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PROCLAMATION 4144

American Education Week, 1972

By the President of the United States of America

A Proclamation

Daniel Webster said: "On the diffusion of education among the people rest the preservation and perpetuation of our free institutions."

Webster was right. Not only will the quality of our young people's future be determined by the quality of the education they receive, but a nation of free institutions depends for its greatness on the knowledge and understanding of its people. Therefore, nothing matters more to the future of America than the strength, the vitality and the success of its educational system.

Throughout the Nation, citizens are engaged in a massive effort to maintain and improve the quality of our education, and to ensure that it keeps ahead of the growing challenges it faces in an ever more complex society. Our continued success as a Nation will depend in large measure on the readiness and capacity of our schools to meet their new tasks in new ways, while holding fast to the fundamental virtues of our democracy and the integrity of the learning process.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the period of October 22 through October 28, 1972, as American Education Week.

Education is the doorway to opportunity, and the theme of American Education Week, "Make Education Top Priority," carries with it a commitment to provide equal educational opportunity for every individual in this Nation. I urge all citizens to help our schools honor this commitment.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of July, in the year of our Lord nineteen hundred seventy-two and of the Independence of the United States of America the one hundred ninety-seventh.



[FR Doc.72-11901 Filed 7-27-72; 9:12 am]

EXECUTIVE ORDER 11675

Exemption of John S. Patterson From Mandatory Retirement for Age

John S. Patterson, a member of the Subversive Activities Control Board, will, during the month of July 1972, become subject to mandatory retirement for age under the provisions of section 8335 of title 5, United States Code, unless exempted therefrom by Executive order.

In my judgment, the public interest requires that Mr. Patterson be exempted from such mandatory retirement.

NOW, THEREFORE, by virtue of the authority vested in me by subsection (c) of section 8335 of title 5, United States Code, I hereby exempt John S. Patterson from mandatory retirement for age until August 10, 1976.

Richard Nixon

THE WHITE HOUSE,
July 26, 1972

[FR Doc.72-11902 Filed 7-27-72;9:12 am]

EXECUTIVE ORDER 11676

Providing for the Establishment of an Office of National Narcotics Intelligence Within the Department of Justice

This Administration is determined to eradicate the menace of drug abuse in America. Many steps have already been taken toward that end, including measures to restrict the flow of narcotics from abroad, to strengthen domestic law enforcement activities, to initiate programs for drug abuse prevention, education, treatment, and rehabilitation. I have now determined that a National Narcotics Intelligence System is a necessary next step in our campaign against illegal drug traffic, and that that system should be developed and maintained by a new office of National Narcotics Intelligence within the Department of Justice.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including section 5317 of Title 5 of the United States Code, as amended, it is hereby ordered as follows:

Section 1. (a) The Attorney General of the United States shall provide for the establishment within the Department of Justice of an "Office of National Narcotics Intelligence." This Office shall be headed by a Director.

(b) The Director shall be responsible for the development and maintenance of a National Narcotics Intelligence System. In developing that system, the Director shall call upon other agencies of the Government to provide him with information, and such agencies shall, to the extent permitted by law, provide the Director with all information that is pertinent to the development and maintenance of a National Narcotics Intelligence System. The Director shall also call upon State and local agencies to provide him with such information.

(c) The Director shall be authorized to provide narcotics intelligence to any Federal, State, or local official that the Director determines has a legitimate official need to have access to such intelligence. These functions shall be performed under the general supervision and direction of the Attorney General, and the Attorney General shall delegate to the Director such authority as may be necessary to carry out the purposes of this order.

Sec. 2. The Director shall cooperate with the Director of the Office of Drug Abuse Law Enforcement in order to assist him in ensuring that all steps permitted by law are being taken by Federal, State, and local governments and, to the extent feasible, by private persons and organizations, to prevent drug abuse in the United States.

Sec. 3. Section 1 of Executive Order No. 11248 of October 10, 1965, as amended, is further amended by deleting "(13) Chairman, Price

Commission," and by inserting in lieu thereof "(13) Director, Office of National Narcotics Intelligence."

Sec. 4. Each department and agency of the Federal Government shall, upon request and to the extent permitted by law, assist the Director of the Office of National Narcotics Intelligence in the performance of functions assigned to him by or pursuant to this order, and the Director may, in carrying out those functions, utilize the services of any other agencies, Federal and State, as may be available and appropriate.

Richard Nixon

THE WHITE HOUSE,
July 27, 1972.

[FR Doc.72-11930 Filed 7-27-72; 12:06 pm]

Rules and Regulations

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

RESTRUCTURING OF FACILITY LICENSE APPLICATION REVIEW AND HEARING PROCESSES

On May 9, 1972, the Atomic Energy Commission published in the FEDERAL REGISTER (37 F.R. 9331) proposed amendments to its regulations which would restructure its facility license application review and hearing processes. The proposed amendments to Part 2 related primarily to applications for licenses for production and utilization facilities. The proposed amendments to Appendix A of Part 2 related primarily to applications for licenses to construct or operate power and test reactors and fuel reprocessing plants. The proposed amendments to Appendix D of Part 50, which applies to such facility and materials licenses as are subject to requirements for environmental impact statements pursuant to the National Environmental Policy Act of 1969 (NEPA), would conform Appendix D, as necessary, to the proposed amendments to Part 2, and make other changes to that appendix.

The proposed amendments would implement concepts outlined in a public announcement issued by the Commission on November 19, 1971 ("AEC Considering Extensive Rule Changes to Reshape Regulatory Process"). In March of this year a draft version of the amendments was circulated widely to environmentalist groups and to representatives of the nuclear power industry and discussed at a Commission-sponsored conference.

Interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 30 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. After careful consideration of the comments received and other factors involved, the Commission has adopted the proposed amendments with certain modifications, in the form set forth below.

There has developed a widely shared concern as to the ability of the Commission's licensing process, as presently structured, to cope with the demands being placed upon it. Thus, at a time when there is sharply increasing demand for more electrical power, and when nuclear facilities are being called upon to meet a constantly mounting share of the demand, there are increasing delays in completing the decisional process with respect to the construction and operation of those facilities. The Commission is concerned not only with its obligation to the segment of the public participating in licensing proceedings but also with its responsibility to the general public—a responsibility to arrive at sound decisions, whether favorable or unfavorable to any particular party, in a timely fashion. The Commission expressly recognizes the positive necessity for expediting the decisionmaking process and avoiding undue delays. It expects that its responsibilities under the Atomic Energy Act of 1954, as amended, the National Environmental Policy Act of 1969, and other applicable statutes, will be carried out in a manner consistent with this policy in the overall public interest.

The dimensions of the problem are reflected in the increasingly lengthy proceedings in facility licensing. In some cases, hearing times are beginning to be measured in years. Parenthetically, the time interval between the filing of an application and the granting of a construction permit or operating license for a nuclear power reactor has been increasing in recent years on the average of 20 percent annually. Additional responsibilities stemming from recent statutes and court decisions underscore the scope and potential seriousness of the problem.

The Commission, in considering the kinds of changes in its licensing program that can best serve the fulfillment of its broad responsibilities, has given equal attention to the past participation of industry, intervenors, and the staff in the process.

Significant differences from the amendments published for comment are:

1. Section 2.104 has been changed so that the provision for publication of a notice of hearing at least 30 days prior to the date set for hearing will apply only to applications for construction permits for power and test reactors and fuel reprocessing plants. In the case of an application for a construction permit for any other type of facility, or an operating license for any facility, the notice of opportunity for hearing pursuant to section 189 of the Atomic Energy Act gives 30 days' opportunity to file a petition for leave to intervene. If such a petition is received, and the Commission thereupon issues a notice of hearing, an additional 30 days before commencement of the hearing is not required. The section has also been amended to clarify that an additional 30-day notice is not required when the time and place of hearing are set by order of the presiding officer after the notice of hearing has been published.

2. Section 2.707, *Default*, has been amended to provide sanctions for failure to comply with the discovery provisions or with prehearing orders. In order to control the course of the proceeding, the presiding officer should have the necessary authority to impose appropriate sanctions on all parties who do not fulfill their responsibilities as participants.

3. Section 2.713 of Part 2, which presently authorizes suspension or barring from participation in a proceeding of attorneys who engage in dilatory tactics or disorderly or contemptuous conduct, has been amended to also specifically provide for suspension or barring of any person who the presiding officer finds

(a) Is not an attorney at law in good standing admitted to practice before any court of the United States, the District of Columbia, or the highest court of any State, territory, or possession of the United States;

(b) Has failed to conform to the standards of conduct required in the courts of the United States;

(c) Is lacking in character or professional integrity; or

(d) Displays toward the Commission or any of its presiding officers conduct which, if displayed toward any court of the United States, would be cause for censure, suspension, or disbarment.

Before any person is suspended or barred from participation as an attorney in a proceeding, charges will be preferred by the presiding officer and he will be afforded an opportunity to be heard thereon before another presiding officer.

4. A new § 2.740 has been added to Part 2 containing general provisions relating to discovery—scope of discovery, protective orders, and motions to compel discovery. The new section adapts Rules 26 and 37 of the Federal rules of Civil Procedure to Commission proceedings. Of particular interest are the provisions pertaining to discovery of trial preparation materials and supplements to discovered material.

5. Section 2.749, relating to summary disposition on the pleadings, has been revised to track more closely the Federal rules of Civil Procedure.

6. Section 2.758, pertaining to challenges of AEC regulations in adjudicatory proceedings, has been changed to clarify that such "challenges" can be made only on the ground that special circumstances in the particular proceeding are such that application of the regulation would not serve the purposes of the rule and justify a waiver or exception to the general rule. In this connection, § 2.802 has been amended to permit a petition for stay of a licensing proceeding pending action on the petition.

8. The provision for a summary statement of the application by the license applicant in Appendix A of Part 2 has been eliminated.

9. Section 9.5 of 10 CFR Part 9 has been amended to delete the exemption for material withheld from public disclosure to § 2.790. It is not the Commission's intent to permit a greater degree of withholding of documents from public disclosure under § 2.790 than would be permitted under the Freedom of Information Act.

10. Section 2.753, pertaining to stipulations, has been expanded to permit

stipulations as to procedure as well as to facts or contents or authenticity of documents.

11. The provision in Appendix A of 10 CFR Part 2 to the effect that it is expected that ordinarily a board will render its initial decision within 45 days after receipt of proposed findings of fact and conclusions of law in a contested case and 15 days after such receipt in an uncontested case has been changed to indicate that the expected periods will be 35 days and 15 days, respectively. Other changes of a minor or clarifying nature have also been made.

The amendments set forth below may be generally classified in the following groups: Handling of applications for construction permits and operating licenses; discovery (including depositions, interrogatories, and production of documents); intervention and classes of participants; prehearing conferences, including encouraging stipulations and authentication of documents through prehearing conferences; consolidation of parties; limitation of issues in operating license hearings; improvements in the public hearing process, including limitations on time allotted for the conduct of the culminating hearing phase; advance written testimony; authority of presiding officers to regulate hearings; summary disposition on pleadings; consideration of Commission rules in quasi-adjudicatory proceedings; official notice; and recognition of the public interest in fair and reasonable settlements.

The amendments do not involve drastic changes in the administrative process or novel procedures. Several are interrelated, but few depend on the use of others. Almost all of them have been tried in one or more Federal agencies with positive results.

1. *Handling of applications for facility construction permits and operating licenses.* Under past practice, facility license applications, no matter how deficient, were accepted for docketing. In general, the deficiencies were cured after exchanges of questions from the regulatory staff and answers by the applicant. This time-consuming process created additional staff work and contributed to the overall length of the initial review. The process can be improved and expedited by starting review of an application only when a reasonably complete application has been received. The Commission has developed a standard format for applications which should enable applicants to present an initial application in reasonably complete form. (Notice was given of this standard format in the FEDERAL REGISTER of March 2, 1972, 37 F.R. 4375.) Accordingly, § 2.101 has been amended to provide that each application (accompanied by any required Environmental Report and application fee) will be initially treated as a tendered application to allow a determination as to whether it is reasonably complete and conforms to the Commission's requirements. That determination will generally be made within a period of 30 days. If not returned to the applicant by the end of that period, it will be docketed. The regulatory staff will thus be in a better position to establish a schedule for its review of the application and to specify the key intermediate points of that review. In construction permit and operating license proceedings, the appropriate notices (a notice of hearing in a construction permit proceeding; a notice of opportunity for hearing in an operating license proceeding) would be issued as soon as practicable after the application is docketed, to provide potential intervenors a better opportunity for more meaningful participation in the hearing process.

2. *Discovery* (including depositions, production of documents, and interrogatories). The amendments expand the time available for legitimate discovery by the parties to the proceeding and are expected to obviate or lessen the delays which the current discovery process has caused. Sections 2.740, 2.740a, 2.740b, and 2.741 follow the Federal rules of Civil Procedure, as revised in 1970, by providing for production of documents, serving of interrogatories and taking of depositions without the necessity of motions and orders by the presiding officer or the Commission. Such discovery will not be permitted until the matters in controversy have been preliminarily identified. Applicants are, however, encouraged to make available to interested persons any documents relied on in the application before that time. Once the matters in controversy have been identified, discovery will be limited to those matters following the initial prehearing conference (described in Item 4 below). Discovery is required to be completed before the second prehearing conference, except for good cause shown.

The amendments also liberalize the AEC rules considerably to provide for disclosure of more AEC documents as a matter of course. With respect to such documents, those that are relevant to the proceeding will generally be publicly available as a matter of course unless there is a compelling justification for their nondisclosure (§ 2.790). Therefore, document discovery directed at the staff will be tightly restricted. Since the routinely available documents should under this approach, reasonably disclose the basis for the staff's position, staff directed discovery can be limited to information concerning a matter necessary to a proper decision in the case and not obtainable elsewhere (§ 2.744). It should also be noted that with respect to documents, pertaining to licensing or rule making, filed with the Commission that are deemed to be proprietary in nature, the Commission will, in deciding whether the document should be withheld from disclosure, attempt to achieve an effective balance between the legitimate concerns of the person requesting withholding and the public interest in disclosure.

3. *Intervention.* The present procedures for intervention (which stem from statutory requirements) are essentially retained, but certain new responsibilities are placed on those permitted to intervene in connection with making and supporting allegations on matters they seek to place in controversy for hearing consideration. The opening up of the process, as described above, implies that intervenors should have correlative responsibilities to help define and substantiate the matters that they seek to put in issue after they have had an opportunity to avail themselves of the information that would then be open to them. Definition of the matters in controversy is widely recognized as the keystone to the efficient progress of a contested proceeding. In order to put a matter in issue, it will not be sufficient merely to make an unsupported allegation. Orders permitting intervention can be conditioned to restrict irrelevant, duplicative, or repetitive evidence and argument and to require common interests to be represented by a spokesman. It will also be possible to limit an intervention to one or more issues upon a finding that the petitioner's interest is so limited.

4. *Prehearing conferences.* The amendments to Part 2 also provide for a special prehearing conference to be held within 60 days after the notice of hearing on an application for a facility construction permit is published, or such other time as the Commission or the presiding officer may deem appropriate. In an operating license proceeding in which a hearing is requested, the date would ordinarily be specified when the Commission ruled on the request. This conference would be in addition to, and not in place of, the prehearing conference contemplated by § 2.752 of Part 2. The purpose of the special conference is to permit identification of key issues; consider petitions for leave to intervene in order to allow preliminary or final determinations as to the parties to the proceeding; provide for the submission of status reports on discovery; and establish a schedule for further actions in the proceeding. Further, informal conferences, including telephone conferences, can be held to the extent they would expedite the proceedings. The second prehearing conference, held pursuant to existing § 2.752, as amended, will usually be held within 60 days after discovery has been completed. "Discovery," for this purpose, does not include production of the report of the Advisory Committee on Reactor Safeguards, the AEC staff safety evaluation or the AEC detailed statement on environmental considerations.

5. *Consolidation of parties.* A new § 2.715a has been added to Part 2 to provide that, if more than one party has substantially the same kind of interest that may be affected by the proceeding, and raises the same basic questions, the presiding officer or the Commission may order those parties to consolidate their presentation of evidence, cross-examination, briefs, proposed findings, and conclusions of law and argument, unless the consolidation would prejudice the rights of any party. Depending on the circumstances, the consolidation could be effected across-the-board on all issues or selectively with respect to one or more issues.

6. *Limitation of issues in operating license hearing.* At the operating license stage, where a hearing is required only upon the request of a person whose interest may be affected, the issues in a

proceeding will be limited to matters that are actually put in controversy by the parties. Thus, if radiation safety matters were not put in issue, they would not be considered at the hearing. Under this approach, the atomic safety and licensing board or other presiding officer will not make the findings on the traditional, ultimate issues, but will make findings only on the matters in controversy, and, depending on the resolution of those matters, the Director of Regulation, after making the requisite findings, will issue, deny, or appropriately condition the license.

7. *Improvements in the public hearing process.* (a) Stricter requirements for granting of late petitions for leave to intervene have been added to § 2.714. Nontimely filings will not be entertained absent a determination that the petitioner had made a substantial showing of good cause for failure to file on time.

(b) *Limitations on time allotted for conduct of hearing.* Many of the time limitations prescribed by the current rules were set to allow the maximum time for the parties to the proceedings to perform various activities. There are instances where the activities covered by the limitations can be performed in much less time. In appropriate cases where it would not prejudice a party, the presiding officer is authorized to reduce the time limits by order. Similarly, in any instance where a time limit is not set by regulation, the presiding officer is authorized to impose reasonable time limits.

(c) *Advance written testimony.* The use of advance written testimony by all parties is now required by amendment of § 2.743 and can be expected to expedite the hearing process as well as to provide other benefits. Counsel and their technical advisers can examiner the material before hearing and be prepared to cross-examine without delay. (Persons who wish to make a limited appearance, and a statement in connection therewith, will, of course, be permitted to do so.)

(d) *Summary disposition on pleadings.* Courts for many years have recognized and used the device of deciding certain matters, such as questions of law, on the pleadings. In many cases, argument and further hearing can add nothing to the filings in the proceeding. In those cases the presiding officer should be able, on motion, to render a decision, if the filings in the proceeding and other materials show that there is no genuine issue as to any material fact. A new § 2.749 permits such summary disposition. However, in any proceeding involving a construction permit where a hearing is required by law, this procedure can be used only for determining subordinate issues and not the ultimate issue as to whether the permit should be issued.

(e) *Authority of presiding officers to regulate hearings.* Most opportunities for expediting proceedings occur during the hearing phase. Delinquencies occurring in this phase will compound delays in the final phase. The effectiveness of the presiding officer depends not only on his ability to organize and manage, but also on the tools he is given. Therefore, to prevent unnecessary delays and an unnecessarily large record, the presiding officer is authorized to limit cumulative testimony, strike argumentative, repetitious, cumulative, or irrelevant evidence, take necessary and proper steps to prevent argumentative, repetitious, and cumulative cross-examination, and impose reasonable time limits on arguments.

(f) *Consideration of AEC rules in hearings in licensing proceedings.* In view of the expanding opportunities for participation in Commission rule making proceedings and increased emphasis on rule making proceedings as the appropriate forum for settling basic policy issues, new § 2.758 provides that challenges to Commission regulations in quasi-adjudicatory proceedings involving initial licensing shall be restricted to the matter of whether the application of a specified regulation or provision thereof should be waived or an exception made for the particular proceeding because special circumstances with respect to the subject matter of the particular proceeding are such that the application of the regulation would not serve the purposes for which it was adopted.

Whenever a party wishes to take such a position, he is required to file a petition and furnish particulars by affidavit. Upon a finding by the presiding officer, based on the affidavits and any material in response submitted by other parties, that the asserting party has not made a prima facie case, no evidence, discovery, or argument will be allowed on the matter. If the presiding officer finds that such a showing has been made, he will certify directly to the Commission for determination the question of whether the application of the Commission regulation to a particular aspect of the subject matter of the proceeding should be waived or an exception made. The provision does not apply in instances where a challenge to Commission regulations had been made, and a ruling rendered, before the effective date of the new section.

(g) *Official notice.* The provisions of amended § 2.743 of Part 2 pertaining to official notice require the specification in the record of each fact of which the Commission and the presiding officer take official notice, with sufficient particularity to advise the parties of what facts have been noticed. There will be opportunity for each party adversely affected by the decision to controvert the fact. It is expected that the amendment will clarify the scope of "official notice" while preserving the legitimate use of the technique to eliminate the need for introduction of evidence on facts properly falling within "official notice".

(h) *Encouraging stipulations and authentication of documents through prehearing conferences.* At the second prehearing conference, parties will be encouraged to stipulate uncontroverted material, thus making possible the elimination of a substantial amount of cross-examination and the saving of time and expense. Stipulations as to procedure are also permitted. Further, stipulations are encouraged at all later procedural stages.

(i) *Recognition of public interest in fair and reasonable settlements.* Formal recognition has been given to the public interest in achieving fair and reasonable settlement of contested proceedings. To the extent not inconsistent with the hearing requirement in section 189 of the Act (42 U.S.C. 2239), such settlements are encouraged, either as to particular issues in a proceeding or the entire proceeding. It is expected that the presiding officer and all the parties to the proceeding will take appropriate action to carry out this purpose.

(j) *Informal conferences.* Greater emphasis is placed on the use of informal conferences among the parties (including telephone conferences) to expedite proceedings.

(k) *Time for regulatory staff to respond to motions and petitions and to file other papers in adjudicatory proceedings.* The amendments to Part 2 allow the regulatory staff an opportunity to consider all matters and positions taken by other parties before finalizing its position on various questions presented during a proceeding. The affording of this opportunity to the staff is considered appropriate in view of its duty to represent the public interest in Commission adjudicatory proceedings and to assure the development of an adequate decisional record. The staff is allowed to file answers to motions, proposed findings of fact, and conclusions of law, exceptions to initial decisions and briefs in support of or in opposition to exceptions filed by another party, and answers to petitions for leave to intervene and for reconsideration 5 days later than the time specified for filing of those documents by other parties to a proceeding.

(l) *Limitations on use of expert interrogators.* Section 2.733 has been amended to require the presiding officer to make a determination that an individual other than an attorney whom a party wishes to conduct on his behalf examination or cross-examination of witnesses has appropriate scientific or technical qualifications, that such individual has read any written or oral testimony or any documents that will be the subject of examination, and that he has prepared himself to conduct a meaningful and expeditious examination or cross-examination. Permission to conduct examination will be limited to the areas in which the interrogator has been shown to be qualified. The party on whose behalf the interrogator conducts the examination and his attorney will be held responsible for the interrogator's conduct of examination or cross-examination. The use of such expert interrogators will be permitted for the purpose of furthering the conduct of the proceeding.

Certain changes have been made in Part 2 to reflect the provisions of Appendix D of Part 50 that are applicable to hearings held on applications for facility construction permits or operating licenses. Other changes to Part 2 have also been made. The latter category includes amendments to §§ 2.105 and 2.106 of Part 2 which conform the provisions of those sections to the present requirements of the Atomic Energy Act and to

the Commission's practice, and modify the provisions for publication of notice of the issuance of licenses. Amendments to Appendix A of Part 2 modify the statement therein of the Commission's policy of holding hearings in the vicinity of the facility to provide for the holding of hearing sessions in the Washington, D.C. area in cases in which all parties so stipulate or when valid reasons for such location exist.

To reflect the changes discussed above, and the fact that most hearings in facility licensing proceedings are now contested proceedings, Appendix A of Part 2 has been extensively revised.

The Commission recognizes that some of the provisions of the amendments which follow will not be appropriate for application to pending proceedings in various stages. They will be applied as appropriate when the context so indicates. For example, petitions for leave to intervene that were filed without an accompanying affidavit before the effective date of the amendments will not be denied for that reason.

Paragraph (c) of § 50.57 and Appendix D of Part 50 have been amended to reflect the limitation of issues in hearings at the operating license stage. Other changes to Appendix D have also been made.

The role of clearinghouse and local public document rooms in making documents pertaining to environmental reviews of license applications and licenses subject to Appendix D available to interested persons has been clarified.

The time allowed State and local agencies and interested members of the public for comment on the Applicant's Environmental Report and the AEC draft Detailed Statement has been changed to forty-five (45) days, conforming to the time allowed Federal agencies.

Section C of Appendix D has been amended to provide that, in a licensing proceeding subject to that section, if construction of the facility is expected to be completed by or soon after the completion of the NEPA environmental review required by that section, the NEPA environmental review will cover both the construction permit and the operating license stages. One notice of opportunity for hearing will be issued, and, upon publication of such a notice, the provisions of section D, including sections D.2 and 3, will be applicable.

Pursuant to the National Environmental Policy Act of 1969, the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Parts 2, 9, and 50 are published as a document subject to codification to be effective 30 days after publication in the FEDERAL REGISTER.

PART 2—RULES OF PRACTICE

§ 2.4 [Amended]

1. In § 2.4 of 10 CFR Part 2, paragraph (o) is revoked.

2. In § 2.101 of 10 CFR Part 2, new sentences are added at the end of paragraph (a) and the first sentence of paragraph (b) is amended to read as follows:

§ 2.101 Filing of application.

(a) * * * However, an application for a construction permit or operating license for a production or utilization facility will be initially treated as a tendered application after it is received to allow determination as to whether it is complete and conforms to the requirements of this chapter. Generally, that determination will be made within a period of thirty (30) days. If it is not returned to the applicant at the end of that period, it will be assigned a docket number or docketed, as the case may be. If an application is returned, the applicant will be informed in what respects the application is considered incomplete.

(b) After his application has been assigned a docket number, or docketed, as the case may be, each applicant for a license for a facility or for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee shall serve a copy of the application on the chief executive of the municipality in which the facility is to be located or the activity is to be conducted, or, if the facility is not to be located or the activity conducted within a municipality, on the chief executive of the county. * * *

3. In § 2.102 of 10 CFR Part 2, the word "docketed" is inserted before the word "application" the first time it appears in paragraphs (b), (c), and (d) and paragraph (a) is amended to read as follows:

§ 2.102 Administrative review of application.

(a) During review of an application by the regulatory staff, an applicant may be required to supply additional information. The regulatory staff may request any one party to the proceeding to confer with the staff informally. In the case of a docketed application for a construction permit or an operating license for a facility, the regulatory staff shall establish a schedule for its review of the application, specifying the key intermediate steps from the time of docketing until the completion of its review.

