than one class of attainment area, the lessee must reduce emissions to meet the maximum allowable increases specified for each class. For example, if emissions from a facility simultaneously impact both Class I and Class II areas, the emissions must be reduced to the point where the maximum allowable increases are not exceeded in either area.

Section 250.57-1(h) contains the provisions which apply to temporary facilities. Under this section lessees must apply the best available control technology to reduce emissions from temporary facilities which significantly affect the air quality of a State. For a discussion of the comments received on this issue, see "Temporary Facilities."

Section 250.57-1(i) sets forth certain requirements for emission offsets. In order to obtain approval of a proposed emission offset, the lessee must demonstrate that: (1) The offsets are equivalent in nature and quantity to the emissions that must be reduced; (2) a binding commitment exists between the lessee and the owner of each offsetting source; (3) the appropriate air quality control jurisdiction has been notified of the need to revise the State Implementation Plan to include the information regarding the offsets; and (4) the required offsets come from sources which affect the air quality of the area significantly affected by the lessee's OCS operations. One commenter recommended dropping the provision requiring offsets "equivalent in nature and quantity to the emissions that must be reduced." Instead, the commenter suggested that the amount of the offset required should be limited to the equivalent of the onshore impact of

the emission. Another commenter argued that the requirement that the lessee obtain binding commitments be eliminated because such a requirement could lead to delays and uncertainties and because changes at the offsetting source could adversely affect the binding commitment. Both the "equivalency" requirement and the binding commitment requirement have been retained in the final regulations. The "equivalency" requirement is the same as EPA's and is necessary to insure the effectiveness of the offsets. The Department agrees that, in some instances, a change in status of the offsetting source which affects the binding commitment could occur, but believes that such a contingency can be addressed easily in the document creating the commitment.

Many comments were received on the question of whether the regulations should require that all existing onshore or offshore sources owned and operated by the lessee be in compliance with all Clean Air Act requirements as a condition to operating on the OCS. Most commenters believed that the Secretary has no authority under the Act to impose such a requirement and that such action would result in a total bar of OCS activities. One commenter, however, took the position that the cross-compliance requirement is necessary. Since onshore violations of the Clean Air Act already are subject to a variety of enforcement actions and these actions are outside the Department's jurisdiction and control, the Department believes that it is unnecessary to impose this additional condition to OCS development. Accordingly, no cross-compliance requirement has been incorporated into the final regulations.

A new § 250.57-1(j), which is similar to a provision appearing at § 250.57-1(c) of the proposed regulations, has been added. It provides that if a State demonstrates to the Director that emissions from an exempt OCS facility will, either individually or in combination with emissions from other OCS facilities, significantly affect the air quality of an onshore area, or the Director believes that an otherwise exempt facility may cause onshore significant effects, the Director may require the lessee to submit additional information to determine whether control measures are necessary. The Director will provide the lessee involved an opportunity to comment on the State's information.

Several commenters argued that this provision constitutes an impermissible delegation of authority to States. Other

commenters suggested that lessees should have the opportunity to rebut information supplied by the State to demonstrate that emissions from exempt facilities are not resulting in significant onshore impacts. Others suggested that if States are allowed to intervene they must be required to carry a heavy burden of proof and provide substantial technical evidence to support their position.

It is the Department's position that the provision giving the States the opportunity to present information about the impact of otherwise exempt emissions is not a delegation of authority because the final decision concerning onshore impacts remains with the Director, not the States. However, the Department has incorporated language allowing the lessee to respond to the presentation provided by a State before the Director makes a decision concerning the necessity for the submission of further information by the lessee.

Section 250.57-1(k) is a new provision which requires the lessee to monitor, in a manner approved or prescribed by the Director, emissions from a facility. This information is to be provided in a manner and form approved or prescribed by the Director and to be included in the monthly report or operations required under 30 CFR 250.93.

The proposed regulations contained no monitoring requirements. Several commenters noted the absence of the requirement and urged that both pre-construction site-specific data and post-construction monitoring data be required to validate the analysis and the modeling. Other commenters argued that monitoring should be required only where emissions cannot be adequately estimated. These commenters were concerned with the costs and need for monitoring.

The Department must have a means of insuring that the actual emissions from a facility are the same as the projected emissions contained in the plan. This type of verification is essential for effective enforcement and to assure coastal areas that emissions from offshore facilities are not significantly affecting their air quality. Thus, the final regulations impose a post-construction monitoring requirement on any lessee that has installed emission controls. The Director must approve the form and manner in which the monitoring is to be performed. The Department expects that these requirements will vary from case to case.

Section 250.57-1(l) is a new provision under which the Director may require lessees to collect, for a period of time and in a manner approved or prescribed

by the Director, and submit meteorological data from the facility.

The proposed regulations contained no requirements for the collection of meteorological data by lessees. Some commenters urged that site-specific data be required as a pre-requisite to approval of a facility. It also was argued that pre-construction collection of meteorological data would be virtually impossible. Others pointed out that until the platform is constructed, the collection of meteorological data would be extremely costly.

The Department believes that onsite monitoring of meteorological conditions is not economically feasible prior to the construction of a structure on the lease area. However, once a structure is in place, the Director may impose a requirement that meteorological data be collected and reported for a specified period of time. 183 Section 250.57-2 Existing Facilities

Under the final regulations, an existing facility is defined as an OCS facility described in a plan deemed submitted prior to June 2, 1980, except for a facility identified for review by the Director under § 250.57-1(b). Operators of existing facilities are not required automatically to submit information regarding emissions. However, the Director may require the submission of this information under § 250.57-1(b) (see discussion under "Facilities Described in a New or Revised Exploration Plan or Development and Production Plan"). Additionally, a State may trigger a review of an existing facility under § 250.57-2. An affected State may request that the Director supply basic emission data from existing facilities when the data are needed for the updating of the State's emission inventory. In submitting the request, the State must demonstrate that any similar onshore or offshore facilities under the State jurisdiction are included in the State's emission inventory. After the submission of this request by the State, the Director may require lessees of existing facilities to submit the basic emission data to the requesting State. The State then is given the opportunity to submit information to the Director which indicates that emissions from existing facilities may be significantly affecting the air quality of the State.

The Director will evaluate the information submitted by the State and will provide the lessees involved an opportunity to comment on the State's information. The Director will then evaluate all information. If the Director determines that no existing facility has the potential to significantly affect the air quality of the State submitting the information, the Director shall notify the

State of this finding and explain the basis for this determination. If the Director determines that a facility has the potential to significantly affect the air quality of the State submitting the information, the Director shall require the lessee of the facility to submit within 120 days, or a longer period of time if the Director determines it is needed, information required to make findings concerning the impacts on onshore air quality impacts.

In submitting such information, the lessee shall apply the same exemption levels and significance criteria as are applicable to new facilities. If, under these criteria, any non-VOC or VOC emission is determined to significantly affect any onshore area, then the lessee is required to reduce the emissions through the application of BACT. The Department does not intend that an existing facility must shutdown if it is determined to significantly affect an onshore area. Instead, a compliance schedule for the application of BACT must be submitted to the Director. The Director will monitor the progress of the lessee to insure adherence to the compliance schedule. If it is necessary to cease operations to allow for the installation of emission controls, the lessee may apply for a suspension of operations under the provisions of 30 CFR 250.12.

Some commenters suggested that, if the Department declined to create an exemption for existing facilities, the BACT requirement should only apply to those facilities affecting nonattainment areas. They recommended eliminating any control requirements when attainment or unclassifiable areas would be impacted. For a discussion of the Department's rejection of this suggestion, see "Prevention of Significant Deterioration."

One commenter argued that the regulations should set out the requirements a State must meet to activate the review process for existing facilities. The final regulations do not set forth a comprehensive list of requirements a State must meet. However, they do require that before a State can request basic emissions data from the Director, it must submit information demonstrating that similar onshore or offshore facilities within the State's jurisdiction also are included in the State's emissions inventory.

Another reviewer suggested that provisions be added which describe the criteria the Director will apply in determining whether existing facilities have the potential to significantly affect an onshore area. The final regulation states that the Director will base this decision on information available on the

facilities themselves (i.e. basic emissions data), meteorological data, and the distance of the facility from shore. The Department cannot be more specific about these factors because they will vary from area to area.

Finally, one commenter suggested that the 120-day provision for revision of the plan should be deleted. The requirement has not been deleted, but a provision has been added which allows the Director to extend the 120-day period whenever necessary.