* * * * *

§ 2.103 [Amended]

4. The reference to § 2.104(c) in § 2.103(a) of 10 CFR Part 2 is amended to refer to "§ 2.104(e)."

5. In § 2.104 of 10 CFR Part 2, paragraph (a) is amended, and paragraphs (c) and (d) are redesignated paragraphs (d) and (e), a new subparagraph (1)(v) and a new subparagraph (3) are added to paragraph (b), the prefatory language in paragraph (b) and paragraph (b)(2) are amended, and a new paragraph (c) is added to read as follows:

§ 2.104 Notice of hearing.

(a) In the case of an application on which a hearing is required by the Act or this chapter, or in which the Commission finds that a hearing is required in the public interest, the Secretary will issue a notice of hearing to be published in the FEDERAL REGISTER as required by law at least fifteen (15) days, and in the case of an application concerning a construction permit for a facility of the type described in § 50.21(b) or § 50.22 of this chapter or a testing facility, at least thirty (30) days, prior to the date set for hearing in the notice.[1] In addition, in the case of an application for a construction permit for a facility of the type described in § 50.21(b) or § 50.22 of this chapter, or a testing facility, the notice (other than a notice issued pursuant to paragraph (d) of this section) shall be issued as soon as practicable after the application has been docketed. The notice will state:

(1) The time, place, and nature of the hearing and/or prehearing conference, if any;

(2) The authority under which the hearing is to be held;

(3) The matters of fact and law to be considered; and

(4) The time within which answers to the notice shall be filed.

(b) In the case of an application for a construction permit for a facility on which the Act requires a hearing, the notice of hearing will, except as provided in paragraph (d) of this section and unless the Commission determines otherwise, state, in implementation of paragraph (a)(3) of this section:

(1) That, if the proceeding is a contested proceeding, the presiding officer will consider the following issues:[2]

* * * * *

(v) If the application is for a construction permit for a nuclear power reactor, a testing facility, a fuel reprocessing plant, or other facility whose construction or operation has been determined by the Commission to have a significant impact on the environment, whether, in accordance with the requirements of Appendix D of Part 50 of this chapter, the construction permit should be issued as proposed.

(2) That, if the proceeding is not a contested proceeding, the presiding officer will determine (i) without conducting a de novo evaluation of the application, whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff has been adequate to support affirmative findings on subdivisions (i) through (iii) specified in subparagraph (1) of this paragraph (b) and a negative finding on subdivision (iv) specified in subparagraph (1) of this paragraph (b) proposed to be made and the issuance of the construction permit proposed by the Director of Regulation, and (ii) if the application is for a construction permit

[1] The thirty (30) day requirement of this paragraph is not applicable to a notice of the time and place of hearing published by the presiding officer after the notice of hearing described in this section has been published.

[2] Issues (i) to (iv) are the issues pursuant to the Atomic Energy Act of 1954, as amended. Issue (v) is the issue pursuant to the National Environmental Policy Act of 1969.

for a nuclear power reactor, a testing facility, a fuel reprocessing plant, or other facility whose construction or operation has been determined by the Commission to have a significant impact on the environment, whether the review conducted by the Commission pursuant to the National Environmental Policy Act (NEPA) has been adequate.

(3) That regardless of whether the proceeding is contested or uncontested, the presiding officer will, in accordance with section A. 11 of Appendix D of Part 50 of this chapter,

(i) Determine whether the requirements of section 102(2) (C) and (D) of the National Environmental Policy Act and Appendix D of Part 50 of this chapter have been complied with in the proceeding;

(ii) Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and

(iii) Determine whether the construction permit should be issued, denied, or appropriately conditioned to protect environmental values.

(c) In the case of an application for an operating license in which a hearing will be held, the notice of hearing will, except as provided in paragraph (d) of this section and unless the Commission determines otherwise, state, in implementation of paragraph (a)(3) of this section, that the presiding officer will consider any matters in controversy among the parties, within the purview of:

(1) Whether there is reasonable assurance that construction of the facility will be substantially completed on a timely basis, in conformity with the construction permit and the application as amended, the provisions of the Act, and the regulations in this chapter;

(2) Whether the facility will operate in conformity with the application as amended, the provisions of the Act, and the regulations in this chapter;

(3) Whether there is reasonable assurance (i) that the activities to be authorzied by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations in this chapter;

(4) Whether the applicant is technically and financially qualified to engage in the activities to be authorized by the operating license in accordance with the regulations in this chapter;

(5) Whether the applicable provisions of Part 140 of this chapter have been satisfied;

(6) Whether issuance of the license will be inimical to the common defense and security or to the health and safety of the public; and

(7) If the application is for an operating license for a nuclear power reactor, a testing facility, or a fuel reprocessing plant, or other facility whose operation has been determined by the Commission to have a significant impact on the environment, whether, in accordance with the requirements of Appendix D of Part 50 of this chapter, the operating license should be issued as proposed.[3]

* * * * *

6. In § 2.105 of 10 CFR Part 2, a sentence is added at the end of paragraph (a) and paragraph (d) are amended to read as follows:

§ 2.105 Notice of proposed action.

(a) If a hearing is not required by the Act or this chapter, and if the Commission or the Director of Regulation has not found that a hearing is in the public interest, he will, prior to acting thereon, cause to be published in the FEDERAL REGISTER a notice of proposed action with respect to an application for:

* * * * *

In the case of an application for an operating license for a facility of a type described in § 50.21(b) or § 50.22 of this chapter or a testing facility, a notice of opportunity for hearing shall be issued as soon as practicable after the application has been docketed.

* * * * *

(d) The notice of proposed action will provide that, within thirty (30) days from the date of publication of the notice in the FEDERAL REGISTER, or such lesser period authorized by law as the Commission may specify:

(1) The applicant may file a request for a hearing; and

(2) Any person whose interest may be affected by the proceeding may file a petition for leave to intervene.

* * * * *

7. Section 2.106 of 10 CFR Part 2 is amended to read as follows:

§ 2.106 Notice of issuance.

(a) The Director of Regulation will cause to be published in the FEDERAL REGISTER notice of, and will inform the State and local officials specified in § 2.104(e) of the issuance of, a license or an amendment of a license for which a notice of proposed action has been previously published.

(b) The notice of issuance will set forth:

(1) The nature of the license or amendment;

(2) The manner in which copies of the safety analysis, if any, may be obtained and examined; and

(3) A finding that the application for the license or amendment complies with the requirements of the Act and this chapter.

8. Section 2.707 of 10 CFR Part 2 is amended to read as follows:

§ 2.707 Default.

On failure of a party to file an answer or pleading within the time prescribed in this part or as specified in the notice of hearing or pleading; to appear at a hearing or prehearing conference, to comply with any prehearing order entered pursuant to § 2.751a or § 2.752, or to comply with any discovery order entered by the presiding officer pursuant to § 2.740, the Commission or the presiding officer [4] may make such orders in regard to the failure as are just, including, among others, the following:

(a) Without further notice, find the facts as to the matters regarding which the order was made in accordance with the claim of the party obtaining the order, and enter such order as may be appropriate; or

(b) Proceed without further notice to take proof on the issues specified.

9. Section 2.711 of 10 CFR Part 2 is revised to read as follows:

§ 2.711 Extension and reduction of time limits.

(a) Except as otherwise provided by law, whenever an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may for good cause be extended or shortened by the Commission or the presiding officer, or by stipulation approved by the Commission or the presiding officer.

(b) In any instance in which this part does not prescribe a time limit for an action to be taken in the proceeding, the Commission or the presiding officer may set a time limit for that action.

10. Paragraph (c) of § 2.713 of 10 CFR Part 2 is amended to read as follows:

§ 2.713 Appearance and practice before the Commission in adjudicatory proceedings.

* * * * *

(c) *Suspension of attorneys.* A presiding officer may, by order, suspend or bar any person from participation as an attorney in a proceeding if the presiding officer finds that such person:

(1) Is not an attorney at law in good standing admitted to practice before any court of the United States, the District of Columbia, or the highest court of any State, territory, or possession of the United States.

(2) Has failed to conform to the standards of conduct required in the courts of the United States.

(3) Is lacking in character or professional integrity;

(4) Engages in dilatory tactics or disorderly or contemptuous conduct; or

(5) Displays toward the Commission or any of its presiding officers conduct which, if displayed toward any court of the United States, would be cause for censure, suspension, or disbarment.

Any such order shall state the grounds on which it is based. Before any person is suspended or barred from participation as an attorney in a proceeding, charges shall be preferred by the presiding officer against such person and he shall be afforded an opportunity to be

[3] Issues (1) to (6) are the issues pursuant to the Atomic Energy Act of 1954, as amended. Issue (7) is the issue pursuant to the National Environmental Policy Act of 1969.

[4] When a reference is made to the Commission or the presiding officer in this subpart and a presiding officer has been designated, the specified action will be taken by the presiding officer, unless otherwise provided.

heard thereon before another presiding officer.

11. Section 2.714 of 10 CFR Part 2 is amended to read as follows:

§ 2.714 Intervention.

(a) Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition under oath or affirmation for leave to intervene. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which he wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. The petition shall be filed not later than the time specified in the notice of hearing, or as provided by the Commission or the presiding officer, except as provided in § 2.102(d)(3). Nontimely filings will not be entertained absent a determination by the Commission or the presiding officer that the petitioner has made a substantial showing of good cause for failure to file on time, and with particular reference to the following factors in addition to those set out in paragraph (d) of this section:

(1) The availability of other means whereby the petitioner's interest will be protected.

(2) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

(3) The extent to which petitioner's interest will be represented by existing parties.

(4) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

(b) The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the factors set forth in paragraph (d) of this section. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission shall be denied.

(c) Any party to a proceeding may file an answer to a petition for leave to intervene within five (5) days after the petition is filed, with particular reference to the factors set forth in paragraph (d) of this section. However, the regulatory staff may file such an answer within ten (10) days after the petition is filed.

(d) The Commission or the presiding officer shall, in ruling on a petition for leave to intervene, consider the following factors, among other things:

(1) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest.

(e) An order permitting intervention may be conditioned on such terms as the Commission or presiding officer may direct in the interests of (1) restricting irrelevant, duplicative, or repetitive evidence and argument, (2) having common interests represented by a spokesman, and (3) retaining authority to determine priorities and control the compass of the hearing.

(f) In any case in which, after consideration of the factors set forth in paragraph (d) of this section, the Commission or the presiding officer finds that the petitioner's interest is limited to one or more of the issues involved in the proceeding, any order allowing intervention shall limit his participation accordingly.

(g) A person permitted to intervene becomes a party to the proceeding, subject to any limitations imposed pursuant to paragraph (f) of this section.

(h) Unless otherwise expressly provided in the order allowing intervention, the granting of a petition for leave to intervene does not change or enlarge the issues specified in the notice of hearing.

12. A new § 2.715a is added after § 2.715 of 10 CFR Part 2 to read as follows:

§ 2.715a Consolidation of parties in construction permit or operating license proceedings.

On motion or on its or his own initiative, the Commission or the presiding officer may order any parties in a proceeding for the issuance of a construction permit or an operating license for a production or utilization facility who have substantially the same interest that may be affected by the proceeding and who raise substantially the same questions, to consolidate their presentation of evidence, cross-examination, briefs, proposed findings of fact, and conclusions of law and argument. However, it may not order any consolidation that would prejudice the rights of any party. A consolidation under this section may be for all purposes of the proceeding, all of the issues of the proceeding, or with respect to any one or more issues thereof.

13. The heading of § 2.716 of 10 CFR Part 2 is amended to read as follows:

§ 2.716 Consolidation of proceedings.

14. In § 2.720 of 10 CFR Part 2, paragraph (h)(2)(ii) and paragraph (h)(3) are amended and new paragraphs (h)(2)(iii) and (iv) are added to read as follows:

§ 2.720 Subpoenas.

* * * * *

(h) * * *

(2) * * *

(ii) In addition, a party may file with the presiding officer written interrogatories to be answered by AEC personnel with knowledge of the facts designated by the General Manager or the Director of Regulation, as appropriate. Upon a finding by the presiding officer that answers to the interrogatories are necessary to a proper decision in the proceeding and that answers to the interrogatories are not reasonably obtainable from any other source, the presiding officer shall certify directly to the Commission [5] for determination, prior to any ruling thereon, the matter of whether the interrogatories should be answered by AEC personnel. If the Commission determines that such interrogatories should be answered by AEC personnel, the interrogatories will be answered and the answers will be served by the Secretary of the Commission upon the parties to the proceeding.

(iii) No deposition of a particular named AEC employee or answer to interrogatories by AEC personnel pursuant to subdivision (i) or (ii) of this subparagraph shall be required before the matters in controversy in the proceeding have been identified by order of the Commission or the presiding officer, pursuant to § 2.751a, or after the beginning of the prehearing conference held pursuant to § 2.752 except upon leave of the Commission for good cause shown.

(iv) The provisions of § 2.740 (c) and (e) shall apply to interrogatories served pursuant to this subparagraph.

(3) Records or documents in the custody of the Commissioners and AEC personnel are available for inspection and copying or photographing pursuant to §§ 2.744 and 2.790.

15. A sentence is added to paragraph (d) of § 2.721 to read as follows:

§ 2.721 Atomic safety and licensing boards.

* * * * *

(d) * * * Two members of an atomic safety and licensing board constitute a quorum, if one of those members is the member qualified in the conduct of administrative proceedings.

16. Paragraph (c) of § 2.730 of 10 CFR Part 2 is amended to read as follows:

§ 2.730 Motions.

* * * * *

(c) *Answers to motions.* Within 5 days after service of a written motion, or such other period as the Commission or presiding officer may prescribe, a party may file an answer in support of or in opposition to the motion, accompanied by affidavits or other evidence. However, the regulatory staff may file such an answer within 10 days after service of a written motion. The moving party shall have no right to reply, except as permitted by the presiding officer or the Commission.

* * * * *

17. Section 2.733 of 10 CFR Part 2 is revised to read as follows:

§ 2.733 Examination by experts.

A party may request the presiding officer to permit a qualified individual who

[5] The matter will be certified to the Commission notwithstanding the provisions of § 2.785.

has scientific or technical training or experience to participate on behalf of that party in the examination and cross-examination of expert witnesses. The presiding officer may permit such individual to participate on behalf of the party in the examination and cross-examination of expert witnesses, where it would serve the purpose of furthering the conduct of the proceeding, upon finding (a) that the individual is qualified by scientific or technical training or experience to contribute to the development of an adequate decisional record in the proceeding by the conduct of such examination or cross-examination, (b) that the individual has read any written testimony on which he intends to examine or cross-examine and any documents to be used or referred to in the course of the examination or cross-examination, and (c) that the individual has prepared himself to conduct a meaningful and expeditious examination or cross-examination. Examination or cross-examination conducted pursuant to this section shall be limited to areas within the expertise of the individual conducting the examination or cross-examination. The party on behalf of whom such examination or cross-examination is conducted and his attorney shall be responsible for the conduct of examination or cross-examination by such individuals.

18. Section 2.740 of 10 CFR Part 2 is redesignated § 2.740a. and a new § 2.740 is added to read as follows:

§ 2.740 General provisions governing discovery.

(a) *Discovery methods.* Parties may obtain discovery by one or more of the following methods: Depositions upon oral examination or written interrogatories (§ 2.740a); written interrogatories (§ 2.740b); production of documents or things or permission to enter upon land or other property, for inspection and other purposes (§ 2.741); and requests for admission (§ 2.742).

(b) *Scope of discovery.* Unless otherwise limited by order of the presiding officer in accordance with this section, the scope of discovery is as follows:

(1) *In general.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. In a proceeding on an application for a construction permit or an operating license for a production or utilization facility, discovery shall begin only after the prehearing conference provided for in § 2.751a and shall relate only to those matters in controversy which have been identified by the Commission or the presiding officer in the prehearing order entered at the conclusion of that prehearing conference. In such a proceeding, no discovery shall be had after the beginning of the prehearing conference held pursuant to § 2.752 except upon leave of the presiding officer upon good cause shown. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) *Trial preparation materials.* A party may obtain discovery of documents and tangible things otherwise discoverable under subparagraph (1) of this paragraph and prepared in anticipation of or for the hearing by or for another party's representative (including his attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the presiding officer shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the proceeding.

(c) *Protective order.* Upon motion by a party or the person from whom discovery is sought, and for good cause shown, the presiding officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) That the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of discovery be limited to certain matters; (5) that discovery be conducted with no one present except persons designated by the presiding officer; (6) that, subject to the provisions of §§ 2.744 and 2.790, a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (7) that studies and evaluations not be prepared. If the motion for a protective order is denied in whole or in part, the presiding officer may, on such terms and conditions as are just, order that any party or person provide or permit discovery.

(d) *Sequence and timing of discovery.* Unless the presiding officer upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

(e) *Supplementation of responses.* A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired, except as follows:

(1) A party is under a duty seasonably to supplement his response with respect to any question directly addressed to (i) the identity and location of persons having knowledge of discoverable matters, and (ii) the identity of each person expected to be called as an expert witness at the hearing, the subject matter on which he is expected to testify, and the substance of his testimony.

(2) A party is under a duty seasonably to amend a prior response if he obtains information upon the basis of which (i) he knows that the response was incorrect when made, or (ii) he knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the presiding officer or agreement of the parties.

(f) *Motion to compel discovery.* (1) If a deponent or party upon whom a request for production of documents or answers to interrogatories is served fails to respond or objects to the request, or any part thereof, or fails to permit inspection as requested, the deposing party or the party submitting the request may move the presiding officer, within five (5) days after the date of the response or after failure of a party to respond to the request for an order compelling a response or inspection in accordance with the request. The motion shall set forth the nature of the questions or the request, the response or objection of the party upon whom the request was served, and arguments in support of the motion. For purposes of this paragraph, an evasive or incomplete answer or response shall be treated as a failure to answer or respond. Failure to answer or respond shall not be excused on the ground that the discovery sought is objectionable unless the person or party failing to answer or respond has applied for a protective order pursuant to paragraph (c) of this section.

(2) In ruling on a motion made pursuant to this section, the presiding officer may make such a protective order as he is authorized to make on a motion made pursuant to paragraph (c) of this section.

(3) This section does not preclude an independent request for issuance of a subpena directed to a person not a party for production of documents and things. This section does not apply to requests for the testimony or interrogatories of the regulatory staff pursuant to § 2.720 (h)(2) or production of AEC documents pursuant to § 2.744 or § 2.790, except for paragraphs (c) and (e) of this section.

19. In redesignated § 2.740a of 10 CFR Part 2, the section heading and paragraph (a) are revised, paragraph (b) is revoked, paragraphs (d) and (f) are amended, and paragraph (j) is amended to read as follows:

§ 2.740a Depositions upon oral examination and upon written interrogatories.

(a) Any party desiring to take the testimony of any party or other person by deposition on oral examination or written interrogatories shall, without leave of the Commission or the presiding officer, give reasonable notice in writing to every other party, to the person to be examined and to the presiding officer of the proposed time and place of taking the deposition; the name and address of each person to be examined, if known, or if, the name is not known, a general description sufficient to identify him or the class or group to which he belongs; the matters upon which each person will be examined and the name or descriptive title and address of the officer before whom the deposition is to be taken.

* * * * *

(d) The deponent shall be sworn or shall affirm before any questions are put to him. Examination and cross-examination shall proceed as at a hearing. Each question propounded shall be recorded and the answer taken down in the words of the witness. Objections on questions of evidence shall be noted in short form without the arguments. The officer shall not decide on the competency, materiality, or relevancy of evidence but shall record the evidence subject to objection. Objections on questions of evidence not made before the officer shall not be deemed waived unless the ground of the objection is one which might have been obviated or removed if presented at that time.

* * * * *

(f) Where the deposition is to be taken on written interrogatories, the party taking the deposition shall serve a copy of the interrogatories, showing each interrogatory separately and consecutively numbered, on every other party with a notice stating the name and address of the person who is to answer them, and the name, description, title, and address of the officer before whom they are to be taken. Within seven (7) days after service, any other party may serve cross-interrogatories. The interrogatories, cross-interrogatories, and answers shall be recorded and signed, and the deposition certified, returned, and filed as in the case of a deposition on oral examination.

* * * * *

(j) The provisions of paragraphs (a) through (i) of this section are not applicable to AEC personnel. Testimony of AEC personnel by oral examination and written interrogatories addressed to AEC personnel are subject to the provisions of § 2.720(h).

20. A new § 2.740b is added to 10 CFR Part 2 following § 2.740a to read as follows:

§ 2.740b Interrogatories to parties.

(a) Any party may serve upon any other party (other than the regulatory)[6] written interrogatories to be answered in writing by the party served, or if the party served is a public or private corporation or a partnership or association, by any officer or agent, who shall furnish such information as is available to the party. A copy of the interrogatories, answers, and all related pleadings shall be filed with the Secretary of the Commission and shall be served on the presiding officer and upon all parties to the proceeding.

(b) Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers shall be signed by the person making them, and the objections by the attorney making them. The party upon whom the interrogatories were served shall serve a copy of the answers and objections upon all parties to the proceeding within 14 days after service of the interrogatories, or within such shorter or longer period as the presiding officer may allow. Answers may be used in the same manner as depositions (see § 2.740a(g)).

Section 2.741 of 10 CFR Part 2 is amended to read as follows:

§ 2.741 Production of documents and things and entry upon land for inspection and other purposes.

(a) *Request for discovery.* Any party may serve on any other party a request to:

(1) Produce and permit the party making the request, or a person acting on his behalf, to inspect and copy any designated documents, or to inspect and copy, test, or sample any tangible things which are within the scope of § 2.740 and which are in the possession, custody, or control of the party upon whom the request is served; or

(2) Permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of § 2.740.

(b) *Service.* The request may be served on any party without leave of the Commission or the presiding officer. Except as otherwise provided in § 2.740, the request may be served after the proceeding is set for hearing.

(c) *Contents.* The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

(d) *Response.* The party upon whom the request is served shall serve on the party submitting the request a written response within thirty (30) days after the service of the request. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which case the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified.

(e) *AEC records and documents.* The provisions of paragraphs (a) through (d) of this section do not apply to the production for inspection and copying or photographing of AEC records or documents. Production of such records or documents is subject to the provisions of §§ 2.744 and 2.790.

22. In § 2.742 of 10 CFR Part 2, paragraph (a) is amended to read as follows:

§ 2.742 Admissions.

(a) Apart from any admissions made during or as a result of a prehearing conference, at any time after his answer has been filed, a party may file a written request for the admission of the genuineness and authenticity of any relevant document described in or attached to the request, or for the admission of the truth of any specified relevant matter of fact. A copy of the document shall be delivered with the request unless a copy has already been furnished.

* * * * *

23. Paragraphs (b), (g), and (i) of § 2.743 of 10 CFR Part 2 are amended to read as follows:

§ 2.743 Evidence.

* * * * *

(b) *Written testimony.* The parties shall submit direct testimony of witnesses in written form, unless otherwise ordered by the presiding officer on the basis of objections presented. In any proceeding in which advance written testimony is to be used, each party shall serve copies of its proposed written testimony on each other party at least five (5) days in advance of the session of the hearing at which its testimony is to be presented. The presiding officer may permit the introduction of written testimony not so served, either with the consent of all parties present or after they have had a reasonable opportunity to examine it. Written testimony shall be incorporated in the transcript of the record as if read or, in the discretion of the presiding officer, may be offered and admitted in evidence as an exhibit. This paragraph does not apply to proceedings under Subpart B for modification, suspension, or revocation of a license.

* * * * *

(g) *Proceedings involving applications.* In any proceeding involving an application, there shall be offered in evidence by the regulatory staff any report submitted by the ACRS in the proceeding in compliance with section 182b. of the Act, any safety evaluation prepared by the regulatory staff and any Detailed Statement on environmental considerations prepared by the Director of Regulation or his designee in the proceeding pursuant to Appendix D of Part 50 of this chapter.

* * * * *

(i) *Official notice.* (1) the Commission or the presiding officer may take official notice of any fact of which a court of

[6] Interrogatories addressed to the staff are subject to § 2.720(h)(2)(ii).

the United States may take judicial notice or of any technical or scientific fact within the knowledge of the Commission as an expert body. Each fact officially noticed under this subparagraph shall be specified in the record with sufficient particularity to advise the parties of the matters which have been noticed or brought to the attention of the parties before final decision and each party adversely affected by the decision shall be given opportunity to controvert the fact.

(2) If a decision is stated to rest in whole or in part on official notice of a fact which the parties have not had a prior opportunity to controvert, a party may controvert the fact by exceptions to an initial decision or a petition for reconsideration of a final decision clearly and concisely setting forth the information relied upon to show the contrary.

24. Section 2.744 of 10 CFR Part 2 is amended to read as follows:

§ 2.744 Production of AEC records and documents.

(a) A request for the production of an AEC record or document not available pursuant to § 2.790 by a party to an initial licensing proceeding may be served on the General Manager or Director of Regulation, as appropriate, without leave of the Commission or the presiding officer. The request shall set forth the records or documents requested, either by individual item or by category, and shall describe each item or category with reasonable particularity and shall state why that record or document is relevant to the proceeding.

(b) If the General Manager or the Director of Regulation, as appropriate, objects to producing a requested record or document on the ground that (1) it is not relevant or (2) it is exempted from disclosure under § 2.790 and the disclosure is not necessary to a proper decision in the proceeding or the document or the information therein is reasonably obtainable from another source, he shall so advise the requesting party.

(c) If the General Manager or Director of Regulation objects to producing a record or document, the requesting party may apply to the presiding officer, in writing, to compel production of that record or document. The application shall set forth the relevancy of the record or document to the issues in the proceeding. The application shall be processed as a motion in accordance with § 2.730 (a) through (d). The record or document covered by the application shall be produced for the "in camera" inspection of the presiding officer, exclusively, if requested by the presiding officer and only to the extent necessary to determine—

(1) The relevancy of that record or document;

(2) Whether the document is exempt from disclosure under § 2.790;

(3) Whether the disclosure is necessary to a proper decision in the proceeding;

(4) Whether the document or the information therein is reasonably obtainable from another source.