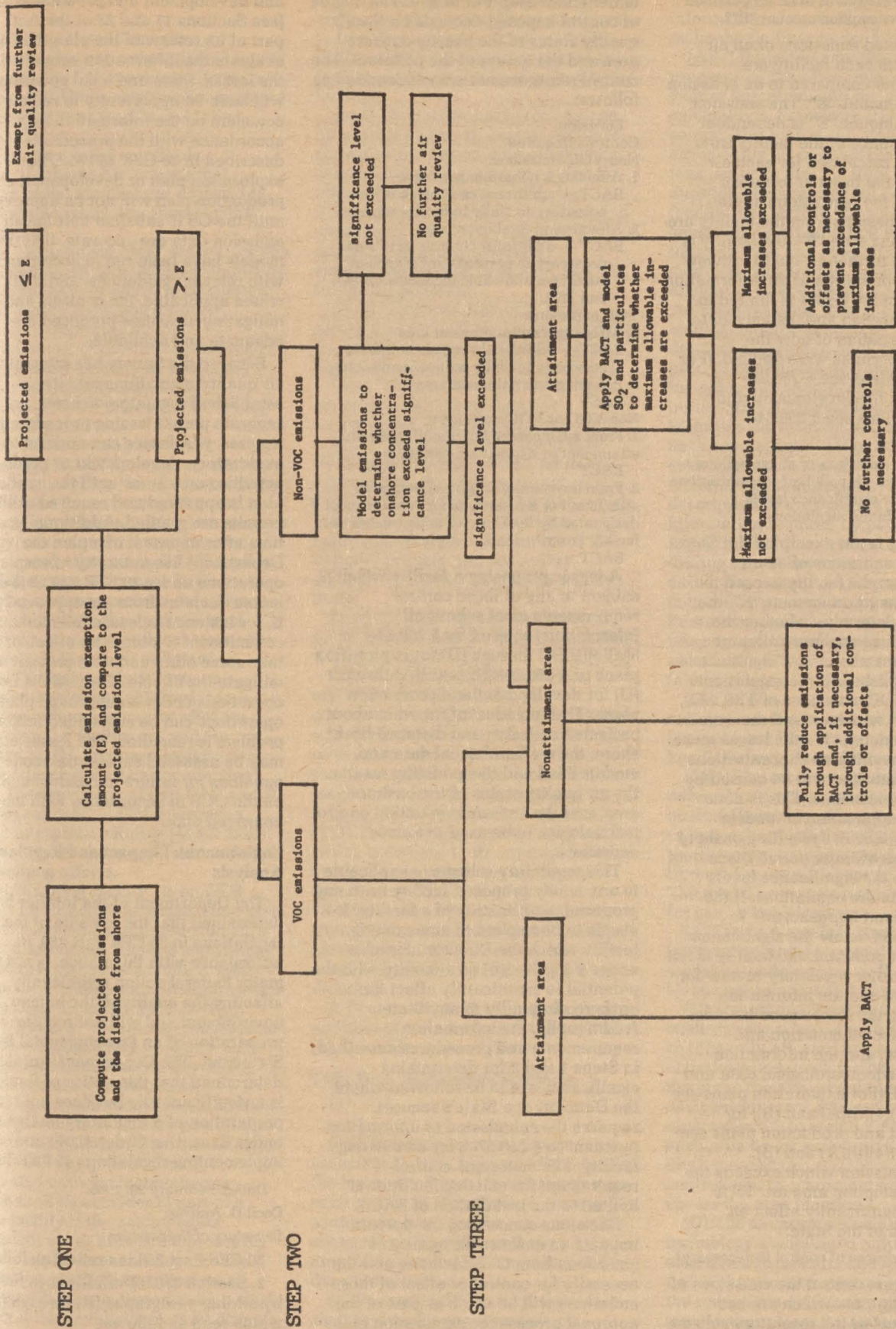
The regulatory procedure described in this final rule for existing facilities is essentially the same as the one in the proposed regulations. The major change involves the States' ability to request the submission of basic emission data. For a more detailed discussion of the comments received on provisions relating to existing facilities, see "Existing Facilities".

Overview of the Regulatory Program

The final regulations are designed to insure that emissions from OCS facilities do not cause significant effects on the onshore air quality of a State. The program is divided into three steps for each air pollutant. The first two steps are screening procedures to determine whether emissions of an air pollutant from an OCS facility would significantly affect the onshore air quality of a State. The third step, if necessary, determines what measures the lessee must take to mitigate the impact of the emissions of the air pollutant. These steps are illustrated in Figure 1.

BILLING CODE 4310-31-M

FIGURE 1: AIR REGULATORY SCHEME FOR OCS FACILITIES



STEP ONE

STEP TWO

STEP THREE

Step 1: Do the emissions of an air pollutant exceed the exemption amount "E"?

The projected emissions of an air pollutant from each facility are calculated and compared to an emission exemption amount "E". The emission exemption amount "E" is dependent upon the distance of the facility from shore and is calculated for each air pollutant on the basis of formulas described in the regulations. If the projected emissions from the facility are equal to or less than "E", the facility is exempt from further air quality review for that air pollutant and the information required from the lessee is limited to projected emission and distance data and an explanation of how the exemption formulas were applied. (For exploration plans see § 250.34-3(a)(4)(ii)(A); for development and production plans see § 250.34-3(b)(4)(ii)(A).

Step 2: Do the emissions of an air pollutant cause onshore air pollutant concentrations to exceed the significance levels established in the regulations?

If a facility is not exempt under Step 1 because the emissions of an air pollutant from the facility exceed the emission exemption amount "E", the lessee must determine whether the emissions cause onshore pollutant concentrations above the "significance levels" established in the regulations.