(d) Upon a determination by the presiding officer that the requesting party has demonstrated the relevancy of the record or document and that its production is not exempt from disclosure under § 2.790 or that, if exempt, its disclosure is necessary to a proper decision in the proceeding, and the document or the information therein is not reasonably obtainable from another source, he shall so advise the General Manager or Director of Regulation, as appropriate.

(e) If the General Manager or Director of Regulation, as appropriate, objects to producing a record or document after a determination under paragraph (d) of this section, the matter shall be certified to the Commission or to the Atomic Safety and Licensing Appeal Board, as appropriate, before any ruling ordering production thereof.

(f) A ruling by the presiding officer, the Atomic Safety and Licensing Appeal Board, or the Commission for the production of a record or document will specify the time, place, and manner of production.

(g) No request pursuant to this section shall be made or entertained before the matters in controversy have been identified by the Commission or the presiding officer, or after the beginning of the prehearing conference held pursuant to § 2.752 except upon leave of the Commission for good cause shown.

(h) The provisions of § 2.740 (c) and (e) shall apply to production of AEC records and documents pursuant to this section.

25. An undesignated center head an a new § 2.749 are added to 10 CFR Part 2 after § 2.744 to read as follows:

SUMMARY DISPOSITION ON PLEADINGS

§ 2.749 Authority of presiding officer to dispose of certain issues on the pleadings.

(a) Any party to an initial licensing proceeding may, at least ten (10) days before the time fixed for the hearing, move, with or without supporting affidavits, for a decision by the presiding officer in that party's favor as to all or any part of the matters involved in the proceeding. There shall be annexed to the motion a separate, short and concise statement of the material facts as to which the moving party contends that there is no genuine issue to be heard. Any other party may serve an answer opposing the motion, with or without affidavits, at least two (2) days before the date of the hearing. There shall be annexed to such answer a separate, short and concise statement of the material facts as to which it is contended that there exists a genuine issue to be heard. All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party.

(b) Affidavits shall set forth such facts as would be admissible in evidence and shall show affirmatively that the affiant is competent to testify to the matters stated therein. The presiding officer may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories or further affidavits. When a motion for summary decision is made and supported as provided in this section, a party opposing the motion may not rest upon the mere allegations or denials of his answer; his answer by affidavits or as otherwise provided in this section must set forth specific facts showing that here is a genuine issue of fact. If no such answer is filed, the decision sought, if appropriate, shall be rendered.

(c) Should it appear from the affidavits of a party opposing the motion that he cannot, for reasons stated, present by affidavit facts essential to justify his opposition, the presiding officer may refuse the application for summary decision or may order a continuance to permit affidavits to be obtained or make such other order as is appropriate and a determination to that effect shall be made a matter of record.

(d) The presiding officer shall render the decision sought if the filings in the proceeding, depositions, answers to interrogatories, and admissions on file, together with the statements of the parties and the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision as a matter of law. However, in any proceeding involving a constructtion permit for a production or utilization facility, the procedure described in this section may be used only for the determination of specific subordinate issues and may not be used to determine the ultimate issue as to whether the permit shall be issued.

26. A new § 2.751a is added to 10 CFR Part 2 after § 2.751 to read as follows:

§ 2.751a Special prehearing conference in construction permit and operating license proceedings.

(a) In any proceeding involving an application for a construction permit or an operating license for a production or utilization facility, the Commission or the presiding officer will direct the parties and any petitioners for intervention, or their counsel, to appear at a specified time and place, within sixty (60) days after the notice of hearing is published, or such other time as the Commission or the presiding officer may deem appropriate, for a conference [1] to:

(1) Permit identification of the key issues in the proceeding;

(2) Take any steps necessary for further identification of the issues;

(3) Consider all intervention petitions to allow the presiding officer to make such preliminary or final determination as to the parties to the proceeding, as may be appropriate; and

(4) Establish a schedule for further actions in the proceeding.

(b) The presiding officer may order any further informal conferences among the parties, including telephone conferences, to the extent that he considers

[1] This conference may be omitted in proceedings other than contested proceedings.

that such a conference would expedite the proceeding.

(c) A prehearing conference held pursuant to this section may be stenographically reported.

(d) The presiding officer shall enter an order which recites the action taken at the conference, the schedule for further actions in the proceeding, any agreements by the parties, and which identifies the key issues in the proceeding, makes a preliminary or final determination as to the parties in the proceeding, and provides for the submission of status reports on discovery. The order shall be served upon all parties to the proceeding. Objections to the order may be filed by a party within five (5) days after service of the order, except that the regulatory staff may file objections to such order within ten (10) days after service. The board may revise the order in the light of the objections presented and, as permitted by § 2.718(i), may certify for determination to the Commission or the Atomic Safety and Licensing Appeal Board, as appropriate, such matters raised in the objections as it deems appropriate. The order shall control the subsequent course of the proceeding unless modified for good cause.

27. In § 2.752 of 10 CFR Part 2, paragraphs (a) and (c) are amended to read as follows:

§ 2.752 Prehearing conference.

(a) The Commission or the presiding officer may, and in the case of a proceeding on an application for a construction permit or an operating license for a facility of a type described in §§ 50.21(b) or 50.22 of this chapter or a testing facility, shall direct the parties or their counsel to appear at a specified time and place for a conference to consider:

(1) Simplification, clarification, and specification of the issues;

(2) The necessity or desirability of amending the pleadings;

(3) The obtaining of stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;

(4) Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;

(5) The setting of a hearing schedule; and

(6) Such other matters as may aid in the orderly disposition of the proceeding.

A prehearing conference held under this section in a proceeding involving a construction permit or operating license shall be held within sixty (60) days after discovery has been completed,[8] or such other time as the Commission or the presiding officer may specify.

* * * * *

[8] Discovery, as used in this section, does not include the production of the ACRS report, the safety evaluation prepared by the regulatory staff, or any detailed statement on environmental considerations prepared by the Director of Regulation or his designee in the proceeding pursuant to Appendix D of Part 50 of this chapter.

(c) The presiding officer shall enter an order which recites the action taken at the conference, the amendments allowed to the pleadings and agreements by the parties, and which limits the issues or defines the matters in controversy to be determined in the proceeding. Objections to the order may be filed by a party within five (5) days after service of the order, except that the regulatory staff may file objections to such order within ten (10) days after service. The board may revise the order in the light of the objections presented and, as permitted by § 2.718(i) may certify for determination to the Commission or the appeal board, as appropriate, such matters raised in the objections as it deems appropriate. The order shall control the subsequent course of the proceeding unless modified for good cause.

28. Section 2.753 of 10 CFR Part 2 is amended to read as follows:

§ 2.753 Stipulations.

Apart from any stipulations made during or as a result of a prehearing conference, the parties may stipulate in writing at any stage of the proceeding or orally during the hearing, any relevant fact or the contents or authenticity of any document. Such a stipulation may be received in evidence. The parties may also stipulate as to the procedure to be followed in the proceeding. Such stipulations may, on motion of all parties, be recognized by the presiding officer to govern the conduct of the proceeding.

29. Paragraph (b)(2) of § 2.754 of 10 CFR Part 2 is amended to read as follows:

§ 2.754 Proposed findings and conclusions.

* * * * *

(b) Except as otherwise ordered by the presiding officer:

* * * * *

(2) Other parties may file proposed findings, conclusions of law and briefs within twenty (20) days thereafter. However, the regulatory staff may file such proposed findings, conclusions of law and briefs within twenty-five (25) days thereafter.

* * * * *

30. A new § 2.757 is added to 10 CFR Part 2 to read as follows:

§ 2.757 Authority of presiding officer to regulate procedure in a hearing.

To prevent unnecessary delays or an unnecessarily large record, the presiding officer may:

(a) Limit the number of witnesses whose testimony may be cumulative;

(b) Strike argumentative, repetitious, cumulative, or irrelevant evidence;

(c) Take necessary and proper measures to prevent argumentative, repetitious, or cumulative cross-examination; and

(d) Impose such time limitations on arguments as he determines appropriate, having regard for the volume of the evidence and the importance and complexity of the issues involved.

31. A new § 2.758 is added to 10 CFR Part 2 to read as follows:

§ 2.758 Consideration of Commission rules and regulations in adjudicatory proceedings.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, any rule or regulation of the Commission, or any provision thereof, issued in its program for the licensing and regulation of production and utilization facilities, source material, special nuclear material or byproduct material, shall not be subject to attack by way of discovery, proof, argument, or other means in any adjudicatory proceeding involving initial licensing subject to this subpart, other than a pending proceeding wherein a party has attacked such rule or regulation, and the presiding officer, the Atomic Safety and Licensing Appeal Board or the Commission has ruled thereon before (effective date of amendment).

(b) A party to an adjudicatory proceeding involving initial licensing subject to this subpart may petition that the application of a specified Commission rule or regulation or any provision thereof, of the type described in paragraph (a) of this section, be waived or an exception made for the particular proceeding. The sole ground for a petition for waiver or exception shall be that special circumstances with respect to the subject matter of the particular proceeding are such that application of the rule or regulation (or provision thereof) would not serve the purposes for which the rule or regulation was adopted. The petition shall be accompanied by an affidavit that identifies the specific aspect or aspects of the subject matter of the proceeding as to which application of the rule or regulation (or provision thereof) would not serve the purposes for which the rule or regulation was adopted, and shall set forth with particularity the special circumstances alleged to justify the waiver or exception requested. Any other party may file a response thereto, by counter-affidavit or otherwise.

(c) If, on the basis of the petition, affidavit and any response thereto provided for in paragraph (b) of this section, the presiding officer determines that the petitioning party has not made a prima facie showing that the application of the specific Commission rule or regulation or provision thereof to a particular aspect or aspects of the subject matter of the proceeding would not serve the purposes for which the rule or regulation was adopted and that application of the rule or regulation should be waived or an exception granted, no evidence may be received on that matter and no discovery, cross-examination or argument directed to the matter will be permitted, and the presiding officer may not further consider the matter.

(d) If, on the basis of the petition, affidavit and any response provided for in paragraph (b) of this section, the presiding officer determines that such a prima facie showing has been made, the presiding officer shall, before ruling

thereon, certify directly to the Commission[9] for determination the matter of whether the application of the Commission rule or regulation or provision thereof to a particular aspect or aspects of the subject matter of the proceeding, in the context of this section, should be waived or an exception made. The Commission may, among other things, on the basis of the petition, affidavits, and any response, determine whether the application of the specified rule or regulation (or provision thereof) should be waived or an exception be made, or the Commission may direct such further proceedings as it deems appropriate to aid its determination.

(e) Whether or not the procedure in paragraph (b) of this section is available, a party to an initial licensing proceeding may file a petition for rule making pursuant to § 2.802.

32. A new § 2.759 is added to 10 CFR Part 2 to read as follows:

§ 2.759 Settlement in initial licensing proceedings.

The Commission recognizes that the public interest may be served through settlement of particular issues in a proceeding or the entire proceeding. Therefore, to the extent that it is not inconsistent with hearing requirements in section 189 of the Act (42 U.S.C. 2239), the fair and reasonable settlement of contested initial licensing proceedings is encouraged. It is expected that the presiding officer and all of the parties to those proceedings will take appropriate steps to carry out this purpose.

33. A new § 2.760a is added to 10 CFR Part 2 to read as follows:

§ 2.760a Initial decisions in contested proceedings on applications for facility operating licenses.

In any initial decision in a contested proceeding on an application for an operating license for a production or utilization facility, the presiding officer shall make findings of fact and conclusions of law only on the matters actually put into controversy by the parties to the proceeding and which have been determined to be the issues in the proceeding by the Commission or the presiding officer. Depending on the resolution of those matters, the Director of Regulation, after making the requisite findings, will issue, deny, or appropriately condition the license.

34. Section 2.762 of 10 CFR Part 2 is amended to read as follows:

§ 2.762 Exceptions to initial decisions and briefs to the Commission.

(a) Except as provided in paragraph (c) of this section, within twenty (20) days after service of any initial decision any party may file exceptions to the decision and a brief in support of them with the Commission and shall serve copies of such exceptions and brief on all other parties. Each exception shall be separately numbered, shall identify the part of the initial decision to which objection is made; shall specify precisely the portions of the record relied upon; and shall state the grounds for the exceptions including the citation of authorities in support thereof. Any objection to a ruling, finding, or conclusion which is not made a part of the exceptions shall be considered to have been waived.

(b) Except as provided in paragraph (c) of this section, any party to a proceeding may file a brief in support of or in opposition to exceptions filed by any other party within ten (10) days after the service of exceptions.

(c) The regulatory staff may file exceptions to any initial decision and a brief in support of them within twenty-five (25) days after service of the initial decision. The regulatory staff may file a brief in support of or in opposition to exceptions filed by any other party within fifteen (15) days after the service of the exceptions.

35. Paragraph (b) of § 2.771 is amended to read as follows:

§ 2.771 Petition for reconsideration.

* * * * *

(b) The petition for reconsideration shall state specifically the respects in which the final decision is claimed to be erroneous, the grounds of the petition, and the relief sought. Within seven (7) days after a petition for reconsideration has been filed, any other party may file an answer in opposition to or in support of the petition. However, the regulatory staff may file such an answer within twelve (12) days after a petition for reconsideration has been filed.

* * * * *

36. Paragraph (a) of and the note following § 2.780 of 10 CFR Part 2 are amended to read as follows:

§ 2.780 Ex parte communications.

(a) Except as provided in paragraph (e) of this section, neither (1) Commissioners, members of their immediate staffs, or other AEC officials and employees who advise the Commissioners in the exercise of their quasi-judicial functions will request or entertain off the record except from each other, nor (2) any party to a proceeding for the issuance, denial, amendment, transfer, renewal, modification, suspension, or revocation of a license or permit, or any officer, employee, representative, or any other person directly or indirectly acting in behalf thereof, shall submit off the record to Commissioners or such staff members, officials, and employees, any evidence, explanation, analysis, or advice, whether written or oral, regarding any substantive matter at issue in a proceeding on the record then pending before the AEC for the issuance, denial, amendment, transfer, renewal, modification, suspension, or revocation of a license or permit. For the purposes of this section, the term "proceeding on the record then pending before the AEC" shall include any application or matter which has been noticed for hearing or concerning which a hearing has been requested pursuant to this part.

* * * * *

NOTE: Matters certified to the Commission or to the Atomic Safety and Licensing Appeal Board pursuant to §§ 2.720(h) and 2.744 (e) are not deemed to involve substantive matters at issue in a proceeding on the record as described in paragraph (a) of this section.

37. Section 2.790 of 10 CFR Part 2 is revised to read as follows:

§ 2.790 Public inspections, exemptions, requests for withholding.

(a) Subject to the provisions of paragraphs (b), (d), and (e) of this section, final AEC records and documents,[10] including but not limited to correspondence to and from the AEC, regarding the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a license, permit, or order, or regarding a rule making proceeding subject to this part shall not, in the absence of a compelling reason for nondisclosure after a balancing of the interests of the person or agency urging nondisclosure and the public interest disclosure, be exempt from disclosure and will be made available for inspection and copying in the AEC Public Document Room, except for:

(1) Records and documents specifically required by Executive order to be kept secret in the interest of national defense or foreign policy;

(2) Records and documents specifically exempted from disclosure by statute;

(3) Intraagency or interagency documents or portions thereof containing opinions, advice, or recommendations;

(4) Records and documents related solely to the internal personnel rules and practices of the Commission;

(5) Identity of persons giving confidential information to the Commission and any part of the confidential information that would reveal the identity of such persons;

(6) Proprietary data;

(7) Files containing the names of individuals who have received exposure to radiation and personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(8) Investigatory files compiled for law enforcement purposes, including, but not limited to, (i) correspondence received by the AEC relating to an alleged or possible violation of any statute, regulation, order, license, or permit and (ii) files and correspondence pertaining to the antitrust matters described in § 2.104 (d) (2); or

(9) Intraagency or interagency memoranda or letters prepared for or by the Commissioners or the Advisory Committee on Reactor Safeguards (other than reports submitted by the Advisory Committee on Reactor Safeguards in compliance with section 182b. of the Act).

(b) (1) A person who proposes that a document or a part be withheld in whole or in part from public disclosure on the

[9] The matter will be certified to the Commission notwithstanding the provisions of § 2.785.

[10] Such records and documents do not include handwritten notes and drafts.

ground that it contains proprietary data shall at the time of filing it submit an application for withholding or make timely application thereafter identifying the document or part, and making a full statement of the reasons on the basis of which it is claimed that the data is proprietary. He shall, as far as possible, incorporate in a separate paper any part sought to be withheld. In deciding whether the data claimed to be proprietary is entitled to withholding on that ground, it is the policy of the Commission to achieve an effective balance between legitimate concerns for protection of competitive positions and the right of the public to be fully apprised as to the bases for and effects of proposed licensing actions. (2) Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the document. The Commission may require data claimed to be proprietary to be subject to inspection by the presiding officer in a proceeding, and, under protective order, by parties to a proceeding, pending a decision of the Commission on the matter of whether the data should be made publicly available or when a decision has been made that the data should be withheld from public disclosure. In such cases, in camera sessions of hearings may be held when the data claimed to be proprietary is produced or offered in evidence. If the Commission subsequently determines that the data should be disclosed, the data and the transcript of such in camera session will be made publicly available.

(c) If a request for withholding pursuant to paragraph (b) is denied, the Commission will notify an applicant for withholding of the denial with a statement of reasons. The notice of denial will specify a time, not less than thirty (30) days after the date of the notice, when the document will be placed in the public document room. If, within the time specified in the notice, the applicant requests withdrawal of the document, the document will not be placed in the public document room.

(d) Correspondence and reports to or from the AEC which identify a licensee's or applicant's control and accounting procedures for safeguarding licensed special nuclear material or detailed security measures for the physical protection of a licensed facility, shall be deemed to be commercial or financial information within the meaning of § 9.5 (a) (4) of this chapter and shall be subject to disclosure only in accordance with the provisions of § 9.10 of this chapter.

(e) The presiding officer, if any, or the Commission may, with reference to the AEC records and documents made available pursuant to this section, issue orders consistent with the provisions of this section and § 2.740(c).

38. Section 2.802 of 10 CFR Part 2 is amended to read as follows:

§ 2.802 Petition for rule making.

Any interested person may petition the Commission to issue, amend, or rescind any regulation. The petition should be addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch. The petition shall state the substance or text of any proposed regulation or amendment, or shall specify the regulation the rescission or amendment of which is desired, and shall state the basis for the request. The petition may request the Commission to suspend all or part of any licensing proceeding to which the petitioner is a party pending disposition of the petition for rule making. The Secretary will assign a docket number to the petition, deposit a copy in the public document room, and cause notice of the filing of the petition to be published in the FEDERAL REGISTER. Publication will be limited by the requirements of section 181 of the Act and may be limited by order of the Commission.

39. The title of Appendix A of 10 CFR Part 2 and the prefatory language in Appendix A are amended to read as follows:

APPENDIX A—STATEMENT OF GENERAL POLICY AND PROCEDURE: CONDUCT OF PROCEEDINGS FOR THE ISSUANCE OF CONSTRUCTION PERMITS AND OPERATING LICENSES FOR PRODUCTION AND UTILIZATION FACILITIES FOR WHICH A HEARING IS REQUIRED UNDER SECTION 189A. OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED*

The following statement of general policy and procedure explains in detail the procedures which the Atomic Energy Commission expects to be followed by atomic safety and licensing boards in the conduct of proceedings relating to the issuance of construction permits for nuclear power and test reactors and other production or utilization facilities for which a hearing is mandatory under section 189a. of the Atomic Energy Act of 1954, as amended (the Act).[1] The provisions are also applicable to proceedings for the issuance of operating licenses for such facilities, except as the context would otherwise indicate, or except as indicated in section VIII. Section VIII sets out the procedures specifically applicable to operating license proceedings. The Statement reflects the Commission's intent that such proceedings be conducted expeditiously and its concern that its procedures maintain sufficient flexibility to accommodate that objective. This position is founded upon the recognition that fairness to all the parties in such cases and the obligation of administrative agencies to conduct their functions with efficiency and economy, require that Commission adjudications be conducted without unnecessary delays. These factors take on added importance in nuclear power reactor licensing proceedings where the growing national need for electric power and the companion need for protecting the quality of the environment call for decision making which is both sound and timely. The Commission expects that its responsibilities under the Atomic Energy Act of 1954, the National Environmental Policy Act of 1969 and other applicable statutes, as set out in the statement which follows, will be carried out in a manner consistent with this position in the overall public interest.

Atomic safety and licensing boards are appointed from time to time by the Atomic Energy Commission to conduct hearings in licensing cases under the authority of section 191 of the Act. Section 191 authorizes the Commission to establish one or more atomic safety and licensing boards to conduct public hearings and to make intermediate or final decisions in administrative proceedings relating to granting, suspending, revoking or amending licenses or authorizations issued by the Commission. It requires that each board consist of one member who is qualified in the conduct of administrative proceedings and two members who have such technical or other qualifications as the Commission deems appropriate to the issues to be decided. Members for each board may be appointed by the Commision from a panel selected from private life, the staff of the Commission or other Federal agencies.

40. In section I of Appendix A of 10 CFR Part 2, paragraphs (a) and (b) are amended, paragraphs (c) and (d) are revoked, paragraphs (e), (f), and (g) are redesignated paragraphs (c), (d), and (e) respectively, and redesignated paragraph (d) is amended to read as follows:

I. PRELIMINARY MATTERS

(a) A public hearing is announced by the issuance of a notice of hearing, published in the FEDERAL REGISTER as soon as practicable after the application has been docketed, signed by the Secretary of the Commission stating the nature of the hearing and the issues to be considered. The time and place of the first prehearing conference pursuant to § 2.751a. will ordinarily be stated in the notice of hearing. Unless the initial notice of hearing states the time and place of the hearing, and the Chairman and other members of the Atomic Safety and Licensing Board that will conduct the hearing, those matters will be the subject of further notice in the FEDERAL REGISTER after publication of the initial notice of hearing. It is the Commission's policy and practice to begin the evidentiary hearing in the vicinity of the site of the proposed facility. The notice of hearing also states the procedures whereby persons may seek to intervene or make a limited appearance and explains the differences between those forms of participation in the proceeding, and states the times and places of the availability, in an appropriate office near the site of the proposed facility, of the notice of hearing, an updated copy of the application, the report of the Advisory Committee on Reactor Safeguards (ACRS), the staff safety evaluation, the applicant's environmental report, the Commission's detailed statement on environmental considerations, the proposed construction permit or operating license and the transcripts of the prehearing conference and the hearing.

(b) In fixing the time and place of any conference, including prehearing conferences, or of any adjourned session of the evidentiary hearing, due regard shall be had for the convenience and necessity of the parties, petitioners for leave to intervene, or the representatives of such persons, as well as of the Board members, the nature of such conference or adjourned session, and the public interest. Adjourned sessions of hearings may be held in the Washington, D.C. area if all parties so stipulate. If the parties disagree, and any party considers that there are valid

*In the event of any conflict between the provisions of this appendix and any section of this part, the section governs.

[1] Except as the context may otherwise indicate, this statement is also generally applicable to the conduct of authorization proceedings conducted under Part 115, Procedures for Review of Certain Nuclear Reactors Exempted from Licensing Requirements, and to licensing proceedings of the type described in the statement which may be conducted by a hearing examiner as the presiding officer.

reasons for holding such session in the Washington, D.C. area, the matter should be referred to the Atomic Safety and Licensing Appeal Board for resolution.

* * * * *

(d) Prior to a hearing, board members should review and become familiar with: The record of any relevant prior proceedings in the case, including initial decisions and Commission orders, the application, the ACRS report, the staff safety evaluation, the applicant's environmental report, the Commission's detailed statement on environmental considerations, all other papers filed in the proceeding, the Commission's rules of practice, and other regulations or published statements of policy of the Commission as may be pertinent to the proceeding.

* * * * *

41. Section II of Appendix A of 10 CFR Part 2 is amended to read as follows:

II. Prehearing Conferences

(a) A special prehearing conference will be held, within sixty (60) days after the notice of hearing has been published, or such other time as the Commission or the Board may deem appropriate, in addition to the standard prehearing conference provided by § 2.752. The special prehearing conference, authorized by § 2.751a, should be used to permit identification of key issues; take steps necessary for further identification of the issues; consider all intervention petitions to allow preliminary or final determination as to the parties; and establish a schedule for further actions in the proceeding.

(b) Within sixty (60) days after discovery has been completed,[3] or such other time as the presiding officer or the Commission deems appropriate, a second prehearing conference—the prehearing conference provided by § 2.752—is held to consider simplification, clarification, and specification of the issues; consider amendments to the pleadings; obtain stipulations and admissions of facts and of the contents and authenticity of documents to avoid unnecessary proof; identification of witnesses; the setting of a hearing schedule; and such other matters as may aid in the orderly disposition of the hearing.

(c) A transcript of each prehearing conference will be prepared. The board will issue an order after the conclusion of the special prehearing conference which recites the action taken at the conference and agreements by the parties, identifies the key issues in controversy, makes a preliminary or final determination as to the parties, and provides for submission of status reports on discovery by the parties. The board will also issue an order after the conclusion of the second prehearing conference that specifies the issues in controversy in the proceeding. Each order shall be served upon all parties to the proceeding. Objections to such order may be filed by a party within five (5) days, or, in the case of the regulatory staff, within ten (10) days. The board may revise the order in the light of the objections presented and, as permitted by § 2.718(i), may certify for determination to the Commission or the Appeal Board, as appropriate, such matters raised in the objections as it deems appropriate. As specified in § 2.752, the order shall control the subsequent course of the proceeding unless modified for good cause.

(d) Prehearing conferences are open to the public except under exceptional circumstances involving such matters as classified information and certain privileged information not normally a part of the hearing record.

(e) The applicant, the regulatory staff and other parties are required to provide each other and the board with copies of prepared testimony in advance of its being offered at the hearing. A schedule may be established at the second prehearing conference for exchange of prepared testimony. Prepared testimony is filed in the Commission's public document room and is available for public inspection. When the staff has reached its conclusions with respect to the application and prepared a safety evaluation, the safety evaluation will be made available—a point of time which may or may not be prior to the hearing.

42. Sections III, IV, V, VII, and VIII of Appendix A of 10 CFR Part 2 are redesignated as sections V, VI, VII, IX, and X, respectively.

43. New sections III and IV are added to Appendix A of Part 2 to read as follows:

III. Intervention and Limited Appearances

(a) (1) As required by § 2.714, a person who wishes to intervene must set forth, in a petition for leave to intervene, his interest in the proceeding, how the interest may be affected by Commission action, and his contentions. Petitions for leave to intervene shall, as a basis for enabling the board or the Commission to determine how the petitioner's interest may be affected by the proceeding, and what his contentions are, set forth (i) the nature of his right under the Act to be made a party to the proceeding; (ii) the nature and extent of the interest that may be affected by the proceeding; and (iii) the effect of any order which may be entered in the proceeding on the petitioner's interest. The petition must be accompanied by a supporting affidavit identifying the specific aspects as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect as to which he desires to intervene. After consideration of any answers to the petition, the board will rule on the petition. If the board finds that the petitioner's interest is limited to one or more of the issues in the proceeding, the intervenor's participation will be limited to those issues.

Petitions which set forth contentions relating only to matters outside the jurisdiction of the Commission will be denied. In any event, the granting of a petition for leave to intervene does not operate to enlarge the issues, or become a basis for receipt of evidence, with respect to matters beyond the jurisdiction of the Commission.

(2) Petitions for leave to intervene which are not filed within the time specified in the notice of hearing will not be granted unless the board determines that the petitioner has made a substantial showing of good cause for failure to file on time and with particular reference to (i) the availability of other means whereby the petitioner's interest will be protected, (ii) the extent to which petitioner's participation may be reasonably expected to assist in developing a sound record, (iii) the extent to which the petitioner's interest will be represented by existing parties, and (iv) the extent to which the petitioner's participation will broaden the issues or delay the proceeding.

(3) Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have all the rights of the applicant to participate fully in the conduct of the hearing, such as the examination and cross-examination of witnesses, with respect to their contentions related to the matters at issue in the proceeding.

(4) If more than one person who has been granted leave to intervene has substantially the same kind of interest that may be affected by the proceeding, and raises the same basic questions, the board or the Commission may order those persons to consolidate their presentation of evidence, cross-examination, briefs, proposed findings of fact and conclusions of law and argument, unless such consolidation cannot be accomplished without prejudice to the rights of a party.

(b) A person who does not wish to, or is not qualified to become a party may be permitted at the discretion of the board, to make a limited appearance pursuant to § 2.715. Persons permitted to make limited appearances do not become parties, but should be permitted to make statements at such stage of the proceeding as the board may consider appropriate. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. The board may wish to limit the length of oral statements. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance for the purpose of making a statement.

IV. Discovery

(a) Once the key issues in controversy are identified in the special prehearing conference order (§ 2.751a.(d)), discovery may proceed and will be limited to those matters. In no event should the parties be permitted to use discovery procedures to conduct a "fishing expedition" or to delay the proceeding.

(b) Under the Commission's rules of practice, discovery permitted by §§ 2.720, 2.740, 2.740a, 2.740b, 2.741, 2.742, and 2.744 must be completed by the second prehearing conference, except upon leave for good cause shown.

(c) Depositions, interrogatories and document production between parties other than the regulatory staff are obtainable on notice or request to the other party and without leave of the Commission or the board, in line with the Federal rules of Civil Procedure.

(d) In general, regulatory staff documents that are relevant to a proceeding will be publicly available as a matter of course unless there is a compelling justification for their nondisclosure. Therefore, document discovery directed at the staff will be tightly restricted, as provided in § 2.744, since most staff documents will be publicly available and should reasonably disclose the basis for the staff's position. Formal discovery of documents against the regulatory staff will be limited to cases where it concerns a matter necessary to a proper decision in a case and the information sought is not obtainable elsewhere. Discovery as a legitimate means of obtaining information will not be inhibited, but in view of the comprehensive body of information routinely available without request, there should be minimum need to resort to time consuming discovery procedures. Discovery against the staff (and other AEC personnel, including consultants) by way of deposition is not permitted, except on a showing of exceptional circumstances, and after certification of the matter to the Commission or the Atomic Safety and Licensing Appeal Board, as appropriate. Interrogatories may be addressed to the staff where the information is necessary to a proper decision in the case and not obtainable elsewhere.

44. Redesignated section V is amended to read as follows:

[3] "Discovery", for this purpose, does not include production of the ACRS report, the regulatory staff's safety evaluation, or the detailed statement on environmental considerations prepared by the Director of Regulation or his designee.

V. THE HEARING

The board should use its powers under §§ 2.718 and 2.757 to assure that the hearing is focused upon the matters in controversy among the parties and that the hearing process for the resolution of controverted matters is conducted as expeditiously as possible, consistent with the development of an adequate decisional record.

The following procedures should be observed in the conduct of public hearings:

(a) Preliminary:

(1) A verbatim transcript will be made of the hearing.

(2) The Chairman should convene the hearing by stating the title of the proceeding and describing its nature.

(3) He should state the date, time, and place at which the prehearing conferences were held, and identify the persons participating in them. He should summarize the second prehearing conference order.

(4) He should explain the procedures for the conduct of the hearing. He should request that counsel for the parties identify themselves on the record, and provide them with the opportunity to make opening statements of their respective positions.

(5) He should describe, for the benefit of members of the public who may be present, the respective roles of the board, the ACRS and the staff, and the Commission procedures for review of the decision. He should also describe the continuing review and inspection surveillance conducted by the Commission after a construction permit or an operating license has been issued.

(b) (1) The Chairman should call attention to the provisions of § 2.715 for participation by limited appearance. He should briefly explain these provisions and the rights of persons who are permitted to make limited appearances.

(2) The Chairman should inquire of those in attendance whether there are any who wish to participate in the hearing by limited appearance.

(3) Should any person seek leave to intervene when the hearing has been convened, he must set forth, with particularity in a written petition, the reasons why it was not possible to file a petition within the time prescribed in the notice of hearing, as described in section III, to afford a basis for the board to determine whether or not good cause has been shown for the untimely filing. In granting a petition for leave to intervene which is not timely filed, the board will impose such conditions as are appropriate to minimize any delay in the proceeding.

(4) A person making a limited appearance may want not only to state his position, but to raise questions which he would like to have answered. This should be permitted to the extent the questions are within the scope of the proceeding as defined by the issues set out in the notice of hearing, the prehearing conference order, and any later orders. Usually such persons should be asked to make their statements and raise their questions early in the proceeding so that the board will have an opportunity to be sure that relevant and meritorious questions are properly dealt with during the course of the hearing.

(5) It is the Commission's view that the rules governing intervention and limited appearances are necessary in the interest of orderly proceedings. The Commission also believes that through these two methods of public participation all members of the public are assured of the right to participate by a method appropriate to their interest in the matter. This should be fully explained at the beginning of the hearing. In some cases the board may feel that it must deny an application to interevne but that it can still accommodate the desire of the person involved by allowing him to make a statement and raise questions under the limited appearance rule.

(6) Boards have considerable discretion as to the manner in which they accommodate their conduct of the hearing to local public interest and the desires of local citizens to be heard. Particularly in cases where it is evident that there is local concern as to the safety of the proposed plant, boards should so conduct the hearing as to give appropriate opportunity for local citizens to express their views, while at the same time protecting the legal interests of all parties and the public interest in an orderly and efficient licensing process.

(7) In some cases, argument and further hearing can add nothing to the filings of the parties. In those cases the board is authorized, pursuant to § 2.749, on motion, to render a decision, if the filings in the proceeding and other materials show that there is no genuine issue as to any material fact. However, in proceedings involving construction permits, this procedure may be used only for determining subordinate issues and not the ultimate issue as to whether the construction permit should be issued.

(c) Opening statements:

(1) It is anticipated that the applicant, who has the burden of proof, will, at an appropriate time early in the proceeding, make an oral statement describing in terms that will be readily understood by the public, the principal safety and environmental considerations involved in carrying out the activity sought to be authorized.

(2) Other parties to the proceeding may also make an oral opening statement describing their position on the proposed licensing action.

(d) Evidence:

(1) Pursuant to § 2.732, the applicant has the burden of proof.

(2) The parties are required to submit direct testimony in written form and serve copies of such prepared written testimony of all parties pursuant to the schedule established at the second prehearing conference—in any event, at least 5 days in advance of the session of the hearing at which such testimony is to be presented, as provided by § 2.743(b), unless the board orders otherwise on the basis of objections presented. The staff's position is reflected primarily in the safety evaluation and final detailed environmental statement. Consequently, the staff will not present its case until these documents are available. The use of such advance written testimony is expected to expedite the hearing process.

(3) The testimony of all witnesses will be given under oath. These witnesses may be collectively sworn at the opening of the hearing or if additional witnesses are called upon to testify at a subsequent stage they may be sworn at the time of their appearance. There is ordinarily no need for oral recital of prepared testimony unless the Board considers that some useful purpose will be served.

(4) The proceedings should be conducted as expeditiously as practicable, without impairing the development of a clear and adequate record. The order of presenting testimony may be freely varied in the conduct of the hearing. The Board may find it helpful to take expert testimony from witnesses on a roundtable basis after the receipt in evidence of prepared testimony.

(5) To prevent unnecessary delays and an unnecessarily large record, the Board may, pursuant to § 2.757, limit cumulative testimony, strike argumentative, repetitious, cumulative, or irrelevant evidence, take other necessary and proper steps to prevent argumentative, repetitious or cumulative cross examination, and impose appropriate time limitations on arguments.

(6) Documentary evidence may be offered in evidence as provided in § 2.743. Such evidence offered during the course of the hearing should be described by counsel, and furnished to the reporter for marking. Documents offered for marking should be numbered in order of receipt. On identification of a document, it may be offered in evidence.

(7) Objections may be made by counsel to any questions or any line of questioning, and to the admission of any document and should be ruled upon by the board. The board may admit the evidence, may sustain the objection, or may receive the evidence, reserving for later determination the question of admissibility. In passing on objections, the board, while not bound to view proferred evidence according to its admissibility under strict application of the rules of evidence in judicial proceedings, should exclude evidence that is irrelevant to issues in the case as defined in the notice of hearing or the prehearing conference order, or that pertains to matters outside the jurisdiction of the board or the Atomic Energy Commission. Irrelevant material in prepared testimony submitted in advance under § 2.743(b) may be subject to a motion to strike under the procedures provided in § 2.730.

(8) Use of scientifically or technically trained persons who are not attorneys to conduct direct or cross-examination on behalf of a party is provided for in § 2.733. This procedure is a privilege, not a right, and may be granted to further the conduct of the hearing. Before permitting such a person to conduct examination of witnesses, the board must determine (i) that he has technical or scientific qualifications, (ii) that he has read the written testimony and any documents which are to be the subject of his examination, and (iii) that he has prepared himself to conduct a meaningful and expeditious examination. Permission to conduct examination will be limited to the areas in which the interrogator is shown to be qualified. The party on whose behalf the interrogator conducts the examination and his attorney are responsible for the interrogator's conduct of examination or cross-examination.

(9) The extent to which challenges to AEC regulations can be made in a licensing proceeding is limited. A party may petition for waiver of or exception to the application of a specified AEC rule or regulation to an aspect of the subject matter of the proceeding. The party must file a petition and an affidavit that identifies the specific aspect of the subject matter of the proceeding as to which application of the rule or regulation would not serve the purpose for which the regulation was adopted and that sets forth with particularity the special circumstances alleged to justify a waiver or exception on that ground (§ 2.758). Upon a finding by the board, based on the petition and affidavits and any material submitted by other parties, that the party has not made a prima facie case, no evidence, discovery, or argument will be allowed on the matter. If the Board finds that such a showing has been made, it will certify the matter, without ruling, directly to the Commission for a determination as to whether the application of the regulation to a particular aspect of the subject matter of the proceeding should be waived or an exception made.

(10) The Commission has recognized the public interest in achieving fair and reasonable settlement of contested proceedings (§ 2.759). Therefore, to the extent not inconsistent with the Act, fair and reasonable settlements are encouraged, either as to particular issues in a proceeding or the entire proceeding.

(11) Unless testimony is being taken on a roundtable basis or there is some occasion for clarification of testimony as rendered, the

board may wish to reserve its questions until the parties have completed questioning of the witnesses, since counsel for the respective parties will generally be prepared to develop the various lines of pertinent questions.

(12) Conferences for the clarification of matters between the board and the parties, or the formulation of more meaningful questions, may be used to expedite the hearing and simplify the record. Informal conferences, including telephone conferences, should be encouraged to this end.

(13) The board should ordinarily not adjourn the hearing once it has begun, except as the hearing may be divided into segments to permit consideration of discrete areas, such as (i) radiological health and safety or (ii) environmental impact. To the extent practicable, legal questions should be resolved prior to the hearing. If the board believes that additional information is required in the presentation of the case, it would be expected to request the applicant or other party to supplement the presentation. If a recess should prove necessary to obtain such additional evidence, the recess should ordinarily be postponed until available evidence has been received.

(14) Many of the time limitations prescribed in part 2 were set to allow the maximum time for the parties to the proceedings to perform various activities. Where the activities covered by the limitations can be performed in less time, the time limits may be reduced by order of the board, if appropriate, where such action would not prejudice a party. Similarly, in any case in which a time limit is not set by part 2, the board should impose reasonable time limits.

(e) *Record:*

(1) The transcript of testimony and the exhibits, together with all of the papers and requests filed in a proceeding, constitute the record for decision, except to the extent that official notice is taken.

(2) Generally speaking, a decision by a board must be made on the basis of evidence which is in the record of the proceeding. A board, however, is expected to use its expert knowledge and experience in evaluating and drawing conclusions from the evidence that is in the record. The board may also take account of and rely on certain facts which do not have to be "proved" since they are "officially noticed"; these facts do not have to be "proved" since they are matters of common knowledge. Pursuant to § 2.743(i) "official notice" may be taken of any fact of which judicial notice might be taken by the courts of the United States and of any technical or scientific fact within the knowledge of the Commission as an expert body. Each fact officially noticed must be specified in the record with sufficient particularity to advise the parties of the matters which have been noticed or brought to the attention of the parties before the final decision, and each party adversely affected by the decision must be afforded an opportunity to controvert the noticed fact. (For example, a board might take "official notice" of the fact that high level wastes are encountered mainly as liquid residue from fuel reprocessing plants.) Matters which are "officially noticed" by a board furnish the same basis for findings of fact as matters which have been placed in evidence and proved in the usual sense.

(f) Participation by board members:

(1) In contested proceedings, the board will determine controverted matters as well as decide whether the findings required by the Act and the Commission's regulations should be made and whether, in accordance with Appendix D of Part 50, the construction permit should be issued as proposed. Thus, in such proceedings, the board will determine the matters in controversy and may be called upon to make technical judgments of its own on those matters. As to matters pertaining to radiological health and safety which are not in controversy, boards are neither required nor expected to duplicate the review already performed by the regulatory staff and ACRS, and they are authorized to rely upon the testimony of the regulatory staff, the applicant, and the conclusions of the ACRS, which are not controverted by any party.

(2) In an uncontested case, boards are neither required nor expected to duplicate the radiological safety review already performed by the regulatory staff and the ACRS and they are authorized to rely upon the testimony of the regulatory staff and the applicant, and the conclusions of the ACRS. The role of the board is not to conduct a de novo evaluation of the application, but rather to decide whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff, including the environmental review pursuant to the National Environmental Policy Act of 1969, has been adequate, to support the findings proposed to be made by the Director of Regulation and the issuance of the construction permit proposed by the Director of Regulation. In doing so, the board is expected to be mindful of the fact that it is the applicant, not the regulatory staff, who is the proponent of the construction permit and who has the burden of proof.

(3) Whether the construction permit proceeding is contested or uncontested, the board will, as to environmental impact matters, (a) determine whether the requirements of section 102(2) (C) and (D) of the National Environmental Policy Act of 1969 and Appendix D of Part 50 of this chapter have been complied with; (b) independently consider the final balance among conflicting factors contained in the record, with a view to determining the appropriate action to be taken; and (c) determine whether the construction permit should be granted, denied, or appropriately conditioned to protect environmental values.

(4) A question may be certified to the Commission or the Appeal Board, as appropriate, for determination when a major or novel question of policy, law or procedure is involved which cannot be resolved except by the Commission or the Appeal Board and when the prompt and final decision of the question is important for the protection of the public interest or to avoid undue delay or serious prejudice to the interests of a party. For example, a board may find it appropriate to certify novel questions as to the regulatory jurisdiction of the Commission or the right of persons to intervene.

(g) Close of hearing:

(1) If, at the close of the hearing, the board should have uncertainties with respect to the matters in controversy because of a need for a clearer understanding of the evidence which has already been presented, it is expected that the board would normally invite further argument from the parties—oral or written or both—before issuing its initial decision. If the uncertainties arise from lack of sufficient information in the record, it is expected that the board would normally require further evidence to be submitted in writing with opportunity for the other parties to reply or reopen the hearing for the taking of further evidence, as appropriate. If either of such courses is followed, it is expected that the applicant would normally be afforded the opportunity to make the final submission.

(2) A board should give each party the opportunity to make a brief closing statement.

(3) A schedule should be set by the board and recorded, either in the transcript or by written order, of the dates upon which the parties are directed by the board to file proposed findings of fact and conclusions of law. Proposed transcript corrections and proposed findings and conclusions are ordinarily filed in the first instance by the applicant, with opportunity for response by the regulatory staff and any intervenor. In uncontested cases, the proposed findings will ordinarily be extremely brief. In contested proceedings, proposed findings of fact and conclusions of law submitted by the parties may be more detailed. While brevity in such submissions is encouraged, the proposed findings and conclusions should be such as to reflect the position of the parties submitting them, and the technical and factual basis therefor.

(4) The board should dispose of any additional procedural requests.

(5) The chairman should formally close the hearing.

45. Redesignated section VI is amended to read as follows:

VI. POSTHEARING PROCEEDINGS, INCLUDING THE INITIAL DECISION

(a) A board, acting through the Chairman, should dispose of procedural requests made after the close of the hearing, including motions of the parties for correction of the transcript. Responses to requests and motions of the parties are made part of the record by issuance of written orders.

(b) On receipt of proposed findings and conclusions from the parties, the board should prepare the initial decision. Under the Administrative Procedure Act and the Commission's regulations, the decision should include:

(1) Findings, conclusions, and rulings, with the reasons or basis for them, on all material issues of fact, law, or discretion presented on the record;

(2) All facts officially noticed and relied on, if any, in making the decision;

(3) The appropriate ruling, order, or denial or relief, with the effective date and time within which exceptions to the initial decision may be filed;

(4) The time when the decision becomes final.

(c) Issues to be decided by the board:

(1) In a contested proceeding for the issuance of a construction permit, the board will determine the following issues:

(i) Whether in accordance with the provisions of § 50.35(a) of this chapter:

(*a*) The applicant has described the proposed design of the facility, including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(*b*) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(*c*) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted, a research and development program reasonably designed to resolve any safety questions associated with such features and components; and

(*d*) On the basis of the foregoing, there is reasonable assurance that

(*1*) Such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facility, and

(*2*) Taking into consideration the site criteria contained in Part 100 of this chapter, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

(ii) Whether the applicant is technically qualified to design and construct the proposed facility;

(iii) Whether the applicant is financially qualified to design and construct the proposed facility;

(iv) Whether the issuance of a permit for the construction of the facility will be inimical to the common defense and security or to the health and safety of the public;

(v) Whether, with respect to the requirements of section 102(2) (C) and (D) of the National Environmental Policy Act, in accordance with Appendix D of Part 50 of this chapter, the construction permit should be issued as proposed.

(2) In an uncontested proceeding for the issuance of a construction permit, the board will, without conducting a de novo evaluation of the application, determine:

(i) Whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff has been adequate, to support the findings proposed to be made and required by the Act for the issuance of the construction permit proposed by the Director of Regulation, and

(ii) Whether the review conducted pursuant to the National Environmental Policy Act of 1969 has been adequate.

(3) Regardless of whether the proceeding is contested or uncontested, the board will, in its initial decision, in accordance with section A.11 of Appendix D of Part 50 of this chapter:

(i) Determine whether the requirements of section 102(2) (C) and (D) of the National Environmental Policy Act and Appendix D of Part 50 of this chapter have been complied with in the proceeding;

(ii) Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and

(iii) Determine whether the construction permit should be issued, denied, or appropriately conditioned to protect environmental values.

(d) It is expected that ordinarily a board will render its initial decision within 35 days after its receipt of proposed findings of fact and conclusions of law filed by the parties in a contested case and within 15 days after receipt of such proposed findings and conclusions in an uncontested case.

(e) The initial decision will be transmitted to the Chief, Public Proceedings Branch, Office of the Secretary, for issuance.

(f) After the board's initial decision is issued, the entire record of the hearing, including the board's initial decision, will be sent to the Commission or the Appeal Board, as appropriate, for review. In the course of this review, the Commission may allow the board's decision to become the final decision of the Commission, may modify a board decision, or may send the case back to the board for additional testimony on particular points or for further consideration of particular issues.

46. Paragraph (c) of redesignated section VII is amended to read as follows:

VII. GENERAL

* * * * *

(c) Sections 2.719 and 2.780 specify the conditions on which there is permitted to be consultation between Commissioners and boards, on the one hand, and the staff, on the other hand, in initial licensing proceedings other than contested proceedings. Section 2.719 also permits a board, in the same type of proceeding, to consult with members of the panel from which members of the boards are drawn. Except for consultation by a board with the Chairman or Vice Chairman of the Atomic Safety and Licensing Board Panel, it is expected that such consultation by a board, when it occcurs, will relate to specific technical matters rather than to matters of broad policy.

Such intraagency consultation and communications are not permitted in contested proceedings. A board may, however, obtain information from the Chairman or Vice Chairman of the Atomic Safety and Licensing Board Panel for the purpose of identifying relevant decisions or statements of Commission policy. It should also be noted that the provisions of § 2.780 prohibiting intraagency consultation and communication in contested proceedings are not applicable to matters certified to the Commission or to the Atomic Safety and Licensing Appeal Board under the Commission's rules in §§ 2.720(h) and 2.744(e), since those matters are not deemed to involve substantive matters at issue in a proceeding on the record.

47. A new section VIII is added to Appendix A of 10 CFR Part 2 to read as follows:

VIII. PROCEDURES APPLICABLE TO OPERATING LICENSE PROCEEDINGS

(a) This section sets out certain differences in procedure from those described in sections I–VII above, which are required by the fact that the proceeding is for the issuance of an operating license rather than a construction permit. Otherwise, the provisions of sections I through VII of this statement of general policy also apply to an operating license proceeding, except as the context requires otherwise.

(b) In an operating license proceeding, the board will determine only the matters in controversy among the parties as the issues to be decided. Those issues will be specified either in the notice of hearing issued by the Commission, or in a prehearing conference order issued by the board. The issues will be the matters in controversy among the parties within the purview of the following:

(1) Whether there is reasonable assurance that construction of the facility will be substantially completed, on a timely basis, in conformity with the construction permit and the application as amended, the provisions of the Act, and the rules and regulations of the Commission;

(2) Whether the facility will operate in conformity with the application as amended, the provisions of the Act, and the rules and regulations of the Commission;

(3) Whether there is reasonable assurance (i) that the activities to be authorized by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;

(4) Whether the applicant is technically and financially qualified to engage in the activities to be authorized by the operating license in accordance with the Commission's regulations;

(5) Whether the applicable provisions of 10 CFR Part 140 have been satisfied;

(6) Whether issuance of the license will be inimical to the common defense and security or to the health and safety of the public; and

(7) Whether, with respect to the requirements of section 102(2) (C) and (D) of the National Environmental Policy Act, in accordance with Appendix D of Part 50, the operating license should be issued as proposed.

(c) The board, in operating license proceedings, will make findings only on the matters in controversy. Depending on the resolution of those matters, the Director of Regulation would issue, deny, or appropriately condition the operating license.

(d) In operating license proceedings, the procedure for summary disposition of the proceeding on the pleadings described in § 2.749 may be used to determine the ultimate issue of whether the operating license should be issued.

48. In paragraph (a) of redesignated section IX of Appendix A of 10 CFR Part 2, the references to sections I(g), III(g)(2), and IV(g) are amended to refer to sections I(e), V(f)(4), and VI(f).

49. In paragraphs (e) and (j) of redesignated section X of Appendix A of Part 2, the references to sections I–IV are amended to refer to sections I–VIII.

PART 9—PUBLIC RECORDS

§ 9.5 [Amended]

50. In 10 CFR Part 9, § 9.5(a)(4)(iv) is revoked.

51. In 10 CFR Part 9, § 9.10(a) is amended to read as follows:

§ 9.10 Production or disclosure of exempt records.

(a) Records of the kind specified in § 9.5(a) shall not be produced or disclosed by AEC personnel, or AEC contractors who have possession of such records, except in accordance with this section or §§ 2.744 and 2.790 of this chapter.

* * * * *

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

52. In § 50.30 of 10 CFR Part 50, a new paragraph (c)(3) is added to read as follows:

§ 50.30 Number of copies of applications.

* * * * *

(c) * * *

(3) The copies required by subparagraphs (1) and (2) of this paragraph (c) need not be filed until the application has been assigned a docket number or docketed, pursuant to § 2.101(a) of this chapter. Ten (10) copies shall be filed to enable a determination as to whether the application is sufficiently complete to permit the assignment of a docket number or docketing, as appropriate.

53. Paragraph (c) of § 50.57 of 10 CFR Part 50 is amended to read as follows:

§ 50.57 Issuance of operating license.

* * * * *

(c) An applicant may, in a case where a hearing is held in connection with a pending proceeding under this section, make a motion in writing, pursuant to this paragraph (c), for an operating license authorizing low-power testing (operation at not more than 1 percent of full power for the purpose of testing the facility), and further operations short of full power operation. Action on such a motion by the presiding officer shall be taken with due regard to the rights of

the parties to the proceeding, including the right of any party to be heard to the extent that his contentions are relevant to the activity to be authorized. Prior to taking any action on such a motion which any party opposes, the presiding officer shall make findings on the matters specified in paragraph (a) of this section as to which there is a controversy, in the form of an initial decision with respect to the contested activity sought to be authorized. The Director of Regulation will make findings on all other matters specified in paragraph (a) of this section. If no party opposes the motion, the presiding officer will issue an order pursuant to § 2.730(e) of this chapter, authorizing the Director of Regulation to make appropriate findings on the matters specified in paragraph (a) of this section and to issue a license for the requested operation.