For non-VOC emissions of TSP, SO₂, NO_x, and CO which exceed the emission exemption amount "E", the lessee must determine the onshore concentrations by air pollutant that will be caused by the offshore emissions. This is done through the application of models approved by GS. The resulting onshore concentration of these pollutants is then compared to the significance levels established in the regulations. If the emissions result in onshore concentrations below the significance level for that pollutant, the facility is not subject to further regulatory review for that pollutant and the information submitted by the lessee need include only the projected emission and distance data, and the information related to the meteorological data and models used. (For exploration plans see § 250.34-3(a)(4)(ii)(A) and (B); for development and production plans see § 250.34-3(b)(4)(ii)(A) and (B).

A VOC emission which exceeds the emission exemption amount "E" is deemed to significantly affect an onshore area of the State.

Step 3: What degree of control is necessary?

Lessees must control the emissions of those air pollutants which are not "screened out" of the regulatory scheme

under either Step 1 or Step 2. The degree of control imposed depends on the air quality status of the nearby onshore area and the nature of the pollutant. The control requirements are summarized as follows:

Emission

Controls Required

Non-VOC emissions:

1. Affecting a nonattainment area
BACT + additional controls or offsets necessary to "fully reduce" emissions
2. Affecting an attainment area
BACT + additional controls or offsets necessary to prevent exceedance of maximum allowable increases for SO₂ and TSP.

VOC emissions:

1. Affecting a nonattainment area
BACT + additional controls or offsets necessary to "fully reduce" emissions
2. Affecting an attainment area
BACT

Non-VOC or VOC emissions:

1. From a temporary facility affecting an attainment or a nonattainment area
BACT
2. From an existing facility affecting an attainment or a nonattainment area (except if designated by the Director to be treated as a facility described in a new plan)
BACT

A lessee proposing a facility which is subject to any of these control requirements must submit all information required by § 250.34-3(a)(4)(ii)(A) through (D) for exploration plans or § 250.34-3(b)(4)(ii)(A) through (D) for development and production plans. This includes information about projected emission and distance from shore, the meteorological data and models used and the modeling results, the air quality status of the onshore area, and the emission reduction control technologies to be used to reduce emissions.

This regulatory scheme is applicable to any newly proposed facility or to any proposed modification of a facility. It also is to be applied to any existing facility which the Director identifies under § 250.57-1(b) as a facility with the potential to significantly affect the onshore air quality of any State. Additionally, the information requirements and procedures described in Steps 1 and 2 for determining significance are to be followed where the Director, at a State's request, requires the submission of information pursuant to § 250.57-2 for an existing facility. The emissions control requirement for existing facilities is limited to the installation of BACT.

Decisions concerning the potential impacts on onshore air quality of emissions from OCS facilities and the necessity for control or offset of those emissions will be made as part of the approval process for exploration plans

and development and production plans (see Sections 11 and 25 of the Act). As part of its review of the plan the GS will evaluate the information submitted by the lessee. State and local governments will have an opportunity to review and comment on the information in accordance with the procedures described in 30 CFR 250.34. The exploration plan or development and production plan will not be approved until the GS is satisfied that the air emission data are accurate, that the air models have been run in accordance with relevant guidelines, and that, where applicable, the controls and other mitigating measures proposed are adequate and available.

Because the Survey has integrated the air quality regulations into its established regulatory scheme, no separate permit issuing procedure is necessary. A lessee can undertake no exploratory, development or production activities on a lease until the applicable plan is approved and required drilling permits are granted. Additionally, at any time after approval of a plan the Department has authority to suspend operations under 30 CFR 250.12 if the lessee deviates from the approved plan. If, for instance, a lessee fails to honor a commitment to obtain an offset, or to take some other action to prevent or mitigate the effects of emissions from operations under an approved plan, operations can be suspended until the problem is remedied. The lessee also may be assessed substantial monetary penalties for failure to conduct activities on the OCS in accordance with the approved plan.

Environmental Impact and Regulatory Analysis

The Department of the Interior has determined that the revision of the regulations in 30 CFR Part 250, in accordance with this notice, is not a major Federal action significantly affecting the quality of the human environment and will not require preparation of an Environmental Impact Statement. The Department has also determined that this notice of final rule is a significant rule but does not require preparation of a regulatory analysis under Executive Order 12044 and implementing regulations 43 CFR Part 2.

Dated: February 29, 1980.

Cecil D. Andrus,

Secretary of the Interior.

30 CFR Part 250 is revised as follows:

1. Section 250.2 Definitions is revised by adding paragraphs (tt) through (ggg) which read as follows:

§ 250.2 Definitions.

(tt) "Air pollutant" means any airborne agent or combination of agents for which the Environmental Protection Agency (EPA) has established, pursuant to Section 109 of the Clean Air Act, national primary and secondary ambient air quality standards.

(uu) "Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(vv) "Attainment area" means, for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) not to exceed any primary or secondary ambient air quality standard, established by EPA in 40 CFR Part 50, for the air pollutant.

(ww) "Best available control technology (BACT)" means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation, taking into account energy, environmental and economic impacts and other costs. BACT shall be verified on a case-by-case basis by the Director, and may include reductions achieved through the application of processes, systems, and techniques for the control of each air pollutant.