* * * * *

54. In Appendix D of 10 CFR Part 50, the first and sixth sentences of paragraph A.6., the second sentence of paragraph A.7, paragraph A.10, paragraph A.11, the heading of section C and paragraph C.3 are amended to read as follows:

APPENDIX D—INTERIM STATEMENT OF GENERAL POLICY AND PROCEDURE: IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (PUBLIC LAW 91-190)

* * * * *

A. *Basic procedures.* * * *

6. After receipt of any Applicant's environmental report, the Director of Regulation or his designee will cause to be published in the FEDERAL REGISTER a summary notice of the availability of the report, and the report will be placed in the AEC's public document room at 1717 H Street NW., Washington, D.C. in the public document room established by the Commission in the vicinity of the site of the proposed facility where a file of documents pertaining to the proposed facility is maintained, and in State, regional, and metropolitan clearinghouses in the vicinity of the site of the proposed facility, where documents pertaining to the environmental impact of the proposed facility are made available to members of the public, pursuant to the "Guidelines on Statements on Proposed Federal Actions Affecting the Environment" of the Council on Environmental Quality.[1] * * * The transmittal will request comment on the report and the draft detailed statement within forty-five (45) days or within such longer time as the Commission may deem appropriate. * * *

7. * * * The summary notice to be published pursuant to this paragraph will request, within forty-five (45) days or such longer period as the Commission may determine to be practicable, comment from interested persons on the proposed action and on the draft statement. * * *

* * * * *

10. In a proceeding for the issuance of a construction permit or an operating license for a production or utilization facility described in paragraph 1 in which a hearing is held, the regulatory staff will offer the detailed statement in evidence. Any party to the proceeding may take a position and offer evidence on environmental aspects of the proposed licensing action in accordance with the provisions of Subpart G of Part 2 of this chapter.

[1] 36 F.R. 7724, paragraph 9(b).

11. In a proceeding for the issuance of a construction permit for a production or utilization facility described in paragraph 1, the atomic safety and licensing board will (a) determine whether the requirements of section 102(2) (C) and (D) of the National Environmental Policy Act and this appendix have been complied with in the proceeding, (b) independently consider the final balance among conflicting environmental factors in the record of the proceeding for the permit with a view to determining the appropriate action to be taken, and (c) determine, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, whether the permit should be issued, denied, or appropriately conditioned to protect environmental values.

In a contested proceeding for the issuance of a construction permit for such a facility, the Atomic Safety and Licensing Board will also (d) decide any matters in controversy among the parties and (e) determine whether, in accordance with this appendix, the construction permit should be issued as proposed. In an uncontested proceeding for the issuance of a construction permit for such a facility, the Atomic Safety and Licensing Board will also determine whether the NEPA review conducted by the Commission's regulatory staff has been adequate.

In a proceeding for the issuance of an operating license for a production or utilization facility described in paragraph 1 in which a hearing is held and matters covered by this appendix are in issue, the atomic safety and licensing board will decide those matters in controversy among the parties.

The Atomic Safety and Licensing Board's initial decision may include findings and conclusions which affirm or modify the contents of the detailed statement described in paragraph 8. To the extent that findings and conclusions different from those in the detailed statement are reached, the detailed statement shall be deemed modified to that extent and, as modified, transmitted to the Council on Environmental Quality and made available to the public pursuant to paragraph 9. If the Commission or the Atomic Safety and Licensing Appeal Board, in a decision on review of the initial decision, reaches conclusions different from the Atomic Safety and Licensing Board with respect to environmental aspects, the detailed statement shall be deemed modified to that extent and, as modified, transmitted to the Council on Environmental Quality and made available to the public pursuant to paragraph 9.

* * * * *

C. *Procedures for review of certain construction permits for production or utilization facilities issued prior to January 1, 1970, for which operating licenses have not been issued.* * * *

3. (a) In any facility license proceeding subject to this section C in which the Commission estimates that construction of the facility will be completed by, or soon after, the completion of the review of environmental matters conducted in accordance with this section C, the environmental review will consider the effects of the operation, as well as the construction of, the facility and the Director of Regulation or his designee will, in the detailed statement described in paragraph 2, set forth his conclusion as respects the issuance or denial of an operating license or its appropriate conditioning to protect environmental values. In such a proceeding, a notice of consideration of issuance of operating license will be published in the FEDERAL REGISTER, in lieu of the notice described in paragraph 2 of this section, providing that, within thirty (30) days from the date of publication of the notice, any person whose interest may be affected by the proceeding may file a petition for leave to intervene in accordance with § 2.714 of this chapter and request a hearing with respect to the issuance of an operating license for the facility. Notwithstanding the provisions of section A, the provisions of section D, including paragraphs 2 and 3 of that section, will then be applicable to the proceeding.

(b) In any proceeding other than a proceeding described in subparagraph (a) of this paragraph 3, the review of environmental matters conducted in accordance with this section C will not be duplicated at the operating license stage, absent new significant information relevant to those matters.

(Secs. 3, 161, 68 Stat. 948; sec. 102, 83 Stat. 853; 42 U.S.C. 2013, 2201, 4332)

Dated at Germantown, Md., this 21st day of July 1972.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.72-11730 Filed 7-27-72;8:52 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Army

Section 213.3107 is amended to show that the authority to appoint recovered drug addicts under Schedule A in Army's drug abuse prevention and control program has been expanded to permit the employment under Schedule A of recovered alcoholics in the Department's alcohol abuse prevention and control program, and to show that the limitation of 200 has been raised to 350 under the expanded program.

Effective on publication in the FEDERAL REGISTER (7-28-72), subparagraph (8) of paragraph (a) is amended under § 213.3107 as set out below.

§ 213.3107 **Department of the Army.**

(a) *General.* * * *

(8) Not to exceed 350 positions of members of treatment and counseling teams and related positions, such as those of ward attendants and occupational therapy assistants, to assist in the implementation of an alcohol and drug abuse prevention and control program, when filled by persons who have a history of alcoholism or drug addiction and who have been successfully treated.

* * * * *

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-11689 Filed 7-27-72;8:45 am]

PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that one position of Executive Assistant to the Director, Office of Management and Budget, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (7-28-72), subparagraph (9) is added to paragraph (a) of § 213.3303 as set out below.

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.*

* * *

(9) One Executive Assistant to the Director.

* * * * *

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-11755 Filed 7-27-72;8:51 am]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 12]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco, 1970-71 and Subsequent Marketing Years

RESTRICTION ON USE OF DDT AND TDE

Basis and Purpose. This amendment is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281, et seq.) and the Agricultural Act of 1949, as amended (7 U.S.C. 1421).

The purpose of this amendment is to implement the sampling of producer tobacco at auction warehouses, and on farms where deemed necessary, and for chemical analysis of the samples to measure the amount of residues of DDT, TDE and their metabolites in the cured leaves.

Under the flue-cured tobacco marketing quota regulations (7 CFR 725.111) and the price support regulations (7 CFR 1464.7) price support is denied to producers using pesticides containing DDT or TDE on their 1970 and subsequent tobacco crops. It has been determined that such pesticides were used on some crops in 1971. To protect the salability of tobacco and avoid undue losses to producers, it is necessary to gather probative evidence to discourage the use of such pesticides.

The changes in the marketing quota regulations to accomplish this purpose are as follows:

1. Section 725.87 is amended by adding a new paragraph (d)(3) to have the notation "No Price Support" entered on each marketing card issued for a farm on which such pesticides have been used on the tobacco in the field or after being harvested.

2. Section 725.111 is amended by revoking paragraphs (d) through (f) and adding new paragraphs (d) through (i) to provide for producer's right to recertify, collection of samples, chemical analyzation of sample, producer refusal to permit sampling, notice to farm operator, and producer's right to appeal.

Since auction markets will soon open for producer sales of the 1972 crop of flue-cured tobacco, it is found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. The amendment contained herein shall become effective upon the date of filing with the Director, Office of the Federal Register.

The amendments are as follows:

1. Paragraph (d) of section 725.87 is amended by adding a new subparagraph (3).

§ 725.87 Issuance of marketing cards.

* * * * *

(d) *Farms not eligible for price support.* The marketing card issued for a farm shall have the notation "No Price Support" where any of the following conditions exist: * * *

(3) The county committee has determined that the tobacco was treated with DDT or TDE after being transplanted in the field or after being harvested from the farm.

* * * * *

2. Section 725.111 is amended by revoking paragraphs (d) through (f) and adding new paragraphs (d) through (i).

§ 725.111 Determination of use of DDT and TDE.

* * * * *

(d) *Producers right to recertify.* Any producer on a farm shall have the right to recertify on MQ-38 to the use or nonuse of DDT or TDE if the recertification is filed with the county committee prior to the time any tobacco has been marketed from the farm or a request has been made to collect a sample of cured leaves.

(e) *Collection of samples for chemical analysis.* Samples shall be collected from selected producer tobacco crops during weigh-in at the auction warehouse. Samples shall also be collected on any farm where the county committee has reason to believe the producer used DDT or TDE on the tobacco and the producer certified to nonuse of DDT or TDE on the crop.

(f) *Producer refusal to permit sampling.* If a producer or producer representative refuses to permit the sampling of a tobacco crop, all tobacco of such crop produced on the farm shall be considered by the county committee to have been treated with DDT or TDE.

(g) *Chemical analyzation of samples.* Each sample shall be analyzed for residues of DDT, TDE, and their metabolites.

(h) *Notice to farm operator.* A written notice shall be furnished to the operator of each farm where the county committee determines that tobacco, after being transplanted in the field or after being harvested from a farm, was treated with DDT or TDE. Such determination by the county committee shall be based on (1) the certification on MQ-38, or (2) failure to file MQ-38, or (3) refusal to permit sampling, or (4) chemical analysis showing total DDT-TDE residue to be greater than or equal to 3 parts per million. The notice to the farm operator shall constitute notice to all persons who as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco being grown on the farm.

(i) *Producer's right to appeal.* Any producer on a farm who believes that the DDT-TDE determination for the farm by the county committee is not correct may file an appeal with the county committee asking for reconsideration of such determination. The request for appeal and facts constituting a basis for such reconsideration must be submitted in writing and postmarked or delivered to the county committee within 7 days after the date of mailing of the notice of such determination. The request for appeal must be signed by the person making the appeal. If the appellant believes that the county committee's determination on such appeal is not correct, he may appeal to the State committee within 7 days after the date of mailing of the notice of the decision of the county committee. The decision of the State committee shall be final.

(Secs. 375, 52 Stat. 66, as amended, 101, 106, 401, 63 Stat. 1051, as amended, 1054, 74 Stat. 6; 7 U.S.C. 1375, 1421, 1441, 1445)

Effective date. Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on July 25, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-11800 Filed 7-27-72;8:55 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lime Reg. 7, Amdt. 1]

PART 911—LIMES GROWN IN FLORIDA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911; 37 F.R. 10497), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act

of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Florida Lime Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of limes available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lime Regulation 7. The marketing picture now indicates that there is a greater demand for limes than existed when the regulation was made effective, due to hot weather. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of limes to fill the current market demand thereby making a greater quantity of limes available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of limes grown in Florida.

(b) *Order, as amended.* The provision in paragraph (b)(1) of § 911.407 (Lime Regulation, 7, 37 F.R. 14687) is hereby amended to read as follows:

§ 911.407 Lime Regulation 7.

* * * * *

(b) *Order.* (1) The quantity of limes grown in Florida which may be handled during the period July 23, 1972, through July 29, 1972, is hereby fixed at 22,500 bushels.

* * * * *

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

Dated: July 24, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-11724 Filed 7-27-72;8:48 am]

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREG.

Expenses and Rate of Assessment

On July 6, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 13269) regarding proposed expenses and the related rate of assessment for the period April 1, 1972, through March 31, 1973, pursuant to the Marketing Agreement and Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oreg. This notice allowed interested persons 10 days during which they could submit written data, views, or arguments pertaining to the proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Washington-Oregon Fresh Prune Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 924.212 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Washington-Oregon Fresh Prune Marketing Committee during the period April 1, 1972, through March 31, 1973, will amount to $13,080.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 924.41, is fixed at $1.50 per ton of fresh prunes.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of fresh prunes grown in the designated production area are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable prunes handled during the aforesaid period; and (3) such period began on April 1, 1972, and said rate of assessment will automatically apply to such prunes beginning with such date.

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

Dated: July 25, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-11801 Filed 7-27-72;8:55 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 4, Amdt. 10]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Postlicensing Issuance of Securities

On April 27, 1972, the Small Business Administration (SBA) published in the FEDERAL REGISTER (37 F.R. 8468) a proposed amendment to 13 CFR Part 107 which would amend § 107.805 to permit licensed small business investment companies registered under the Investment Company Act of 1940 to issue "qualified" stock options as defined in section 422 of the Internal Revenue Code, subject to the limitations set forth in the proposed amendment.

Interested persons were invited to submit written comments and suggestions for consideration within thirty (30) days from the date of publication of the notice of proposed rule making in the FEDERAL REGISTER. After consideration of the comments received and other factors involved, it has been decided to adopt the proposed amendment of § 107.805. The text of the amendment set out below is identical with that of the proposed amendment published April 27, 1972, except for (1) amending § 107.805 (a) to allow also for stock options for new officers and employees within specified limits; (2) the incorporation of a new provision stating that stock options issued pursuant to new § 107.805(b)(1) will not be deemed compensation by SBA; and (3) certain technical changes pertaining to paragraph numbers and titles and the correction of a typographical error in the existing section.

Licensees other than 1940 act companies remain authorized to issue stock options which do not meet the requirements of the new subparagraph. By order dated July 20, 1972, the Securities and Exchange Commission has approved section 107.805 as now amended, thus implementing its order of May 14, 1971, which granted a limited exemption from the Investment Company Act of 1940 to licensees subject to that act.

Pursuant to authority contained in section 308(c) of the Small Business Investment Act of 1958, as amended (act), 72 Stat. 694 as amended, 15 U.S.C. 687(c), Part 107 of Chapter I of Title 13 of the Code of Federal Regulations (revised as of January 1, 1972), as amended in 37 F.R. 3950 and 37 F.R. 8865, is hereby further amended by amending § 107.805 to read as follows:

§ 107.805 Postlicensing issuance of securities.

(a) *General.* A licensee may issue any of its securities, including stock options to management and employees, for (1) cash, (2) direct obligations of, or obligations guaranteed as to principal and interest by, the United States, (3) securities of which it is the issuer, in connection with a reclassification approved by SBA, (4) services previously rendered to the licensee not to exceed the fair value thereof, (5) physical assets to be currently employed in the operation of the licensee at the fair market value thereof, (6) as a dividend, and (7) in connection with a merger, consolidation, or reorganization approved by SBA: *Provided, however,* That any shares of stock issued a part of licensee's minimum capital pursuant to § 107.101(d) must be paid for in cash or securities permitted by the last sentence of section 308(b) of the act: *And provided, further,* That any licensee may also issue stock options for

services to be rendered on the terms and within the limits set forth in paragraph (b) (1) of this section.

(b) *Stock options*—(1) *Authorized for 1940 act companies; terms and conditions.*[1] A licensee which is registered as an investment company under the Investment Company Act of 1940 may issue stock options, provided each such option is a "qualified stock option" as defined in section 422 of the Internal Revenue Code and is granted pursuant to a plan which provides that—

(i) The option by its terms shall provide that it is exercisable by the individual to whom it is granted only if, at all times during the period beginning with the date of the granting of the option and ending 3 months before the date of such exercise, such individual was an employee or officer of either the licensee which granted such option or a wholly owned subsidiary thereof, or a successor licensee or a wholly owned subsidiary thereof;

(ii) The aggregate number of shares of any class of stock which may be issued under options pursuant to the terms of the plan shall not exceed 7½ percent of the total number of outstanding shares of such class (less shares reacquired and held in the treasury) at the time the plan is adopted;

(iii) The individuals who are officers or employees of the licensee or of a wholly owned subsidiary thereof at the time the plan is adopted may not receive options to acquire more than an aggregate of 66⅔ percent of the total number of shares of each class of stock which may be issued under options pursuant to the terms of the plan; and

(iv) No individual may receive an option or options to purchase more than 35 percent of the aggregate number of shares of each class which may be issued under options pursuant to the terms of the plan.

(2) *Stock options not deemed compensation.* Stock options issued by any licensee, including a 1940 act company, which comply with the requirements of foregoing subparagraph (1) of this paragraph shall be deemed not to constitute "compensation" for purposes of any requirement of prior written consent of SBA with respect to increases of salaries or other compensation beyond the amounts approved by SBA.

Effective date. In view of the determination made that it is in the public interest that this amendment be applied promptly to the Small Business Investment Company program, it shall become effective on August 1, 1972.

Dated: June 24, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-11676 Filed 7-27-72; 8:45 am]

[1] By order of May 14, 1971 (Investment Company Act Release No. 6523), the Securities and Exchange Commission (SEC) granted a limited exemption to permit registered small business investment companies to issue qualified stock options to officers and employees, subject to the condition that such exemption not be effective until SBA notifies SEC of the adoption of relevant regulations satisfactory to SEC. On July 7, 1972, SBA notified SEC that it would adopt these regulations to be effective August 1, 1972. By order of July 20, 1972 (Investment Company Act Release No. 7284) (37 F.R.____), SEC found that such regulations, insofar as they relate to registered small business investment companies, are satisfactory to SEC and ordered the exemption granted by its order of May 14, 1971, further limited to permit the issuance of only such options as comply with paragraph (b) (1) of this section, effective Aug. 1, 1972.

[Rev. 2]

PART 119—ECONOMIC OPPORTUNITY LOANS

In view of the fact that the changes in this revision of the regulations relate primarily to clarification of existing procedures for determining interest rates and reflection of changes in the names of field offices, the Agency has determined that notice of public procedures is unnecessary and that this revision shall become effective upon publication in the FEDERAL REGISTER (7-28-72).

GENERAL

Sec.
119.1 Statutory provisions.
119.2 Program objectives.
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ECONOMIC OPPORTUNITY LOANS

119.21 Eligibility.
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119.61 Application procedure.
119.71 Applicability of other SBA regulations.
119.81 Technical assistance and management training.
119.91 Evaluation.

AUTHORITY: The provisions of this Part 119 are issued under title V of the Economic Opportunity Act, as amended, 42 U.S.C. 2901, et seq.

GENERAL

§ 119.1 Statutory provisions.

STATEMENT OF PURPOSES

SEC. 401. It is the purpose of this title to assist in the establishment, preservation, and strengthening of small business concerns and improve the managerial skills employed in such enterprises, with special attention to small business concerns (1) located in urban or rural areas with high proportions of unemployed or low-income individuals, or (2) owned by low-income individuals; and to mobilize for these objectives private as well as public managerial skills and resources.

LOANS, PARTICIPATIONS, AND GUARANTIES

SEC. 402. (a) The Administrator of the Small Business Administration is authorized to make, participate (on an immediate basis) in or guarantee loans, repayable in not more than 15 years, to any small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632) and regulations issued thereunder), or to any qualified person seeking to establish such a concern, when he determines that such loans will assist in carrying out the purposes of this title, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals: *Provided, however,* That no such loans shall be made, participated in, or guaranteed if the total of such Federal assistance to a single borrower outstanding at any one time would exceed $50,000. The Administrator of the Small Business Administration may defer payments on the principal of such loans for a grace period and use such other methods as he deems necessary and appropriate to assure the successful establishment and operation of such concern. The Administrator of the Small Business Administration may, in his discretion, as a condition of such financial assistance, require that the borrower take steps to improve his management skills by participating in a management training program approved by the Administrator of the Small Business Administration: *Provided, however,* That any management training program so approved must be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial selfsufficiency. The administrator of the Small Business Administration shall encourage, as far as possible, the participation of the private business community in the program of assistance to such concerns, and shall seek to stimulate new private lending activities to such concerns through the use of the loan guaranties, participations in loans, and pooling arrangements authorized by this section.

(b) To the extent necessary or appropriate to carry out the programs provided for in this title the Administrator of the Small Business Administration shall have the same powers as are conferred upon the Director by section 602 of this Act. To insure an equitable distribution between urban and rural areas for loans between $3,500 and $25,000 made under this title, the Administrator is authorized to use the agencies and agreements and delegations developed under title III of the Act as he shall determine necessary.

(c) The Administrator shall provide for the continuing evaluation of programs under this section, including full information on the location, income characteristics, and types of business and individuals assisted, and on new private lending activity stimulated, and the results of such evaluation together with recommendations shall be included in the report required by section 608.

LOAN TERMS AND CONDITIONS

SEC. 403. Loans made pursuant to section 402 (including immediate participation in and guaranties of such loans) shall have such terms and conditions as the Administrator of the Small Business Administration shall determine, subject to the following limitations—

(a) There is reasonable assurance of repayment of the loan;

(b) The financial assistance is not otherwise available on reasonable terms from private sources or other Federal, State or local programs;

(c) The amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made;

(d) The loan bears interest at a rate not less than (1) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (2) such additional charge, if any, toward covering other costs of the program as the Administrator of the Small Business Administration may determine to be consistent with its purposes: *Provided, however,* That the rate of interest charged on loans made in redevelopment areas designated under the Area Redevelopment Act (42 U.S.C. 2501 et seq.) shall not exceed the rate currently applicable to new loans made under section 6 of that Act (42 U.S.C. 2505); and

(e) Fees not in excess of amounts necessary to cover administrative expenses and probable losses may be required on loan guaranties.

DISTRIBUTION OF FINANCIAL ASSISTANCE

SEC. 404. The Administrator of the Small Business Administration shall take such steps as may be necessary to insure that, in any fiscal year, at least 50 per centum of the amounts loaned or guaranteed pursuant to this part are allotted to small business concerns located in urban areas identified by the Director, after consideration of any recommendations of the Administrator of the Small Business Administration, as having high concentrations of unemployed or low-income individuals or to small business concerns owned by low-income individuals. The Administrator of the Small Business Administration, after consideration of any recommendations of the Director, shall define the meaning of low income as it applies to owners of small business concerns eligible to be assisted under this part, and such definition need not correspond to the definition of low income as used elsewhere in this Act.

LIMITATION OF FINANCIAL ASSISTANCE

SEC. 405. No financial assistance shall be extended pursuant to this title where the Administrator of the Small Business Administration determines that the assistance will be used in relocating establishments from one area to another if such relocation would result in an increase in unemployment in the area of original location.

§ 119.2 Program objectives.

(a) The principal purpose of the Economic Opportunity Loan Program is to make funds available on reasonable terms and maturities to small business concerns located in areas with high proportions of unemployment or low-income individuals, or small business concerns owned by or to be established by persons with low incomes; and to provide management assistance to such persons.

(b) Particular emphasis will be placed on the preservation or establishment of small business concerns located in urban and rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals or those, who due to social or economic disadvantage, have been denied the opportunity to acquire adequate business financing through normal lending channels on reasonable terms. At least 50 percent of these loans will be made in each fiscal year in certain designated urban areas and to low-income individuals in urban or rural areas.

(c) Although certain of the credit standards used in the regular business loan program have been modified for the economic opportunity loan program, there must be a reasonable assurance of repayment. The maximum participation of the private business community in all phases of this program is to be encouraged. The program shall be administered to promote and facilitate this private participation.

§ 119.11 Definitions.

For purposes of this part:

(a) "Director" means the Director, Office of Economic Opportunity.

(b) "Administrator" means the Administrator of the Small Business Administration.

(c) "SBA" means the Small Business Administration.

(d) "Small-business concern" means a business concern which would qualify as a small business under § 121.3–10 of this chapter.

(e) The "Act" means the Economic Opportunity Act of 1964, as amended.

(f) "Economic Opportunity Loans" (EOL) means a loan authorized under section 402(a) of the Economic Opportunity Act of 1964, as amended.

ECONOMIC OPPORTUNITY LOANS

§ 119.21 Eligibility.

(a) In order to be eligible to apply for an EOL, a business must qualify under Parts 120 and 121 of this chapter, except where inconsistent with specific provisions in this part.

(b) The applicant must be at least 50 percent owned by a person or persons who either (1) has or have individual annual family income(s) (other than welfare) which is not sufficient to satisfy the basic need of each such individual family, or (2) has or have been denied the opportunity to have access to adequate financing on reasonable terms, through normal lending channels because of economic or social disadvantage. Businesses located in urban or rural areas with a high proportion of unemployed or low-income individuals may be considered economically disadvantaged.

(c) Financial assistance may be used to effect a change in ownership of a business where such a change will further the objectives of the EOL program.

(d) A cooperative association is eligible provided that its members are eligible, small business concerns. Consumer cooperatives are not eligible.

(e) Financial assistance shall not be extended when it is determined that the loan funds will be used in relocating establishments from one area to another if the relocation would result in an increase in unemployment in the area of original location. (Relocation within a community or local area shall not be considered relocation from one area to another.)

(f) Financial assistance shall not be extended if funds are otherwise available on reasonable terms from private sources or other Federal, State, or local programs. The applicant's bank of account, if any, will be contacted to determine its willingness to finance the applicant independently, to participate with SBA, or to make a loan with a guaranty by SBA. New private lending activity should be sought.

§ 119.31 Terms and conditions.

(a) An EOL shall not be made, participated in, or guaranteed if the total amount of the Government's share of such assistance to a single borrower at any one time exceeds a total outstanding of $50,000. The $50,000 loan limit applies collectively to all EOL loans to business entities owned or controlled by affiliated ownership.

(b) Repayment will be required at the earliest feasible date giving consideration to the use to be made of the funds and indicated ability to repay. Working capital loans will be limited to 10 years. Longer terms up to 15 years may be provided where the proceeds are for acquisition of realty or other fixed assets. Where a combination of purposes is involved, the period for repayment will be adjusted accordingly. When deemed necessary, grace periods for payment of principal may be provided. Interest payments must be as soon after the loan is disbursed as possible and will be required during any grace period. A fluctuating repayment schedule may be established for seasonal businesses.

(c) (1) Interest on direct loans varies from time to time, based on a statutory formula. On immediate participation loans, the interest rate on SBA's share is the same as for direct loans.

(2) Subject to the approval of SBA, the participant's share of immediate participation loans, and on guaranteed loans prior to SBA's purchase, the interest rate shall be at a legal and reasonable rate. Maximum allowable rates may be published in the FEDERAL REGISTER from time to time.

(3) The interest rate on SBA's share of a guaranteed loan after purchase by SBA becomes the same as the rate for direct loans in effect at the time the loan was approved by SBA. SBA's payment to the guaranteed participant of accrued interest to the date of purchase shall be at the interest rate established by participant but shall not exceed an effective rate of interest of 8 percent per annum, and without any future adjustment for any unpaid accrued interest in excess of 8 percent per annum.

(d) There are no statutory requirements with respect to collateral for loans. Inadequate collateral shall not be used as a reason to decline unless the applicant refuses to pledge whatever worthwhile collateral is available.

§ 119.41 Participation.

(a) The amount of SBA guaranty may be up to 100 percent of the EOL, but shall not exceed $50,000.

(b) In immediate participation loans, SBA participation shall not exceed $50,000 or 90 percent of the loan, whichever is the lesser. The service fees charged by the bank may equal but not exceed those which it charges on regular business loans.

§ 119.51 Credit requirements.

An application must meet certain practical credit requirements established by SBA. Principal requirements are as follows:

(a) An applicant must be of good character as determined by SBA.

(b) There must be evidence of ability to operate the business successfully. When, in the opinion of SBA, an applicant requires management assistance to attain, supplement or improve such ability, SBA may require that the applicant accept such management assistance as SBA may prescribe, as a condition of the loan.

(c) As required by the Act, there must be reasonable assurance of repayment of the loan.

(d) There must be evidence that the loan proceeds, together with other funds available to the applicant, are adequate to assure completion or achievement of the purposes for the loan.

(e) The purposes of the financial assistance must be consistent with the intent of the Act (Economic Opportunity Act of 1964, as amended).

§ 119.61 Application procedure.

(a) An applicant desiring to obtain an EOL shall apply to the regional or district office serving the area in which the applicant resides. If another SBA office is closer, he may obtain counseling or advice from it. Addresses of regional and district offices may be obtained from SBA.

(b) If, following a preliminary review of the applicant's case, the SBA finds the applicant's request worthy of further consideration, an SBA loan officer will assist the applicant in the preparation of necessary application forms and supporting documents.

(c) After a direct loan application has been submitted to SBA and has been approved or declined, the regional or district office will send a letter of notification to the applicant. In cases of decline, the reasons will be stated. When a bank is participating, the bank will be notified of the final decision.

§ 119.71 Applicability of other SBA regulations.

All applicable provisions of Parts 120 and 122 of this chapter shall apply to EOL's except where other provision is made in this part.

§ 119.81 Technical assistance and management training.

(a) A management evaluation guide will be prepared for all direct EOL applicants before approving the loan.

(b) Where public or private nonprofit organizations render management guidance, training, and counseling, SBA will cooperate with such organizations in providing both financial and management assistance.

§ 119.91 Evaluations.

A continuing evaluation of this program will be made including full information on the location, income characteristics, and types of businesses and individuals assisted, and on new private lending activity stimulated.

Effective date: July 28, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-11702 Filed 7-27-72;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-SO-73]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the NAS Albany, Ga., control zone.

The NAS Albany control zone is described in § 71.171 (37 F.R. 2056). In the description, an extension is predicated on Albany VORTAC 110° radial. The VOR-A Instrument Approach Procedure for which this extension was designated to provide controlled airspace protection has been canceled. It is necessary to alter the description by revoking this extension. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the NAS Albany, Ga., control zone is amended as follows:

"* * * within 2 miles each side of Albany VORTAC 110° radial, extending from the 5-mile radius zone to the VORTAC ° * *" is deleted.

(Sec. 307(a), of Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on July 18, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-11693 Filed 7-27-72;8:46 am]

[Airspace Docket No. 72-GL-11]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On pages 5640 and 5641 of the FEDERAL REGISTER dated March 17, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of the Federal Aviation Regulations so as to alter the transition area at Prairie Du Chien, Wis.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted subject to the following change:

Line 8 of the transition area description beiginning with "; and that" and continuing to the end of the transition area description, should be deleted.

This amendment shall be effective 0901 G.m.t., September 14, 1972.

(Sec. 307(a), of Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Des Plaines, Ill., on June 29, 1972.

LYLE K. BROWN,
Director, Great Lakes Region.

In § 71.181 (37 F.R. 2143), the following transition area is added:

PRAIRIE DU CHIEN, WIS.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Prairie Du Chien Municipal Airport (latitude 43°01'17" N., longitude 91°07'24" W.); and within 4.5 miles each side of the 130° radial of the Waukon VOR TAC, extending from the 9.5-mile radius to 18.5 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 55-mile radius to the Waukon VORTAC between the 089° and 145° radials excluding the portion which overlies the Dubuque and Lone Rock, Wis., transition areas.

[FR Doc.72-11692 Filed 7-27-72;8:46 am]

[Docket No. 12085, Amdt. 822]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's effective August 10, 1972:

Wise, Va.—Lonesome Pine Airport; VOR Runway 24, Original; Established.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's effective August 24, 1972:

McAllen, Tex.—Miller International Airport; VOR-A, Amdt. 7; Revised.
McAllen, Tex.—Miller International Airport; VOR Runway 13, Amdt. 8; Revised.

3. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's effective September 7, 1972:

El Monte, Calif.—El Monte Airport; VOR/DME-A, Original; Canceled.
El Monte, Calif.—El Monte Airport; VOR-A, Amdt. 1; Revised.
Stockton, Calif.—Stockton Metropolitan Airport; VOR Runway 29R, Amdt. 13; Revised.

4. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's effective August 24, 1972:

McAllen, Tex.—Miller International Airport; NDB Runway 13, Original; Established.

5. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's effective September 7, 1972:

Stockton, Calif.—Stockton Metropolitan Airport; NDB Runway 29R, Amdt. 10; Revised.

6. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's effective July 14, 1972:

Covington, Ky.—Greater Cincinnati Airport; ILS Runway 9R, Amdt. 3; Revised.
Dallas, Tex.—Dallas Love Field; ILS Runway 13L, Amdt. 19; Revised.

7. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's effective August 24, 1972:

McAllen, Tex.—Miller International Airport; ILS Runway 13, Original; Established.

8. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's effective September 7, 1972:

Stockton, Calif.—Stockton Metropolitan Airport; ILS Runway 29R, Amdt. 12; Revised.

9. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAP's effective September 7, 1972:

Baltimore, Md.—Friendship International Airport; RNAV Runway 22, Amdt. 1; Revised.
Binghamton, N.Y.—Broome County Airport; RNAV Runway 10, Amdt. 1; Revised.
Binghamton, N.Y.—Broome County Airport; RNAV Runway 16, Amdt. 1; Revised.
Binghamton, N.Y.—Broome County Airport; RNAV Runway 28, Amdt. 1; Revised.
Cedar Rapids, Iowa—Cedar Rapids Municipal Airport; RNAV Runway 26, Original; Established.
Des Moines, Iowa—Des Moines Municipal Airport; RNAV Runway 12L, Original; Established.
Elmira, N.Y.—Chemung County Airport; RNAV Runway 6, Amdt. 1; Revised.
Lincoln, Nebr.—Lincoln Municipal Airport; RNAV Runway 14, Original; Established.
Newark, N.J.—Newark Airport; RNAV Runway 11, Amdt. 2; Revised.
Norfolk, Va.—Norfolk Regional Airport; RNAV Runway 13, Amdt. 2; Revised.
Poughkeepsie, N.Y.—Dutchess County Airport; RNAV Runway 6, Amdt. 1; Revised.
Richmond, Va.—Richard Evelyn Byrd International Airport; RNAV Runway 20, Amdt. 1; Revised.
Salisbury, Md.—Salisbury-Wicomico County Airport; RNAV Runway 4, Amdt. 1; Revised.
Salisbury, Md.—Salisbury-Wicomico County Airport; RNAV Runway 22, Amdt. 1; Revised.
White Plains, N.Y.—Westchester County Airport; RNAV Runway 34, Amdt. 1; Revised.
Wildwood, N.J.—Cape May County Airport; RNAV Runway 19, Amdt. 1; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on July 20, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.72-11696 Filed 7-27-72;8:46 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table. This entry differs from prior entries to the table in that a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies (1) the effective date of the authorization of the sale of flood insurance in the area under the emergency or under the regular flood insurance program; or (2) the effective date of a community's withdrawal from the program. The entry reads as follows:

§ 1914.4 **List of eligible communities.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Ventura	Port Hueneme	I 06 111 2890 01 I 06 111 2890 02	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the Director of Public Works, City Hall, 220 North Market St., Port Hueneme, CA 93041.	May 14, 1971. Emergency. July 28, 1972. Regular.
Do	Kern	Unincorporated areas.				Sept. 10, 1971. Emergency. July 28, 1972. Withdrawn.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
Indiana	Monroe	Bloomington				July 28, 1972. Emergency.
New Jersey	Monmouth	Brielle Borough				Do.
Do	Morris	Rockaway Township.				Do.
New York	Suffolk	Quogue				Do.
Ohio	Greene	Bellbrook				Do.
Rhode Island	Bristol	Warren	I 44 001 0225 03 through I 44 001 0225 08	Rhode Island Statewide Planning Program, 265 Melrose St., Providence, R.I. 02907. Rhode Island Insurance Division, 169 Weybosset St., Providence, R.I. 02903.	Office of the Town Clerk, Town Hall, Main St., Warren, R.I. 02885.	Sept. 11, 1970. Emergency. July 28, 1972. Regular.
Do	Washington	Westerly	I 44 009 0240 02 through I 44 009 0240 10	do	Office of the Town Clerk, Town Hall, Broad St., Westerly, R.I. 02891.	Aug. 14, 1970. Emergency. July 28, 1972. Regular.
Tennessee	Anderson	Clinton				July 28, 1972. Emergency.
Texas	Brazoria	Richwood	I 48 039 5765 01	Texas Water Development Board, Post Office Box 13087, Capitol Station, Austin, TX 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Office of the City Secretary, City Hall, City of Richwood, 215 Halbert St., Clute, TX 77531.	Aug. 20, 1971. Emergency. July 28, 1972. Regular.
Washington	Cowlitz	Kelso				July 28, 1972. Emergency.

(National Flood Insurance Act of 1968 (Title XIII, Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; designation of Acting Federal Insurance Administrator effective Aug. 13, 1971, 36 F.R. 16701, Aug. 25, 1971.)

Issued: July 20, 1972.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.72–11565 Filed 7–27–72;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Ventura	Port Hueneme	H 06 111 2890 01 H 06 111 2890 02	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the Director of Public Works, City Hall, 220 North Market St., Port Hueneme, CA 93041.	May 14, 1971.
Indiana	Monroe	Bloomington				July 28, 1972.
New Jersey	Monmouth	Brielle Borough				Do.
Do	Morris	Rockaway Township.				Do.
New York	Suffolk	Quogue				Do.
Ohio	Greene	Bellbrook				Do.
Rhode Island	Bristol	Warren	H 44 001 0225 03 through H 44 001 0225 08	Rhode Island Statewide Planning Program, 265 Melrose St., Providence RI 02907. Rhode Island Insurance Division, 169 Weybosset St., Providence, RI 02903.	Office of the Town Clerk, Town Hall, Main St., Warren, R.I. 02885.	Sept. 11, 1970.
Do	Washington	Westerly	H 44 009 0240 02 through H 44 009 0240 10	do	Office of the Town Clerk, Town Hall, Broad St., Westerly, R.I. 02891.	Aug. 14, 1970.
Tennessee	Anderson	Clinton				July 28, 1972.
Texas	Brazoria	Richwood	H 48 039 5765 01	Texas Water Development Board, Post Office Box 13087, Capitol Station, Austin, TX 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Office of the City Secretary, City Hall, City of Richwood, 215 Halbert St., Clute, TX 77531.	Aug. 20, 1971.
Washington	Cowlitz	Kelso				July 28, 1972.

(National Flood Insurance Act of 1968 (Title XIII, Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; designation of Acting Federal Insurance Administrator effective Aug. 13, 1971, 36 F.R. 16701, Aug. 25, 1971.)

Issued: July 20, 1972.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.72–11566 Filed 7–27–72;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

[Federal Procurement Regs.; Temporary Reg. 28]

PART 1–1—GENERAL

Stabilization of Prices, Rents, Wages, and Salaries

To: Heads of Federal agencies; Subject: Stabilization of prices, rents, wages, and salaries.

1. *Purpose.* This FPR Temporary Regulation amends procedures previously established in FPR Temporary Regulations 23 and 26.

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER (7–28–72).

3. *Expiration date.* This regulation will remain in effect until canceled or until the requirements of Executive Order 11615, August 15, 1971, as superseded by Executive Order 11627, October 14, 1971, which in turn was superseded by Executive Order 11640, January 26, 1972, expire.

4. *Background.* Executive Order 11615, August 15, 1971, provided for the stabilization of prices, rents, wages, and salaries. FPR Temporary Regulation 22[1] provided procedures which implemented that order. Executive Order 11627, October 15, 1971, superseded the earlier order and was implemented by FPR Temporary Regulation 23.[2] On February 22, 1972, FPR Temporary Regulation 24[3] was issued which required the use of a Notice of Maximum Permissible Escalation in Wage and Price Standards. Executive Order 11640, January 26, 1972, superseded Executive Orders 11615 and 11627 and was implemented by FPR Temporary Regulation 26.[4] The order included the following provision:

SEC. 14. All orders, regulations, circulars, or other directives issued and all other actions taken pursuant to Executive Order No. 11615, as amended, and Executive Order No. 11627, as amended, and in effect on the date of this order, are hereby confirmed and ratified, and shall remain in full force and effect, as if issued under this order, unless and until altered, amended, or revoked by the Council or by such competent authority as the Council may specify.

Effective May 1, 1972, the Cost of Living Council issued an order exempting small businesses with 60 or fewer employees from wage and price controls (37 F.R. 8939). The only small industries not affected are those in the health services and construction industries which, regardless of their size, are not exempt from controls. This regulation implements the Council's order by modifying the required price certification to include appropriate references to the small business exemption.

5. *Effect on other issuances.* FPR Temporary Regulations 22, 23, 24, and 26 remain in effect with respect to outstanding contracts and solicitations, except as they are modified by paragraph 6 of this regulation.

6. *Explanation of changes.*

a. Section 1–1.321–1 is revised to read as follows:

§ 1–1.321–1 Solicitations.

Price certifications shall be included in all solicitations (invitations for bids and requests for proposals), excluding small purchases under $2,500 and any contracts resulting therefrom (see § 1–1.321–2). A price certification is prescribed in paragraph (a) which may be employed as provided therein. By signing the offer, each offeror shall be deemed either to have certified appropriately as to price or to have certified that he is a small business as set forth in the Cost of Living Council order. Solicitations and invoices for use in the health services or construction industries field shall exclude any reference to such small business exemption.

(a) *Price certification.* Agencies shall satisfy the requirements of this section by employing the price certification set forth in this paragraph (a), except to the extent that the price certification prescribed in paragraph (b) is authorized for use.

PRICE CERTIFICATION

(a) By submission of this bid (offer) bidder (offeror) certifies (1) that he is in compliance and will continue to comply with the requirements of Executive Order 11640, January 26, 1972, or (2) that he is a small business concern (as determined in accordance with the regulations of the Cost of Living Council in 6 CFR 101.51, 37 F.R. 8939, May 3, 1972) and as such is exempt from wage and price controls (except where health services or construction are involved).

(b) Prior to the payment of invoices under this contract, the Contractor shall place on, or attach to, each invoice submitted one of the following certifications, as appropriate:

I hereby certify that the amounts invoiced herein do not exceed the lower of (1) the contract price, or (2) maximum levels established in accordance with Executive Order 11640, January 26, 1972.

I hereby certify that I am a small business concern employing 60 or fewer employees (as determined in accordance with the regulations of the Cost of Living Council in 6 CFR 101.51, 37 F.R. 8939, May 3, 1972, and any subsequent amendments) and as such am exempt from wage and price controls as provided by the Council's regulation.

(c) The Contractor agrees to insert the substance of this clause, including this paragraph (c), in all subcontracts for supplies or services issued under this contract.

(b) *Alternate price certification.* The price certification set forth in this paragraph may be employed in lieu of the certification in paragraph (a) only in those situations which do not involve the submission of invoices.

PRICE CERTIFICATION

(a) By submission of this bid (offer) bidder (offeror) certifies (1) that he is in compliance and will continue to comply with the requirements of Executive Order 11640, January 26, 1972, or (2) that he is a small business concern employing 60 or fewer employees (as determined in accordance with the regulations of the Cost of Living Council in 6 CFR 101.51, 37 F.R. 8939, May 3, 1972, and any subsequent amendments) and as such is exempt from wage and price controls (except where health services or construction are involved) as provided by the Council's regulation.

(b) Acceptance of any payments for property, goods, or services furnished during the effective period of Executive Order 11640, January 26, 1972, shall constitute a certification by the Contractor (1) that the amounts paid do not exceed the maximum levels established in accordance with the Executive order, or (2) that he is a small business concern which is exempt from wage and price controls.

(c) The Contractor agrees to insert the substance of this clause, including this paragraph (c), in all subcontracts.

b. Section 1–1.321–2 is amended to read as follows:

§ 1–1.321–2 Notification to contractors.

Where deemed appropriate or upon a contractor's request, contracting officers may notify contractors with existing contracts and all contractors awarded contracts under $2,500, except (a) those made with imprest funds (see § 1–1.321–6), and (b) other small purchases as provided by individual agency procedures, of the change in their obligations under Executive Order 11640, January 26, 1972, due to the small business exemption, except where health services and construction are involved, provided by the regulations of the Cost of Living Council in 6 CFR 101.51, 37 F.R. 8939. This may be accomplished by issuance of a notice, as provided in paragraph (a) or (b) of this § 1–1.321–2, whichever is appropriate.

(a) *Notice to contractors.* Reference is made to your Contract No.(s)_____.

You are hereby notified of the changes in your obligations under Executive Order 11640, January 26, 1972:

In lieu of certification (1) below, certification (2) may be used where applicable.

(1) I hereby certify that the amounts invoiced herein do not exceed the lower of (i) the contract price, or (ii) maximum levels established in accordance with Executive Order 11640, January 26, 1972.

(2) I hereby certify that I am a small business employing 60 or fewer employees (as determined in accordance with the regulations of the Cost of Living Council in 6 CFR 101.51, 37 F.R. 8939, May 3, 1972) and as such am exempt from wage and price controls as provided by the Council's regulation.

Payments will not be made on invoices submitted under the above-noted contract unless one of the certifications prescribed above has been completed.

(b) *Alternate notice to contractors.* Acceptance of any payments for property, goods, or services furnished during the effective period of Executive Order 11640, January 26, 1972, shall constitute a certification by the Contractor (1) that the amounts paid do not exceed the maximum levels established in accordance with the order, or (2) that he is a small business employing 60 or fewer employees (as determined in accordance with the regulations of the Cost of Living Council in 6 CFR 101.51, 37 F.R. 8939, May 3, 1972) and as such is exempt from wage and price

[1] 36 F.R. 18397, Sept. 14, 1971.
[2] 36 F.R. 22743, Nov. 30, 1971.
[3] 37 F.R. 4194, Feb. 29, 1972.
[4] 37 F.R. 5295, Mar. 14, 1972.

controls as provided by the Council's regulation.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

JULY 21, 1972.

[FR Doc.72-11745 Filed 7-27-72;8:52 am]

PAYMENT OF INTEREST ON CONTRACTORS' CLAIMS

This amendment of the Federal Procurement Regulations adds new § 1-1.322 *Payment of interest on contractors' claims,* which sets forth the Government's policy regarding the payment of interest on contractors' claims in certain situations and prescribes a new clause to be included in procurement contracts. The clause authorizes the payment of interest on a contractor's claim which is ultimately decided in favor of the contractor pursuant to the disputes clause of his contract.

PART 1-1—GENERAL

The table of contents for Part 1-1 is amended by the addition of the following new entries:

Sec.
1-1.321 [Reserved]
1-1.322 Payment of interest on contractors' claims.

Subpart 1-1.3—General Policies

Section 1-1.321 is reserved and § 1-1.322 is added, as follows:

§ 1-1.321 [Reserved]

§ 1-1.322 Payment of interest on contractors' claims.

(a) It is the Government's policy to pay interest on a contractor's claim when such claim is ultimately decided in favor of the contractor pursuant to the disputes clause of his contract.

(b) In order to implement the policy set forth in paragraph (a) of this section, all contracts, except for small purchases covered by Subpart 1-3.6, which contain a disputes clause shall also include the payment of interest on contractors' claims clause set forth below:

PAYMENT OF INTEREST ON CONTRACTORS' CLAIMS

(a) If an appeal is filed by the contractor from a final decision of the contracting officer under the disputes clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the contractor. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, from the date the contractor furnishes to the contracting officer his written appeal under the disputes clause of this contract, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to the contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a board of contract appeals.

(b) Notwithstanding (a), above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the contracting officer determines the contractor has unduly delayed in pursuing his remedies before a board of contract appeals or a court of competent jurisdiction.

PART 1-7—CONTRACT CLAUSES

The table of contents for Part 1-7 is amended by the addition of the following new entries:

Sec.
1-7.101-38 Payment of interest on contractors' claims.
1-7.602-13 Payment of interest on contractors' claims.

Subpart 1-7.1—Fixed-Price Supply Contracts

Section 1-7.101 is amended to add new subparagraph 1-7.101-38, as follows:

§ 1-7.101 Clauses.

* * * * *

§ 1-7.101-38 Payment of interest on contractors' claims.

In accordance with § 1-1.322(b), insert the clause set forth therein.

Subpart 1-7.6—Fixed-Price Construction Contracts

Section 1-7.602 is amended to add new subparagraph 1-7.602-13, as follows:

§ 1-7.602 Additional standardized clauses.

* * * * *

§ 1-7.602-13 Payment of interest on contractors' claims.

In accordance with § 1-1.322(b), insert the clause set forth therein.

PART 1-16—PROCUREMENT FORMS

Subpart 1-16.1—Forms for Advertised Supply Contracts

Section 1-16.101 is amended to change paragraph (c) to read as follows:

§ 1-16.101 Contract forms.

* * * * *

(c) General Provisions (Supply Contract) (Standard Form 32, November 1969 edition). Pending publication of a new edition of the form, the examination of records by Comptroller General clause prescribed by § 1-7.101-10 of this chapter shall be substituted for the provision entitled "Examination of Records" in Article 10, the Utilization of Labor Surplus Area Concerns clause prescribed by § 1-1.805-3(a) of this chapter shall be substituted for the provision entitled "Utilization of Concerns in Labor Surplus Areas" in Article 22, and the Payment of Interest on Contractors' Claims clause set forth in § 1-1.322(b), the Pricing of Adjustments clause set forth in § 1-7.101-37, and the Listing of Employment Openings clause set forth in § 1-12.1102-2 shall be added as additional articles of the General Provisions.

* * * * *

Subpart 1-16.4—Forms for Advertised Construction Contracts

Section 1-16.401 is amended to change paragraphs (a) and (h) to read as follows:

§ 1-16.401 Forms prescribed.

* * * * *

(a) Invitation, Bid, or Award (Construction, Alteration or Repair) (Standard Form 19, October 1969 edition). Pending publication of a new edition of the form, the Examination of Records by Comptroller General clause prescribed by § 1-7.101-10 of this chapter shall be substituted for the provision entitled "Examination of Records" in Article 12, and the Payment of Interest on Contractors' Claims clause set forth in § 1-1.322(b) shall be added as an additional article of the General Provisions.

* * * * *

(h) General Provisions (Construction Contract) (Standard Form 23-A, October 1969 edition). Pending publication of a new edition of the form, the Payment of Interest on Contractors' Claims clause set forth in § 1-1.322(b), the Pricing of Adjustments clause prescribed by § 1-7.602-12, and the Listing of Employment Openings clause set forth in § 1-12.1102-2 shall be added as additional articles of the General Provisions.

Subpart 1-16.7—Forms for Negotiated Architect-Engineer Contracts

Section 1-16.701 is amended to change paragraph (b) to read as follows:

§ 1-16.701 Forms prescribed.

* * * * *

(b) General Provisions (Architect-Engineer Contract) (Standard Form 253, August 1970 edition). Pending the publication of a new edition of the form, the Examination of Records by Comptroller General clause prescribed by § 1-7.101-10 of this chapter shall be substituted for the provision entitled "Examination of Records" in Article 8, and the Payment of Interest on Contractors' Claims clause set forth in § 1-1.322(b), the Pricing of Adjustments clause prescribed in § 1-7.602-12, and the Listing of Employment Openings clause set forth in § 1-12.1102-2 shall be added as additional articles of the General Provisions.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Action by agencies. The clause prescribed by this regulation shall be (1) included in all solicitations issued on or after the effective date of the regulation, and (2) incorporated, if acceptable to contractors, in contracts awarded on or after the effective date of the regulation if the clause was not included in the related solicitations. The clause shall not be incorporated into contracts executed prior to the effective date of the regulation.

Effective date. This regulation is effective September 21, 1972.

Dated: July 21, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72-11744 Filed 7-27-72;8:50 am]

Chapter 3—Department of Health, Education, and Welfare

PART 3-1—GENERAL

Small Business Concerns

Chapter 3, Title 41, Code of Federal Regulations is amended as set forth below. The purpose of this amendment is to implement and supplement FPR Amendment 100, concerning contracting with small business concerns.

It is the general policy of the Department of Health, Education, and Welfare to allow time for interested parties to take part in the rule making process. However, since the amendment herein involves minor technical matters, the public rule making process is deemed unnecessary in this instance.

1. The table of contents of Subpart 3-1.7 is amended to delete §§ 3-1.705-7 and 3-1.709, and to add §§ 3-1.713 and 3-1.752 as follows:

Sec.

3-1.713	Contracts with the Small Business Administration.
3-1.713-1	Authority.
3-1.713-2	Policy.
3-1.713-3	Procurement of supplies, services, and research and development.
3-1.713-50	Reporting requirements.
3-1.752	Contracts with minority business enterprises.
3-1.752-1	General.
3-1.752-2	Authority.
3-1.752-3	Policy.
3-1.752-4	Procedures.
3-1.752-5	Reporting requirements.