(xx) "Emission offsets" means emission reductions obtained from facilities, either onshore or offshore, other than the facility or facilities covered by the proposed exploration plan or development and production plan. The provisions of Part IV.C and D. of "Appendix S" of EPA's Emission Offset Interpretive Ruling (44 FR 3274, January 16, 1979) are applicable when determining offsets.

(yy) "Existing facility" is an OCS facility described in an exploration plan or a development and production plan deemed submitted, under § 250.34-1(a) or § 250.34-2(a), prior to June 2, 1980, except for a facility identified for review by the Director under § 250.57-1(b).

(zz) "Facility" means any installation or device permanently or temporarily attached to the seabed on the OCS which is used for exploration, development, and production activities, and which emits or has the potential to emit any air pollutant from one or more sources. All equipment directly associated with the installation or device shall be considered part of a single facility if the equipment is dependent on, or affects the processes of, the installation or device. During production, multiple installations or devices will be considered to be a single facility if the installations or devices are

directly related to the production of oil or gas at a single site. Any vessel used to transfer production from an OCS facility shall be considered part of the facility while physically attached to the facility.

(aaa) "Nonattainment area" means, for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) to exceed any primary or secondary ambient air quality standard, established by EPA in 40 CFR Part 50, for the air pollutant.

(bbb) "Onshore area of a State" means areas of a State landward of the mean high water mark (mean higher high water mark on the Pacific coast).

(ccc) "Projected emissions" means emissions, either controlled or uncontrolled, from a source or sources.

(ddd) "State Implementation Plan (SIP)" means a plan submitted to and approved by the EPA, pursuant to Section 110 of the Clean Air Act, which provides for the implementation, maintenance, and enforcement of the national primary and secondary ambient air quality standards within a State.

(eee) "Source" means an emission point. Several sources may be included within a single facility.

(fff) "Temporary facility" means activities associated with the construction of platforms on the OCS or with facilities related to exploration for or development of OCS oil and gas resources which are conducted in one location for less than three years.

(ggg) "Volatile organic compound (VOC)" means any organic compound which is emitted to the atmosphere as a vapor. The unreactive compounds specified by EPA in Table I of "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977), as it may be amended, are exempt from the above definition.

2. Section 250.34-3 is amended by the addition of new paragraphs (a)(4) and (b)(4) which read as follows:

§ 250.34-3 Environmental reports.

(a) * * *

(4)(i) For onshore activities directly associated with a proposed OCS facility, the lessee shall provide information on each source of air pollutants, listing: The source; the location of each source; the chemical composition and quantity of air pollutants; and the frequency and duration of emissions.

(ii) For each OCS facility, the lessee shall review the requirements of

§ 250.57, and shall submit only that information, described below, needed to make the findings under § 250.57:

(A)(1) Projected emissions from each proposed or modified facility for each year of operation, and the bases for all calculations, to include: (i) For each source: The source, the amount of the emission by air pollutant expressed in tons per year, and the frequency and duration of emissions; (ii) For each facility: The facility, the total amount of emissions by air pollutant expressed in tons per year, and in addition, for a modified facility only, the incremental amount of total emissions by air pollutant resulting from the new or modified source or sources; (iii) A detailed description of all processes, process equipment, and storage units, including information on fuels to be burned; (iv) A schematic drawing which identifies the location and elevation of each source; and (v) If projected emissions are based on the use of emission reduction control technology, a description of the controls providing the information required by paragraph (a)(4)(ii)(D) of this section. If a mobile drilling vessel has been described in an earlier Environmental Report, the lessee may reference, consistent with the limitations described in paragraph (a) of this section, the information in that report pertaining to paragraphs (a)(4)(ii)(A)(1) (iii), (iv) and (v).

(2) The distance of each proposed facility from the mean high water mark (mean higher high water mark on the Pacific Coast) of any State.

(B)(1) The model or models used to determine the effect on the onshore air quality of emissions from each facility, or from other facilities when required by the Director, and the results obtained through the use of the model or models. The model or models must be approved for use by the Director.

(2) The best available meteorological information and data consistent with the model or models used, stating the basis for the information and data selected.

(C) The air quality status of any onshore area where the air quality is significantly affected by projected emissions from each facility proposed in the plan. The area should be classified as nonattainment, attainment, or unclassifiable, to include: The status of each area by air pollutant; the class of attainment areas; and the air pollution control agency whose jurisdiction covers the area identified.

(D) The emission reduction control technology available to reduce emissions, to include: The source; the emission reduction control technology; the reductions achieved; and the monitoring system the lessee proposes

to use to measure emissions. If applicable, the lessee shall indicate which emission reduction control technology the lessee believes constitutes BACT and the basis for that opinion.