2. Subpart 3-1.7 is amended as indicated below:

§ 3-1.705-7 [Deleted]

a. Section 3-1.705-7, *Performance of contract by SBA,* is deleted.

b. Section 3-1.706-3 is revised as follows:

§ 3-1.706 Procurement set-asides for small business.

§ 3-1.706-3 Withdrawal or modification of set-asides.

Concurrent with notification to the SBA representative or liaison, telephonic notification regarding all set-aside withdrawals will be furnished to the Small Business Adviser in the Office of Procurement and Materiel Management, OASAM.

c. A new § 3-1.713, including §§ 3-1.713-1, 3-1.713-2, 3-1.713-3, and 3-1.713-50, is added as set forth below:

§ 3-1.713 Contracts with the Small Business Administration.

§ 3-1.713-1 Authority.

The SBA will make the following distribution of such certificates of competency:

(a) Original to the cognizant HEW procurement office;

(b) Carbon copy to the operating agency's headquarters procurement office; and

(c) Carbon copy to the Office of Minority Business Assistance (OMBA), OASAM.

§ 3-1.713-2 Policy.

(a) Every possible effort shall be made by both procurement and program personnel to seek out, counsel, and advise minority business enterprises. One of the methods to be used will be the review of the "National Roster of Minority Professional Consulting Services" to associate requirements with the capabilities of the concerns listed (see section 2.d, Exhibit X8-15-2 of the HEW General Administration Manual). The procuring activity shall then notify the SBA 8(a) office of those concerns which appear to be acceptable.

(b) Minority concerns interested in doing business with the Department should be apprised of the section 8(a) program and OMBA. In addition, they should be advised of SBA's role in the implementation of the program and directed to the Office of Business Development, Small Business Administration, 1441 L Street NW., Washington, DC 20416, or the most convenient field office thereof as listed in Exhibit X3-1.713-2-1.

§ 3-1.713-3 Procurement of supplies, services, and research and development.

(a) *Notification.* Within 10 working days after receipt of the procurement package, SBA will contact the procuring activity to establish a mutually agreeable schedule for subsequent negotiation of the 8(a) contract. If SBA has not contacted the procuring activity within this period, the procuring activity will notify SBA of its intent to proceed with the procurement without further regard to the section 8(a) procedures unless additional time is requested by SBA and such additional time can be granted, considering the urgency of the requirements.

(b) *Provisions of contracts with SBA.* (1) Forms HEW-554, -555, and -556, shall be prepared for contracts which pertain exclusively or primarily to the procurement of nonpersonal or professional services, and appropriate HEW general provisions shall be incorporated in such contracts.

(2) The execution and distribution of procurement documents within the Department shall be in accordance with HEWPR 3-50.4.

§ 3-1.713-50 Reporting requirements.

(a) Headquarters procurement activities shall report all procurement transactions under section 8(a) to the Office of Minority Business Assistance, OASAM, in duplicate form. Each report shall cover the period of 1 calendar month and shall be submitted so as to arrive in OMBA not later than 10 working days after the close of each reporting period.

(b) Reports shall include: (1) The date each requirement was offered to the 8(a) office; (2) a brief description of each requirement; (3) the estimated dollar amount of each requirement; (4) current status of each requirement including such explanatory information as may be required (e.g., "withdrawn due to urgency of program needs," "8(a) unable to provide suitable subcontractor," "final offer unreasonably high," "awarded"); (5) contract number; (6) name of contractor; and (7) date and dollar amount of award, as applicable. Negative reports, if any, are required.

3. Section 3-1.752, including §§ 3-1.752-1, 3-1.752-2, 3-1.752-3, 3-1.752-4, and 3-1.752-5, is added to read as follows:

§ 3-1.752 Contracts with minority business firms.

§ 3-1.752-1 General.

This section sets forth the policy and procedures for contracting with minority business enterprises other than under section 8(a) of the Small Business Act.

§ 3-1.752-2 Authority.

Executive Order 11458, dated March 5, 1969, established the Office of Minority Business Enterprises in the Department of Commerce. Executive Order 11625, dated October 13, 1971, superseding Executive Order 11458, clarifies the authority of the Secretary of Commerce (a) to implement Federal policy in support of the minority business enterprise program; (b) to provide additional technical and management assistance to disadvantaged businesses; (c) to assist in demonstration projects; and (d) to coordinate the participation of all Federal departments and agencies in an increased minority enterprise effort.

§ 3-1.752-3 Policy.

It is the policy of DHEW, to the maximum extent practicable, to foster and assist in the establishment or growth of minority owned and controlled business concerns so that they may become self-sustaining, viable competitive enterprises.

§ 3-1.752-4 Procedures.

Until such time as the Secretary of Commerce prescribes specific procedures designed to implement Executive Order 11625, procuring activities shall follow the procedures set forth in Subpart 1-1.13 of the Federal Procurement Regulations.

§ 3-1.752-5 Reporting requirements.

(a) Procurement statistics on known minority enterprises other than 8(a) will be gathered to the extent practicable without violating laws or rights of individuals concerned. Information requested will be solely on a voluntary basis and refusal to furnish such information will not be a basis for granting or denying consideration relative to instant or future awards.

(b) Headquarters procurement activities shall report all minority procurement transactions to the Office of Minority Business Assistance (OMBA), OASAM, in duplicate form. Each report shall cover the period of 1 calendar month and shall be submitted so as to arrive in OMBA not later than 10 working days after the close of each reporting period.

(c) Reports of minority procurements from other than 8(a) sources shall include the (1) name and address of each contractor; (2) contract number; (3) brief description of each requirement; (4) date and dollar amount of each award; and (5) identification of contractor as profit or nonprofit organization. Negative reports, if any, are required.

(5 U.S.C. 301; 40 U.S.C. 486(c))

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (7–28–72).

Dated: July 21, 1972.

JOHN M. DONOVAN, Jr.,
Acting Deputy Assistant Secretary for Administration.

SBA FIELD OFFICES—ADDRESSES AND TELEPHONE NUMBERS

Region			
I	RO	Boston, Mass. 02203	John F. Kennedy Federal Bldg., Room 2113 (617) 223–6660.
	POD	Holyoke, Mass. 01040	326 Appleton St. (413) 781–2268.
	DO	Augusta, Maine 04330	Federal Bldg., 40 Western Ave., Room 512 (207) 622–6225.
	DO	Concord, N.H. 03301	55 Pleasant St., Room 213 (603) 224–7724.
	DO	Hartford, Conn. 06103	Federal Bldg., 450 Maine St., Room 710 (203) 244–2511.
	DO	Montpelier, Vt. 05601	Federal Bldg., 87 State St., Room 210 (802) 223–8422.
	DO	Providence, R.I. 02903	57 Eddy St., Room 710 (401) 528–4580.
II	RO	New York, N.Y. 10007	26 Federal Plaza, Room 3930 (212) 264–1450.
	DO	Hato Rey, P.R. 00919	225 Ponce do Leon Ave. (809) 765–0404.
	DO	Newark, N.J. 07102	970 Broad St., Room 1636 (201) 645–3580.
	DO	Syracuse, N.Y. 13202	Hunter Plaza, Fayette and Salina Sts., Room 308 (315) 473–3460.
	BO	Buffalo, N.Y. 14203	Federal Bldg., 121 Ellicott St., Room 9 (716) 842–3462.
	POD	Albany, N.Y. 12207	11 North Pearl St., Home Savings Bank Bldg., Room 911 (518) 472–4411.
	POD	Rochester, N.Y. 14604	Chamber of Commerce Bldg., 55 St. Paul St. (716) 546–4900.
III	RO	Philadelphia, Bala Cynwyd, Pa. 19004.	1 Decker Square, East Lobby, Suite 400 (215) 597–3201.
	BO	Wilmington, Del. 19801	901 Market St., Room 818, Market Tower Bldg. (302) 658–6518.
	DO	Baltimore, Md. 21201	Federal Bldg., Hopkins Plaza, Room 1113 (301) 962–2150.
	DO	Clarksburg, W. Va. 26301	109 North 3d St., Room 301, Lowndes Bldg. (304) 624–1365.
	BO	Charleston, W. Va. 25301	Courthouse and Federal Bldg., 500 Quarrier St., Room 3410 (304) 343–1227.
	DO	Pittsburgh, Pa. 15222	Federal Bldg., 1000 Liberty Ave., Room 1401 (412) 644–2784.
	DO	Richmond, Va. 23240	Federal Bldg., 400 North 8th St., Room 3015 (703) 783–2741.
	DO	Washington, D.C. 20417	1310 L St. NW., Room 720 (202) 382–3541.
IV	RO	Atlanta, Ga. 30309	1401 Peachtree St., NE., Room 441 (404) 526–5679.
	DO	Birmingham, Ala. 35205	908 South 20th St., Room 202 (205) 325–3981.
	DO	Charlotte, N.C. 28202	222 South Church St., Room 500, Addison Bldg. (704) 372–7448.
	DO	Columbia, S.C. 29201	1801 Assembly St., Room 117 (803) 253–3373.
	DO	Jackson, Miss. 39205	Post Office and Courthouse Bldg., 245 East Capital St., Room 314 (601) 948–2333.
	BO	Gulfport, Miss. 39501	2500 14th St., Room 406, Security S&L Bldg. (601) 863–6171.
	DO	Jacksonville, Fla. 32202	Federal Bldg., 400 West Bay St., Room 261 (904) 791–2181.
	DO	Louisville, Ky. 40202	Federal Bldg., 600 Federal Pl., Room 188 (502) 582–5978.
	DO	Miami, Fla. 33130	Federal Bldg., 51 Southwest 1st Ave., Room 912 (305) 350–5533.
	POD	Tampa, Fla. 33602	Federal Bldg., 500 Zack St., Room 513 (813) 228–7711.
	DO	Nashville, Tenn. 37219	500 Union St., Room 301 (615) 749–5880.
	BO	Knoxville, Tenn. 37902	502 South Gay St., Room 307, Fidelity Bankers Bldg. (615) 524–4534.
	POD	Memphis, Tenn. 38103	Federal Bldg., 167 North Main St., Room 101 (901) 534–3588.
V	RO	Chicago, Ill. 60604	Federal Bldg., 219 South Dearborn St., Room 437 (312) 353–4490.
	BO	Springfield, Ill. 62701	502 East Monroe St., Ridgely Bldg., Room 816 (217) 525–4232
	DO	Cleveland, Ohio 44199	1240 East 9th St., Room 5524 (216) 522–4182.
	DO	Columbus, Ohio 43215	50 West Gay St. (614) 469–7310.
	BO	Cincinnati, Ohio 45202	Federal Bldg., 550 Main St. (513) 684–2814.
	DO	Detroit, Mich. 48226	1249 Washington Blvd., Room 1200, Book Bldg. (313) 226–7240.
	BO	Marquette, Mich. 49855	201 McClellan St. (906) 225–1108.
	DO	Indianapolis, Ind. 46204	36 South Pennsylvania St., Room 108, Century Bldg. (317) 633–7124.
	DO	Madison, Wis. 53703	25 West Main St., Room 303, Reimann Bldg. (608) 256–4761.
	BO	Milwaukee, Wis. 53203	735 West Wisconsin Ave., Room 905, Strauss Bldg. (414) 244–3941.
	POD	Eau Claire, Wis. 54701	500 South Barstow St., Room 16, Federal Office Bldg. and U.S. Courthouse (715) 834–9012.
	DO	Minneapolis, Minn. 55402	12 South 6th St., Plymouth Bldg. (612) 725–2341.
	RO	Dallas, Tex. 75202	1100 Commerce St., Room 300 (214) 749–1263.
	DO	Albuquerque, N. Mex. 87101	Federal Bldg. and Courthouse, 500 Gold Ave. SW. (505) 843–2871.
	POD	Las Cruces, N. Mex. 88001	1015 El Paso Rd., First National Bank Tower, Room 223 (505) 843–0311**.
	DO	Houston, Tex. 77002	808 Travis St., Room 1210, Niels Esperson Bldg. (713) 226–4341.
	DO	Little Rock, Ark. 72201	Post Office and Courthouse Bldg. West Capital Ave., Room 377 (501) 372–5871.
VI	DO	Lubbock, Tex. 79408	1205 Texas Ave. (806) 747–3462.
	BO	El Paso, Tex. 79901	109 North Oregon St., Suite 417, El Paso National Bldg. (915) 533–5494.
	DO	Lower Rio Grande Valley, Harlingen, Tex. 78550.	219 East Jackson St., (512) 423–8933.
	BO	Corpus Christi, Tex. 78401	Post Office and Customhouse Bldg., Room 8,701 North Upper Broadway (512) 883–5436.
	DO	Marshall, Tex. 75670	505 East Travis St., Room 201, Travis Terrace Bldg. (214) 935–5257.
	DO	New Orleans, La. 70130	124 Camp St., Room 505, Gateway Bldg. (504) 527–2744.
	DO	Oklahoma City, Okla. 73102	30 North Hudson St., Room 501, Mercantile Bldg. (405) 231–4301.
	DO	San Antonio, Tex. 78205	301 Broadway, Room 300, Manion Bldg. (512) 225–4745.
	RO	Kansas City, Mo. 64106	911 Walnut St., 24th Floor (816) 374–3316.
	DO	Des Moines, Iowa 50309	New Federal Bldg., 210 Walnut St., Room 749 (515) 284–4567.
VII	DO	Omaha, Nebr. 68102	Federal Bldg., 215 North 17th St., Room 7419 (402) 221–3620.
	DO	St. Louis, Mo. 63101	Federal Bldg., 210 North 12th St., Room 520 (314) 622–4194
	DO	Wichita, Kans. 67202	120 South Market St., Room 301 (316) 267–6566.
	RO	Denver, Colo. 80202	721 19th St., Room 426A (303) 837–4021.
	DO	Casper, Wyo. 82601	300 North Center St., Room 3, Western Bldg. (307) 265–3269.
	DO	Fargo, N. Dak. 58102	Federal Bldg., 653 2d Ave., North, Room 218 (701) 237–5131.
VIII	DO	Helena, Mont. 59601	Power Block Bldg., Corner Main and 6th Ave., Room 208 (406) 442–3301.
	DO	Salt Lake City, Utah 84111	Federal Bldg., 125 South State St., Room 2237 (801) 524–5804.
	DO	Sioux Falls, S. Dak. 57102	National Bank Bldg., 8th and Main Ave., Room 402 (605) 336–2231.
	RO	San Francisco, Calif. 94102	Federal Bldg., 450 Golden Gate Ave. (415) 556–7487.
	BO	Las Vegas, Nev. 89101	300 Las Vegas Blvd., South, Room 4–104 (702) 385–6271.
	POD	Fresno, Calif. 93721	Federal Bldg., 1130 O St., Room 4015 (209) 487–5189.
IX	DO	Honolulu, Hawaii 96813	1149 Bethel St., Room 402 (808) 546–8950.
	BO	Agana, Guam 96910	Ada Plaza Center Bldg. (—) 777–8420**.
	DO	Los Angeles, Calif. 90014	849 South Broadway (213) 688–2977.
	DO	Phoenix, Ariz. 85004	112 North Central Ave. (602) 261–3611.
	DO	San Diego, Calif. 92101	110 West C St. (714) 293–5430.
	RO	Seattle, Wash. 98104	710 2d Ave., 5th Floor, Dexter Horton Bldg. (206) 442–5676.
	DO	Anchorage, Alaska 99501	1016 West 6th Ave., Suite 200, Anchorage Legal Center (907) 272–5561**.
	BO	Fairbanks, Alaska 99701	503 3d Ave. (907) 452–5101**.
X	DO	Boise, Idaho 83701	216 North 8th St., Room 408 (208) 342–2516.
	DO	Portland, Oreg. 97205	921 Southwest Washington St. (503) 226–1018.
	DO	Spokane, Wash. 99210	Courthouse Bldg., Room 651 (509) 456–3781.

** Dial operator for assistance.

10 Regional Offices (RO). 14 Branch Offices (BO).
53 District Offices (DO). 8 Post-of-Duty (POD).

[FR Doc.72–11672 Filed 7–27–72;8:53 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT, AND SCHOLARSHIPS

Grants to Schools of Nursing for the Support of Their Educational Programs

Notice of proposed rule making, public rule making procedures, and postponement of effective date has been omitted in the issuance of the following revised Subpart K of Part 57, which relates to the awarding of capitation grants to schools of nursing pursuant to section 806 of the Public Health Service Act (42 U.S.C. sec. 296e) because for good cause it has been found that such procedures would be contrary to the public interest in light of the delay in the passage of the amending legislation (Nurse Training Act of 1971, Public Law 92–158), and the necessity for early allocation of grant funds.

This program, which replaces the program of "institutional" grants previously authorized by the Health Manpower Act of 1968 (Public Law 90–490), is intended to provide a dependable support base for the educational programs of schools, and necessitated this regulation. Each eligible school will receive annually, as a capitation grant, an amount computed on the basis of a statutory formula which utilizes the actual full-time enrollment in designated year classes of specified programs of study, and the estimated number of graduates of specified programs of study in the year in which the grant is made.

Written comments concerning the regulations are invited from interested persons. Inquiries may be addressed, and data, views, and arguments relating to the regulations may be presented in writing, in triplicate, to Associate Director (Program Implementation), Bureau of Health Manpower Education, National Institutes of Health, 9000 Rockville Pike, Building 31, Room 5C12, Bethesda, MD 20014. All comments received in response to this regulation will be available for public inspection at the Office of Grants Policy, Bureau of Health Manpower Education, National Institutes of Health, 9000 Rockville Pike, Building 31, Room 5C36, Bethesda, MD 20014 on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m. All relevant material received not later than 30 days after publication of these regulations in the FEDERAL REGISTER will be considered.

The regulations set forth below shall become effective on the date of publication in the FEDERAL REGISTER (7–28–72).

Dated: July 6, 1972.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

Approved: July 24, 1972.

ELLIOT L. RICHARDSON,
Secretary.

1. The Table of Contents of Part 57 is hereby amended as follows: A new entry is added immediately after "57.911 Noncompliance." as follows:

Subpart K—Grants to Schools of Nursing for the Support of Their Educational Programs

Sec.
57.1001 Applicability.
57.1002 Definitions.
57.1003 Eligibility.
57.1004 Application.
57.1005 Assurances required.
57.1006 Determination of number of students and number of graduates.
57.1007 Plan requirement.
57.1008 Grant awards.
57.1009 Expenditure of grant funds.
57.1010 Nondiscrimination.
57.1011 Grantee accountability.
57.1012 Payments.
57.1013 Records, reports, inspection and audit.
57.1014 Additional conditions.
57.1015 Early termination and withholding of payments.

AUTHORITY: The provisions of this Subpart K issued under sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216.

2. Subpart K is hereby revised to read as follows:

Subpart K—Grants to Schools of Nursing for the Support of Their Educational Programs

§ 57.1001 Applicability.

The regulations in this subpart are applicable to the award of grants under section 806 of the Public Health Service Act (42 U.S.C. sec. 296e) for annual grants to schools of nursing for the support of the education programs of such schools.

§ 57.1002 Definitions.

As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Secretary" means the Secretary of Health, Education, and Welfare, and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(c) "School" means a public or other nonprofit school of nursing which provides a program of nursing education leading to a diploma in nursing, an associate degree in nursing, a baccalaureate degree in nursing or an equivalent degree, or a graduate degree in nursing, and which is accredited as provided in section 843(f) of the Act.

(d) "Full-time student" means a student pursuing a full-time course of study, as determined by the school, in an accredited program in a school of nursing leading to a diploma or degree specified in paragraph (c) above of this section.

(e) "Nurse practitioner student" means a student who is enrolled in a school on a full-time basis, as determined by the school, in a program for the training of nurse practitioners, as defined in paragraph (i) of this section.

(f) "Council" means the National Advisory Council on Nurse Training (established by section 841(a)(1) of the Act).

(g) "Construction" means (1) the construction of new buildings and the acquisition or expansion of existing buildings (including related costs, such as architects' fees, acquisition of land, offsite improvements, and the initial equipping of such buildings); and (2) the remodeling, alteration, and repair of existing buildings.

(h) "Fiscal year" means the Federal fiscal year beginning July 1 and ending on the following June 30.

(i) "Program for the Training of Nurse Practitioners" means a discrete program, including theory and supervised clinical experience, not less than 1 academic year (or 9 months) in length, designed for students in initial baccalaureate programs, for registered nurses enrolled in baccalaureate programs, for students in special post-R.N. programs, or for students in advanced programs of study directed toward preparing nurses for expanded functions including the ability to:

(1) Assess the physical and psychosocial health status of individuals and families through health and developmental history taking and physical examination;

(2) Evaluate the assessment data in order to make prospective decisions about treatment in collaboration with physicians and other health professionals;

(3) Institute and provide routine health care to patients within established regimes; and

(4) Provide counseling and health teaching to patients and their families.

(j) "State" means a State, Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the Virgin Islands, or the Trust Territories of the Pacific Islands.

§ 57.1003 Eligibility.

To be eligible for a grant under section 806 of the Act, the applicant shall:

(a) Meet the applicable requirements of section 807(c) of the Act;

(b) Be located in a State.

§ 57.1004 Application.

Each school desiring a capitation grant shall submit an application in such form and at such time as the Secretary may require. Such application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

§ 57.1005 Assurances required.

(a) With respect to the assurance required by section 806(e)(1)(B) of the Act (relating to the continued expenditure of non-Federal funds), the determination of the amount of non-Federal funds expended during the fiscal year for which the grant is made shall exclude costs of construction as defined in § 57.1002(g), and the determination of the amount of non-Federal funds expended during the 3 fiscal years immediately preceding such fiscal year shall exclude all expenditures of nonrecurring nature. The determination of the average amount of non-Federal funds expended by a new school during such 3-year period shall be the average for such of the 3 preceding years in which expenditures were actually made in carrying out the functions of the school.

(b) With respect of the assurance required by section 806(e)(1)(A) of the Act (relating to increased enrollment), the school shall, except as otherwise provided in this paragraph, furnish reasonable assurances satisfactory to the Secretary that for the first school year after the close of the fiscal year in which a grant is made, and each school year thereafter during which such a grant is made, the first-year enrollment of full-time students in such school will exceed the average first-year enrollment of the highest 2 years between July 1, 1966 and June 30, 1971, by 5 per centum of such number, or by 10 students, whichever is greater: *Provided,* That, where a school had a first-year class in only 1 of the 5 school years during such period, the average shall be the first-year enrollment in such school for such single year: *Provided furthermore,* That where a school had no first-year class in any of the 5 school years during such period, the school shall provide reasonable assurance satisfactory to the Secretary that for the first school year after the close of the fiscal year in which the grant is made, the first-year enrollment of full-time students will not be less than 10. Where the applicant has given assurance under section 802(b)(2)(D) of the Act with respect to a construction grant application, this increase shall be in addition to the increase of 5 per centum or five students required thereunder. Where any school desires that the Secretary shall waive, in whole or in part (in accordance with section 806(e)(2) of the Act), the assurance of increased enrollment, it shall so indicate in its application and shall in its application state the reasons why the required increase in first-year enrollment of full-time students in such school cannot, whether because of limitations of physical facilities available to the school for training or because of other relevant factors, be accomplished without lowering the quality of training for such students.

(c) The Secretary may in individual cases require additional assurances where he finds that such additional assurances are necessary to carry out the purposes of the Act.

§ 57.1006 Determination of number of students and number of graduates.

(a) For purposes of this subpart, the number of full-time students enrolled in a school, or the number of full-time first-year students enrolled in a school, as the case may be, for any year, shall be the number of such students enrolled or to be enrolled, as the case may be, in such school on October 15 of the fiscal year in which the grant is made: *Provided,* That, schools which admit first-year classes in courses of study leading to a diploma or degree specified in § 57.1002(c), at times other than early fall may request the Secretary's approval of other official counting dates for purposes of determining first-year enrollment.

(b) For purposes of this subpart, the number of nurse practitioner students enrolled in a school shall be the number which the Secretary, on the basis of information relating to the school's enrollment, determines to be the number of such students enrolled in such school on October 15 of the fiscal year in which the grant is made: *Provided,* That, schools which admit classes in programs specified in § 57.1002(i) at times other than early fall may request the Secretary's approval of other official counting days for purposes of determining enrollment.

(c) For purposes of this subpart, the number of students who will graduate in the fiscal year in which any such grant is made shall be the number which the Secretary, on the basis of information relating to such school's enrollment and expected rate of attrition, determines to be the number of students to whom such school will, during such year, award a diploma or degrees specified in § 57.1002(c).

(d) The classification of a full-time student as a first-year student or as a student in a particular year-class in a school shall be in accordance with the policies of the particular school, except that any student who is required to repeat one or more first-year courses after having been enrolled as a full-time student during a previous school year shall not be considered a first-year student for purposes of the requirement for bonus enrollment students of section 806(d) of the Act or for purposes of the expansion of enrollment requirements of section 806(e) of the Act.

§ 57.1007 Plan requirement.

(a) In the first year in which a school applies for a capitation grant under this subpart, the application must contain or be accompanied by a plan to carry out, or establish and carry out, during the two-school year period commencing not later than the first day of the fiscal year next following the fiscal year in which the grant is made, specific projects in at least three of the categories specified in section 806(f)(1) of the Act.

(b) The Secretary may make on-site inspections of any school, or require information or data from any school, receiving a capitation grant to determine the extent to which the school is carrying out the specific projects required to be included in the plan submitted pursuant to section 806(f)(2) of the Act.

§ 57.1008 Grant awards.

(a) The Secretary shall award a capitation grant to each applicant whose application is found, after consultation with the Council, to meet the applicable requirements of the Act and of the regulations of this subpart.

(b) The amount of each capitation grant shall be an amount computed in accordance with the formula set forth in sections 806 (a) and (b) of the Act. If the amount of funds appropriated for any fiscal year is less than the total of the amounts so computed for each school of nursing with an approved application, the grant awarded to each school shall be reduced proportionately in accordance with section 806(b) of the Act.

§ 57.1009 Expenditure of grant funds.

(a) Capitation grant funds may be obligated by the school at any time before the end of the 24-month period specified in the grant award document for any purpose related to the educational program of the school, except as otherwise provided in paragraph (b) of this section. Any funds not so obligated must be refunded to the Federal Government.