(b) *Environmental Report (Development/Production)*. * * *

(4)(i) For onshore activities directly associated with a proposed OCS facility, the lessee shall provide information on each source of air pollutants, listing: The source; the location of each source; the chemical composition and quantity of air pollutants; and the frequency and duration of emissions.

(ii) For each OCS facility the lessee shall review the requirements of § 250.57, and shall submit only that information, described below, needed to make the findings under § 250.57:

(A)(1) Projected emissions from each proposed or modified facility for each year of operation, and the bases for all calculations, to include: (i) For each source: the source, the amount of the emission by air pollutant expressed in tons per year, and the frequency and duration of emissions; (ii) For each proposed facility: The facility, the total amount of emissions by air pollutant expressed in tons per year, the frequency distribution of total emissions by air pollutant expressed in pounds per day, and in addition, for a modified facility only, the incremental amount of total emissions by air pollutant resulting from the new or modified source or sources; (iii) A detailed description of all processes, process equipment, and storage units, including information on fuels to be burned; (iv) A schematic drawing which identifies the location and elevation of each source; and (v) If projected emissions are based on the use of emission reduction control technology, a description of the controls providing the information required by paragraph (b)(4)(ii)(D)(1) of this section.

(2) The distance of each proposed facility from the mean high water mark (mean high water mark on the Pacific Coast) of any State.

(B)(1) The model or models used to determine the effect on the onshore air quality of emissions from each facility, or from other facilities when required by the Director, and the results obtained through the use of the model or models. The model or models must be approved for use by the Director.

(2) The best available meteorological information and data consistent with the model or models used, stating the basis for the information and data selected.

(C) The air quality status of any onshore area where the air quality is

significantly affected by projected emissions from each facility proposed in the plan. The area should be classified as nonattainment, attainment, or unclassifiable, listing: The status of each area by air pollutant; the class of attainment areas; and the air pollution control agency whose jurisdiction covers the area identified.

(D)(1) The emission reduction control technology available to reduce emissions, listing: The source; the emission reduction control technology; the reductions achieved; and the monitoring system the lessee proposes to use to measure emissions. If applicable, the lessee shall indicate which emission reduction control technology the lessee believes constitutes BACT and the basis for that opinion.

(2) The ownership of the offshore and onshore offsetting source or sources, and the reduction obtainable from each offsetting source.

(3) A new § 250.57 Air Quality consisting of §§ 250.57-1 and 250.57-2 is being added to Part 250 which reads as follows:

§ 250.57 Air Quality.

§ 250.57-1 Facilities described in a new or revised exploration plan or development and production plan.

(a) *New Plans.* All exploration plans and development plans deemed submitted under § 250.34-1(a) or § 250.34-2(a) on or after June 2, 1980, shall include the information required to make the necessary findings under paragraphs (d) through (i) of this section and the lessee shall comply with the requirements of this section as necessary.

(b) *Applicability of this Section to Existing Facilities.* (1) The Director may review any exploration plan or development and production plan deemed submitted or approved prior to June 2, 1980, to determine whether any facility described in the plan should be subject to review under this section and has the potential to significantly affect the air quality of an onshore area. To make these decisions the Director shall consider the following: The distance of the facility from shore; the size of the facility; the number of sources planned for the facility and their operational status; and the air quality status of the onshore area.

(2) For a facility identified by the Director under paragraph (b)(1) of this section, the Director shall require the lessee to refer to the information required under § 250.34-3(a)(4) or § 250.34-3(b)(4) and to submit only that information required to make the

necessary findings under paragraphs (d) through (i) of this section. The lessee shall submit this information within 120 days of the Director's determination or within a longer period of time at the discretion of the Director. The lessee shall comply with the requirements of § 250.57-1 as necessary.

(c) *Revised facilities.* All revised exploration plans and development and production plans which are deemed submitted under § 250.34-1(a) or § 250.34-2(a) on or after June 2, 1980, shall include the information required to make the necessary findings under paragraphs (d) through (i) of this section. The lessee shall comply with the requirements of this section as necessary.

(d) *Exemption Formulas.* To determine whether a facility described in a new, modified, or revised exploration plan or development and production plan is exempt from further air quality review, the lessee shall use the highest annual total amount of emissions from the facility for each air pollutant calculated in § 250.34-3(a)(4)(ii)(A)(1) or § 250.34-3(b)(4)(ii)(A)(1) and compare these emissions to the emission exemption amount "E" for each air pollutant calculated using the following formulas: $E = 3400D^{2/3}$ for carbon monoxide (CO); and $E = 33.3D$ for total suspended particulates (TSP), sulfur dioxide (SO₂), nitrogen oxides (NO_x), and VOC (where E is the emission exemption amount expressed in tons per year, and D is the distance of the proposed facility from the closest onshore area of a State expressed in statute miles). If the amount of these projected emissions is less than or equal to the emission exemption amount "E" for the air pollutant, the facility is exempt for that air pollutant from further air quality review required by paragraphs (e) through (i) of this section.

(e) *Significance Levels.* For a facility not exempt under paragraph (d) of this section for air pollutants other than VOC, the lessee shall use an approved air quality model to determine whether projected emissions of those air pollutants from the facility result in an onshore ambient air concentration above the following significance levels:

Air pollutant	Averaging time (hours)			
	Annual	24	8	3
SO ₂	'1	'5		'25
TSP	'1	'5		
NO _x	'1			
CO			'500	'2,000

¹µg/m³

(f) *Significance Determinations.* (1) The projected emissions of any air pollutant other than VOC from any facility which result in an onshore ambient air concentration above the significance level determined under paragraph (e) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for that air pollutant.

(2) The projected emissions of VOC from any facility which is not exempt under paragraph (d) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for VOC.

(g) *Controls required.* (1) The projected emissions of any air pollutant other than VOC from any facility, except a temporary facility, which significantly affect the quality of a nonattainment area shall be fully reduced. This shall be done through the application of BACT and, if additional reductions are necessary, through the application of additional emission controls or through the acquisition of offshore or onshore offsets.

(2) The projected emissions of any air pollutant other than VOC from any facility which significantly affect the air quality of an attainment or unclassifiable area shall be reduced through the application of BACT.

(i) Except for temporary facilities, the lessee also shall use an approved air quality model to determine whether the emissions of TSP or SO₂ that remain after the application of BACT cause the following maximum allowable increases over the baseline concentrations established in 40 CFR 52.21 to be exceeded in the attainment or unclassifiable area:

Air pollutant	Annual mean ¹	Maximum allowable increases (averaging times)	
		24-hour maximum	3-hour maximum
Class I:			
TSP.....	² 5	² 10	
SO ₂	² 2	² 5	² 25
Class II:			
TSP.....	² 19	² 37	
SO ₂	² 20	² 91	² 512
Class III:			
TSP.....	² 37	² 75	
SO ₂	² 40	² 182	² 700

¹ For TSP—geometric. For SO₂—arithmetic. ² μg/m³.

No concentration of an air pollutant shall exceed the concentration permitted under the national secondary ambient air quality standard, or the concentration permitted under the national primary air quality standard, whichever concentration is lowest for the air pollutant for the period of exposure. For any period other than the annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one onshore location.

(ii) If the maximum allowable increases are exceeded, the lessee shall apply whatever additional emission controls are necessary to reduce or offset the remaining emissions of TSP or SO₂ so that concentrations in the onshore ambient air of an attainment or unclassifiable area do not exceed the maximum allowable increases.

(3)(i) The projected emissions of VOC from any facility, except a temporary facility, which significantly affect the onshore air quality of a nonattainment area shall be fully reduced. This shall be done through the application of BACT and, if additional reductions are necessary, through the application of additional emission controls or through the acquisition of offshore or onshore offsets.

(ii) The projected emissions of VOC from any facility which significantly affect the onshore air quality of an attainment area shall be reduced through the application of BACT.

(4)(i) If projected emissions from a facility significantly affect the onshore air quality of both a nonattainment and an attainment or unclassifiable area, the regulatory requirements applicable to projected emissions significantly affecting a nonattainment area shall apply.

(ii) If projected emissions from a facility significantly affect the onshore air quality of more than one class of attainment area, the lessee must reduce projected emissions to meet the maximum allowable increases specified for each class in paragraph (g)(2)(i) of this section.

(h) *Controls Required On Temporary Facilities.* The lessee shall apply BACT to reduce projected emissions of any air pollutant from a temporary facility which significantly affect the air quality of an onshore area of a State.

(i) *Emission Offsets.* When emission offsets are to be obtained, the lessee must demonstrate that: The offsets are equivalent in nature and quantity to the projected emissions that must be reduced after the application of BACT; a binding commitment exists between the lessee and the owner or owners of the source or sources; the appropriate air quality control jurisdiction has been notified of the need to revise the State Implementation Plan to include the information regarding the offsets; and the required offsets come from sources which affect the air quality of the area significantly affected by the lessee's OCS operations.

(j) *Review of Facilities with Emissions Below the Exemption Amount.* If, during the review of a new, modified, or revised exploration plan or development and production plan, the Director determines or an affected State submits information to the Director which demonstrates, in the judgment of the Director, that projected emissions from an otherwise exempt facility will, either individually or in combination with other facilities in the area, significantly affect the air quality of an onshore area, then the Director shall require the lessee to submit additional information to determine whether emission control measures are necessary. The lessee shall be given the opportunity to present information to the Director which demonstrates that the exempt facility is not significantly affecting the air quality of an onshore area of the State.

(k) *Emission monitoring requirements.* The lessee shall monitor, in a manner approved or prescribed by the Director, emissions from the facility. The lessee shall submit this information, in a manner and form approved or prescribed by the Director, with the monthly report of operations prescribed under section 250.93 of this Part.

(l) *Collection of meteorological data.* The Director may require the lessee to collect, for a period of time and in a manner approved or prescribed by the Director, and submit meteorological data from a facility.

§ 250.57-2 Existing facilities.

(a) *Process leading to review of an existing facility.* (1) An affected State may request that the Director supply basic emission data from existing

facilities when such data are needed for the updating of the State's emission inventory. In submitting the request, the State must demonstrate that similar offshore and onshore facilities in areas under the State's jurisdiction are included also in the emission inventory.

(2) The Director may require lessees of existing facilities to submit basic emission data to a State submitting a request under paragraph (a)(1) of this section.

(3) The State submitting a request under paragraph (a)(1) of this section may submit information from its emission inventory which indicates that emissions from existing facilities may be significantly affecting the air quality of the onshore area of the State. The lessee shall be given the opportunity to present information to the Director which demonstrates that the facility is not significantly affecting the air quality of the State.

(4) The Director shall evaluate the information submitted under paragraph (a)(3) of this section and shall determine, based on the basic emission data, available meteorological data, and the distance of the facility or facilities from the onshore area, whether any existing facility has the potential to significantly affect the air quality of the onshore area of the State.

(5) If the Director determines that no existing facility has the potential to significantly affect the air quality of the onshore area of the State submitting information under paragraph (a)(3) of this section, the Director shall notify the State of, and explain the reasons for, this finding.

(6) If the Director determines that an existing facility has the potential to significantly affect the air quality of an onshore area of the State submitting information under paragraph (a)(3) of this section, the Director shall require the lessee to refer to the information requirements under § 250.34-3(a)(4) or § 250.34-3(b)(4) and to submit only that information required to make the necessary findings under paragraphs (b) through (e) of this section. The lessee shall submit this information within 120 days of the Director's determination or within a longer period of time at the discretion of the Director. The lessee shall comply with the requirements of § 250.57-2 as necessary.

(b) *Exemption formulas.* To determine whether an existing facility is exempt from further air quality review, the lessee shall use the highest annual total amount of emissions from the facility for each air pollutant calculated in § 250.34-3(a)(4)(ii)(A)(I) or § 250.34-3(b)(4)(ii)(A)(I) and compare these emissions to the emission exemption

amount "E" for each air pollutant calculated using the following formulas: $E = 3400D^{2/3}$ for CO; and $E = 33.3D$ for TSP, SO₂, NO_x, and VOC (where E is the emission exemption amount expressed in tons per year and D is the distance of the facility from the closest onshore area of a State expressed in statute miles). If the amount of projected emissions are less than or equal to the emission exemption amount "E" for the air pollutant, the facility is exempt for that air pollutant from further air quality review required under paragraphs (c) through (e) of this section.

(c) *Significance levels.* For a facility not exempt under paragraph (b) of this section for air pollutants other than VOC, the lessee shall use an approved air quality model to determine whether projected emissions of those air pollutants from the facility result in an onshore ambient air concentration above the following significance levels:

Air pollutant	Averaging time (hours)			
	Annual	24	8	3
SO ₂	15	15	25	25
TSP	15	15	25	25
NO _x	15	15	25	25
CO	1500	1500	2000	2000

¹µg/m³.

(d) *Significance determinations.* (1) The projected emissions of any air pollutant other than VOC from any facility which result in an onshore ambient air concentration above the significance level determined under paragraph (c) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for that air pollutant.

(2) The projected emissions of VOC from any facility which is not exempt under paragraph (b) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for VOC.

(e) *Controls required.* (1) The projected emissions of any air pollutant which significantly affect the air quality of an onshore area shall be reduced through the application of BACT.

(2) The lessee shall submit a compliance schedule for the application of BACT. If it is necessary to cease operations to allow for the installation of emission controls, the lessee may apply for a suspension of operations under the provisions of § 250.12.

(f) *Review of facilities with emissions below the exemption amount.* If, during the review of the information required under paragraph (a)(6) of this section, the Director determines or an affected State submits information to the Director which demonstrates, in the

judgment of the Director, that projected emissions from an otherwise exempt facility will, either individually or in combination with other facilities in the area, significantly affect the air quality of an onshore area, then the Director shall require the lessee to submit additional information to determine whether control measures are necessary. The lessee shall be given the opportunity to present information to the Director which demonstrates that the exempt facility is not significantly affecting the air quality of an onshore area of the State.

(g) *Emission monitoring requirements.* The lessee shall monitor, in a manner approved or prescribed by the Director, emissions from the facility following the installation of emission controls. The lessee shall submit this information, in a manner and form approved or prescribed by the Director, with the monthly report of operations prescribed under § 250.93.

(h) *Collection of meteorological data.* The Director may require the lessee to collect, for a period of time and in a manner approved or prescribed by the Director, and submit meteorological data from a facility.

[FR Doc. 80-7162 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-31-M