(b) Capitation grant funds may not be expended for the following purposes:

(1) Construction (as defined in § 57.1001(g)), except that grant funds may be used for alterations and renovations; and

(2) Student assistance.

§ 57.1010 Nondiscrimination.

(a) Attention is called to the requirements of section 845 of the Act and 45 CFR Part 83 which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under title VIII of the Act to, or for the benefit of, any school of nursing or any other entity unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school, or entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d; et seq.) which provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with approval of the President (45 CFR Part 80).

(c) Use of grant funds for remodeling, alterations, or repairs necessary for the educational program of the school shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 F.R. 12319 (September 24, 1965), as amended,

relating to nondiscrimination in construction contract employment, and with the applicable rules, regulations, and procedures prescribed pursuant thereto.

§ 57.1011 Grantee accountability.

(a) Accounting for grant funds will be in accordance with institutional accounting practices, based on generally accepted accounting principles, consistently applied regardless of the source of funds.

(b) Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds, pending their disbursement for grant purposes. A State, as defined in section 102 of the Intergovernmental Cooperation Act, means any one of the several States, the District of Columbia, Puerto Rico, and territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All grantees other than a State, as defined in this subsection, must return all interest earned on grant funds to the Federal Government.

§ 57.1012 Payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§ 57.1013 Records, reports, inspection and audit.

(a) *Records and reports.* Each grant awarded pursuant to this subpart shall be subject to the condition that the grantee shall maintain such operational and accounting records, identifiable by grant number, and file with the Secretary such operational and fiscal reports relating to the use of grant funds, as the Secretary may find necessary to carry out the purposes of the applicable provisions of the Act and the regulations. All records shall be retained for 3 years after the close of the period of time during which the funds are available for obligation by the grantee. (See § 57.1009(a).) Such records may be destroyed at the end of such 3-year period if the applicant has been notified of the completion of the Federal audit by such time. If the applicant has not been so notified, such records shall be retained (1) for 5 years after the close of such period or (2) until the grantee is notified of the completion of the Federal audit, whichever comes first. In all cases where audit questions have arisen before the expiration of such 5-year period, records shall be retained until resolution of all such questions.

(b) *Inspection and audit.* Any application for a grant award under this subpart shall constitute the consent of the applicant to inspections of the facilities, equipment and other resources of the applicant at reasonable times by persons designated by the Secretary, and to interviews with the principal staff members and students to the extent that such resources, personnel, and students are, or will be involved in the educational program of the school. In addition, the acceptance of any grant award under this subpart shall constitute the consent of the grantee to inspections and fiscal audits by such persons of the supported activity and of progress and fiscal records relating to the use of grant funds.

§ 57.1014 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgement such conditions are necessary to assure or protect advancement of the grant purposes, the interests of the public health or the conservation of grant funds.

§ 57.1015 Early termination and withholding of payments.

Whenever the Secretary finds that a grantee has failed in a material respect to comply with the applicable provisions of the Act, the regulations of this subpart, or the terms of the grant, he may, on reasonable notice to the grantee, withhold further payments, and take such other action, including the termination of the grant, as he finds appropriate to carry out the purposes of the applicable provisions of the Act and regulations. Noncancelable obligations of the grantee properly incurred prior to the receipt of the notice of termination will be honored. The grantee shall be promptly notified of such termination in writing and given the reasons therefor.

[FR Doc.72-11758 Filed 7-27-72;8:52 am]

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 73—BIOLOGICAL PRODUCTS

Standards for Hepatitis Associated Antibody (Anti-Australia Antigen)

In the FEDERAL REGISTER of January 30, 1971 (36 F.R. 1470–71) the standards designed to insure the continued safety, purity, and potency for Hepatitis Associated Antibody (Anti-Australia Antigen) were published. At the present time nine manufacturers have demonstrated compliance with these standards and have been issued a product license.

The currently licensed products consist of an antibody product recommended for use in several procedures; e.g., agar gel diffusion and counterelectropheresis. These products have been shown to be capable of detecting 20–25 percent of the bloods implicated in causing post transfusion hepatitis.

In recent months the Bureau of Biologics, Food and Drug Administration (previously Division of Biologics Standards, National Institutes of Health) has been evaluating a new form of the product covered by a license amendment submitted by one of the manufacturers. This product consists of hepatitis associated antibody that has been iodinated with radioactive iodine (I^{125}) and used in a radioimmuno-assay procedure. On the basis of results of extensive laboratory testing by the manufacturer and the Bureau of Biologics, it is apparent that this new method is approximately 100 times more sensitive than existing procedures and the introduction of this technique into general use should more than double the detection of blood, plasma, or serum units harboring hepatitis virus.

In order to approve the amendment for this iodinated (I^{125}) antibody product, several changes applicable only to this iodinated (I^{125}) form must be made to the regulations for Hepatitis Associated Antibody (Anti-Australia Antigen) including: (1) The establishment of a 45-day dating period for the iodinated product; (2) provision for retention of the iodinated product samples that will permit disposal after 90 days; and (3) release of each lot of the iodinated (I^{125}) product for distribution without obtaining an official release provided the lot has met all other standards for the product, and samples and protocols of each lot are submitted to the Bureau of Biologics at the time of release by the manufacturer. These three changes are all necessitated by the incorporation of the I^{125} radionuclide onto the antibody, which markedly limits the dating period for this product. The dating period limitation makes it impractical for the manufacturer to submit samples of each filling of each lot to the Bureau of Biologics for official release.

In considering the changes in the existing standards necessary for this iodinated form, the alternate provisions that are designed to insure the continued safety, purity, and potency of this product, and the demonstrated increased sensitivity of this iodinated antibody product, the Commissioner finds that because the order has been prepared in consultation with the interested parties, is in the public interest, and presents no significant points of controversy, it shall become effective upon publication in the FEDERAL REGISTER (7–28–72).

Effective date. These amendments shall become effective upon publication in the FEDERAL REGISTER (7–28–72).

1. Section 73.503 is amended by adding the phrase "unless a different time period is specified in additional standards" immediately after the phrase "at least 6 months after the expiration date," in the first sentence. As amended the first sentence will read as set forth below:

§ 73.503 Retention samples.

Manufacturers shall retain for a period of at least 6 months after the expiration date, unless a different time period is specified in additional standards, a quantity of representative material of each lot of each product, sufficient for examination and testing for safety and potency, except Whole Blood (Human), Antihemophilic Plasma (Human), Cryoprecipitated Antihemophilic Factor (Human), Red Blood Cells (Human), Single Donor Plasma (Human), Normal Human Plasma and Allergenic Products prepared to physician's prescription. * * *

2. In § 73.870 the entry for "Hepatitis Associated Antibody. (Anti-Australia Antigen)" is revised to read as follows:

§ 73.870 Dating periods for specific products.

* * * * *	
Hepatitis Associated Antibody (Anti-Australia Antigen).	Six months (5° C., 6 months) except iodinated (I^{125}) products. Iodinated (I^{125}) products, 45 days. § 73.850 does not apply.
* * * * *	

3. Sections 73.5001 and 73.5003, are revised to read as follows:

§ 73.5001 Reference panel.

A Reference Hepatitis Associated Antigen (Australia Antigen) Panel shall be obtained from the Bureau of Biologics and shall be used for determining the potency and specificity of Hepatitis Associated Antibody (Anti-Australia Antigen).

§ 73.5003 Specificity.

Each filling of the product shall be specific for hepatitis associated antibody as determined by specificity tests found acceptable to the Director, Bureau of Biologics.

4. Section 73.5004 is amended by revising and redesignating paragraph (e) as paragraph (f) and adding a new paragraph (e) as set forth below:

§ 73.5004 General requirements.

* * * * *

(e) *Date of manufacture.* The date of manufacture of Hepatitis Associated Antibody (Anti-Australia Antigen) that has been iodinated with radioactive iodine (I^{125}) shall be the day of labeling the antibody with the radionuclide.

(f) *Samples; protocols; official release*—(1) *Hepatitis Associated Antibody (Anti-Australia Antigen).* Except as provided otherwise in this paragraph, the following material for each filling of the product shall be submitted to the Director, Bureau of Biologics:

(i) A sample of each filling packaged as for distribution including all ancillary reagents and materials.

(ii) A protocol which consists of a summary of the history of manufacture of each filling, including all results of each test for which test results are requested by the Director, Bureau of Biologics.

(iii) No filling of the product shall be issued by the manufacturer until notification of official release of the filling is received from the Director, Bureau of Biologics.

(2) *Hepatitis Associated Antibody (Anti-Australia Antigen) iodinated with I^{125}.* Hepatitis Associated Antibody (Anti-Australia Antigent) that has been iodinated with radioactive iodine (I^{125}) may be released by the manufacturer pursuant to the requirements of § 73.700 without obtaining an official release from the Director, Bureau of Biologics provided:

(i) The manufacturer submits to the Bureau of Biologics a protocol of each master lot along with one sample of the lot, such material to be postmarked no more than 1 day following the manufacturer's release date.

(ii) At least two complete kits of each released lot will be retained as retention samples for no less than 90 days from the date of manufacture.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216; sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

Dated: July 17, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11780 Filed 7-27-72;8:53 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 3]

MERCHANT MARINE AND FISHERIES

Proposed Capital Construction Fund; Extension of Time for Filing Comments

Proposed regulations to be prescribed under section 607 of the Merchant Marine Act, 1936, as amended, relating to Merchant Marine and Fisheries Capital Construction Funds appear in the FEDERAL REGISTER for June 15, 1972 (37 F.R. 11877, 11886).

Written comments or suggestions were required by August 14, 1972. The time for submission of written comments pertaining to the proposed regulations is hereby extended to September 14, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

H. CLAYTON COOK,
General Counsel,
Maritime Administration.

JAMES W. BRENNAN,
Acting General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc.72-11811 Filed 7-27-72;8:53 am]

[26 CFR Parts 49, 301, 601]

COLLECTION OF FACILITIES AND SERVICES EXCISE TAX

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by August 28, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by August 28, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to provide regulations dealing with the obligation to effect the collection of facilities and services excise taxes, Parts 49, 301, and 601 (26 CFR) are amended as follows:

PART 49—FACILITIES AND SERVICES EXCISE TAX REGULATIONS

PARAGRAPH 1. The following new Subpart F is added to Part 49, Subchapter D, chapter I:

Subpart F—Obligation of Person Receiving Payment for Facilities or Services To Collect Full Amount of Tax

§ 49.4291 Statutory provisions; cases where persons receiving payment must collect tax.

SEC. 4291. *Cases where persons receiving payment must collect tax.* Except as otherwise provided in section 4263(a), every person receiving any payment for facilities or services on which a tax is imposed upon the payor thereof under this chapter shall collect the amount of the tax from the person making such payment.

[Sec. 4291 as amended by sec. 4(c), Act of July 25, 1956 (Public Law 796, 84th Cong., 70 Stat. 646); sec. 131(g), Excise Tax Technical Changes Act 1958 (72 Stat. 1287); sec. 305(a), Excise Tax Reduction Act 1965 (79 Stat. 148); sec. 205(c)(3), Airport and Airway Revenue Act 1970 (84 Stat. 242)]

§ 49.4291–1 Obligation to collect tax.

(a) *In general.* The taxes imposed by section 4251 on payments for communication services are required to be collected by the person receiving payment for such services even though such person may not be the person actually rendering such services. The taxes imposed by section 4261 on payments for transportation of persons by air are required to be collected by the person receiving payment for the air transportation (whether or not such person furnishes the transportation), except that if payment is made outside the United States for a prepaid order, exchange order, or similar order, the tax is required to be collected by the person furnishing the initial taxable air transportation pursuant to such order. The tax imposed by section 4271 on payments for transportation of property by air is required to be collected by the person engaged in the business of transporting property by air for hire who receives the payment, except that if the payment is made outside the United States and the person making such payment does not pay the tax, the tax is required to be collected by the person furnishing the last segment of the taxable transportation in respect of which the tax is imposed.

(b) *Procedure for collecting tax.* (1) If a payment subject to tax under section 4251, 4261, or 4271 is made before the services are rendered, the person who receives the payment is obligated to collect tax before any services are rendered. Thus, if a ticket for taxable air transportation is purchased in the United States for cash or check, the air carrier is obligated to ensure that the tax has been collected before it renders the transportation services. Moreover, if payment is made outside the United States for a separate ticket or order for air transportation between two or more points within the United States and such ticket or order is not inscribed as provided in § 49.4261–6, the air carrier furnishing any segment of the taxable air transportation is obligated to insure that the full tax has been collected with respect to such taxable air transportation before it renders any transportation services. See § 301.6672–1 for presumption of willful failure to collect tax where prepaid services are rendered without collection of tax. In the case of the tax imposed by section 4271 on payments made outside the United States upon which the tax is not collected at the time of payment, the person furnishing the last segment of taxable transportation is obligated to collect the tax from the person to whom the property is delivered in the United States. See § 301.6672–1 of this chapter for presumption of willful failure to collect tax in certain cases where delivery is made without collection of tax.

(2) If services are rendered before payment is made therefor, the person receiving the payment is obligated to collect the tax imposed on such payment. If the person making the payment refuses to pay the tax, the person receiving the payment must use reasonable efforts to collect such tax, including, if necessary, the termination of the payor's credit privileges. See § 301.6672–1 of this chapter for presumption of willful failure to collect tax in certain cases where credit privileges are not terminated. If, after using reasonable efforts to collect tax, the person receiving the payment upon which the tax is imposed is unable to effect collection, such person shall report to the district director of internal revenue for the district in which his returns are to be filed, the name and address of the person who made the payment subject to tax, the nature of the services rendered and the amount and

date of payment, any reason given for nonpayment of tax, and a description of the efforts taken to effect collection.

PART 301—PROCEDURE AND ADMINISTRATION

PAR. 2. Section 301.6672–1 is amended to read as follows:

§ 301.6672–1 Failure to collect and pay over tax, or attempt to evade or defeat tax.

(a) *In general.* Any person required to collect, truthfully account for, and pay over any tax imposed by the code who willfully fails to collect such tax, or truthfully account for and pay over such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall in addition to other penalties, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over. The penalty imposed by section 6672 applies only to the collection, accounting for, or payment over of taxes imposed on a person other than the person who is required to collect, account for, and pay over such taxes. No penalty under section 6653, relating to failure to pay tax, shall be imposed for any offense to which this section is applicable.

(b) *Presumption of willful failure to collect in certain cases.* (1) In the case of the taxes imposed by sections 4251, 4261, and 4271 upon payments for the rendering of services, if payment for the services is made before the services are rendered and if at the time the services are rendered the tax due on the payment has not been collected, there is a presumption that the person rendering the services has willfully failed to collect such tax. Thus, if an air carrier renders prepaid transportation services without having collected the tax imposed by section 4261 or 4271 on the payment for such services, the carrier will be presumed to have willfully failed to collect such tax.

(2) In the case of the taxes imposed by sections 4251, 4261, and 4271 upon payments for the rendering of services, if the services are rendered on credit and the tax is not collected at the time of payment, the person rendering the services will be presumed to have willfully failed to collect the tax unless such person terminates the credit privileges of the payor within a reasonable period after having received the payment for services. In the case of the tax imposed by section 4251 on communication services, credit privileges will be considered as terminated within a reasonable period after receipt of payment for particular services if such privileges are terminated no later than 60 days after the first day on which, under applicable local law or the rules and regulations of any Federal or State regulatory agency, the person rendering the services would have been permitted to discontinue rendering communication services to the payor if the payor has failed to pay for the particular services.

(3) In the case of the tax imposed by section 4271 upon payments for the transportation of property by air, if the payment subject to tax is made outside the United States for air transportation which begins and ends in the United States and if the tax is not collected at the time of payment, the person furnishing the last segment of the taxable transportation is obligated to collect the tax from the person to whom the property is delivered in the United States. See section 4271(b)(2). In such case, if the property is delivered without collection of the tax and if, under applicable local law or the rules and regulations of any Federal or State regulatory agency, the person rendering the last segment of taxable transportation in the United States would have been permitted to refuse delivery to the consignee of the property if the consignee had failed to pay for the transportation service, such person will be presumed to have willfully failed to collect the tax.

(4) The presumption of willful failure to collect tax on any payment for services may be overcome only upon a showing that the person receiving the payment reasonably believed that such payment was not subject to tax.

PART 601—STATEMENT OF PROCEDURAL RULES

PAR. 3. Section 601.104 is amended by revising paragraph (a)(5) to read as follows:

§ 601.104 Collection functions.

(a) *Collection methods.* * * *

(5) *Collection of tax by another person.* Certain miscellaneous excise taxes are imposed on the person making the payment for telephone service, air transportation, and other facilities or services. Such taxes are required to be collected by the telephone company, airline, or other person receiving the payment. Collecting agents are obligated to use reasonable efforts in effecting collection of tax. See § 301.6672–1 for presumption of willful failure to collect tax in certain cases. All taxes collected in this manner are held by the collecting agent in trust for the United States until paid over to the district director of internal revenue. If the person from whom the tax is required to be collected refuses to pay it, or if for any reason it is impossible for the collecting agency to collect the tax from such person, the collecting agency, after using reasonable efforts to collect tax, is required to report the facts to the district director of internal revenue. The tax will then be collected by direct assessment against the person failing or refusing to pay the tax to the collecting agent. For special provisions applicable to excise taxes collected by another person, see § 601.403.

* * * * *

PAR. 4. Section 601.403 is amended by revising paragraph (c)(2) to read as follows:

§ 601.403 Miscellaneous excise taxes collected by return.

* * * * *

(c) *Collection of tax.* * * *

(2) *Collected taxes.* The other miscellaneous excise taxes referred to in this section are imposed on the person making the payment for the telephone, air transportation, or other services involved. These taxes are required to be collected by the telephone company, airline, or other person receiving the payment. Collecting agents are obligated to use reasonable efforts in effecting collection of tax. See § 301.6672–1 for presumption of willful failure to collect tax in certain cases. All taxes collected in this manner are held by the collecting agent in trust for the United States until deposited in accordance with the depositary procedure or paid over to the Service. The collecting agencies are required to file returns and the tax is payable, without notice from the district director, at the time fixed for filing the returns. If the person from whom the tax is required to be collected refuses to pay it or, if for any reason it is impossible for the collecting agency to collect the tax from such person, the collecting agency, after using reasonable efforts to collect tax, is required to report to the district director of internal revenue for the district in which its returns are required to be filed the name and address of such person, the nature of the service or facility rendered, the amount paid therefor, and the date on which paid. Upon receipt of this information the district director will proceed against the person to whom the facilities were provided or the services rendered to assert the amount of tax due, affording such person the same district conference, protest and appellate rights as are available to other excise taxpayers. In addition, when a field or office audit of a collecting agency's records, or of a taxpayer's records, discloses that the collecting agency failed during prior reporting periods to collect taxes due, the district director may assert such taxes directly against the person to whom the facilities were provided or the services rendered, whether or not the collecting agency had attempted collection or the person liable for the tax had refused payment thereof.

* * * * *

[FR Doc.72–11771 Filed 7–27–72;8:52 am]

[26 CFR Part 147]

CERTAIN QUALIFIED LENDING AND FINANCING CORPORATIONS

Proposal Regarding Direct Investment

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto

which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by August 28, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by August 28, 1972. A public hearing will be held and notice of the time, place, and date is simultaneously published herewith. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to provide temporary regulations under section 4915(e) of the Internal Revenue Code of 1954, as added thereto by section 3(e) of the Interest Equalization Tax Extension Act of 1971 (85 Stat. 13), and under section 4920(a)(3B) and (d) as amended by section 3(e) of such Act, and in order to limit the application of temporary regulations inconsistent with section 3(e) of such Act to acquisitions made before the effective date of such Act, the temporary regulations under the Interest Equalization Tax Act (26 CFR 147) are amended as follows:

Paragraph 1. Section 147.2–2 is added immediately after § 147.2–1. The added section reads as follows:

§ 147.2–2 Exclusion under section 4915(e) for direct investments in certain financing corporations.

(a) *In general*—(1) *Background.* Under section 4915(a), the tax imposed by section 4911 does not apply to an acquisition by a United States person of stock or debt obligations of a foreign corporation if immediately after the acquisition such person, together with certain of its affiliates, owns 10 percent or more of the total combined voting power of all classes of stock of such foreign corporation. Section 4915(c)(1) states, however, that the provisions of section 4915(a) do not apply if the foreign issuer or foreign obligor is formed or availed of by the United States person for the principal purpose of acquiring, through such foreign issuer or obligor, an interest in stock or debt obligations of one or more other foreign issuers or obligors which would be subject to the tax imposed by section 4911 if acquired directly by the United States person. Under section 4915(e), after April 1, 1971, a financing corporation described in paragraph (b) of this section shall be treated, with respect to acquisitions of its stock or debt obligations, as a foreign corporation which is not formed or availed of for the principal purpose described in section 4915(c)(1), if the following is established to the satisfaction of the Commissioner or his delegate:

(i) The amounts received by the financing corporation as a result of the acquisition of its stock or debt obligations will not be used to acquire stock of foreign issuers or debt obligations of foreign obligors or utilized in any way outside the United States, unless such amounts received by the financing corporation as a result of such acquisition of its stock or debt obligations were derived from sources outside the United States by the United States person making such acquisition from the financing corporation. For the rules concerning derivation of amounts from sources outside the United States, see subparagraph (2) of this paragraph and § 147.7–9(c).

(ii) Such information and records with respect to the financing corporation as are described in subparagraph (3) of this paragraph shall, upon written notice mailed to the financing corporation at its last known address within the United States, be made readily available, within 45 days from the date such notice is mailed to the corporation, for inspection by the district director or his delegate with whom the financing corporation filed a copy of its statement of election under section 4920(a)(3B)(B) and § 147.7–8(b)(1) or its statement of notice under section 4915(e)(2)(C) and paragraph (b)(2) of this section. If, however, the financing corporation has no last known address within the United States, the written notice shall be mailed to the financing corporation in care of the U.S. person making the acquisition from the financing corporation at his last known address.

(2) *Use and source of amounts invested.* For purposes of this section—

(i) Amounts received by the financing corporation as a result of such acquistion of its stock or debt obligations will be considered as utilized outside the United States if used to provide working capital for activities outside the United States, if used to purchase physical plant, equipment, raw material, or inventory to be used outside the United States, or if loaned or invested outside the United States.

(ii) Amounts derived from sources outside the United States are:

(*a*) Amounts derived from one or more of the sources allowable under section 4920(d)(2) and § 147.7–9(c).

(*b*) Amounts borrowed from sources outside the United States. If such borrowed amounts are repaid from amounts derived directly or indirectly from sources within the United States (including repatriated funds), the rules concerning misuse of amounts received, as set forth in paragraph (c) of this section, shall apply.

Amounts described in (*a*) or (*b*) of this subdivision which have been repatriated from sources outside the United States will not be treated as derived from sources outside the United States. Thus, if a U.S. person receives funds in the United States as a dividend from a foreign corporation, or otherwise transfers funds to the United States, such funds will be treated as repatriated and derived from sources within the United States.

(iii) Except as provided to the contrary in subdivision (ii) of this subparagraph, all amounts will be treated as derived from sources within the United States.

(3) *Recordkeeping.* The information and records with respect to the financing corporation, to be made readily available for inspection as required in subparagraph (1)(ii) of this paragraph, consist of full records disclosing all of the facts establishing—

(i) The use by the financing corporation of all amounts received by it as a result of such acquisition, and

(ii) The status of the financing corporation at all times as a corporation described in subparagraph (A), (B), or (C) of section 4915(e)(2) and in paragraph (b) of this section. In the case of a financing corporation described in subparagraph (B) or (C) of section 4915(e)(2) and in paragraph (b)(2) or (3) of this section, the requirements of this subdivision are not met unless the specific recordkeeping and reporting requirements set forth in § 147.7–9(f) are met.

(4) *Acquisitions from third persons.* The acquisition by a U.S. person of stock of a financing corporation from a foreign person other than the issuer shall be deemed to meet the requirements of section 4915(e), but only if all the funds or property used for such acquisition were derived from sources outside the United States.

(b) *Financing corporation defined*—(1) *In general.* For purposes of this section, a financing corporation is—

(i) A domestic corporation described in section 4920(a)(3)(C) (relating to corporations primarily engaged in the lending or financing business outside the United States),

(ii) A domestic corporation which is a qualified lending and financing corporation (as defined in section 4920(d) and § 147.7–9) during any period for which its election is in effect under section 4920(a)(3B) and § 147.7–8 to be treated as a foreign issuer and foreign obligor, or

(iii) A foreign corporation which (*a*) is a qualified lending and financing corporation (as defined in section 4920(d) and § 147.7–9) and (*b*) has filed a statement of notice of its status as a qualified lending and financing corporation.

(2) *Statement of notice.* For purposes of subparagraph (1)(iii) of this paragraph, the statement of notice must—

(i) State that the foreign corporation claims status as a qualified lending and financing corporation,

(ii) Disclose the information required to be furnished under § 147.7–8(b)(2)(ii) and (iii) by domestic qualified lending and financing corporations, and

(iii) Disclose the district director with whom the copy of such statement is being filed. The statement must be filed with the Internal Revenue Service Center (Attention: IET Coordinator), 310 Lowell Street, Andover, MA 01812, and a copy of such statement must be filed with the district director (Attention: IET Coordinator) for the district in

which is located the legal residence, principal place of business, or principal office or agency of the U.S. person which owns or controls more than 50 percent of the stock of the financing corporation or, if no U.S. person owns or controls more than 50 percent of its stock, with the Office of International Operations (Attention: IET Coordinator), Internal Revenue Service, Washington, D.C. 20225. Such statement of notice shall be effective as of the date it is filed (or as of the date of the creation, or substantial change in ownership, of the financing corporation if the notice is filed within 30 days of such creation or substantial change in ownership). However, a statement of notice filed on or before [30 days after the date of publication of Treasury decision in the FEDERAL REGISTER] shall be effective as of April 3, 1971, or such date thereafter as such corporation may specify in such statement of notice. A notice in effect on April 1, 1971, that was filed under section 4915(c)(3) (as in effect prior to its repeal as of April 2, 1971) shall be treated as satisfying the requirement of a notice under this subparagraph.

(c) *Misuse of amounts received.* If section 4915(e)(1) and paragraph (a) of this section applied to an acquisition of stock or debt obligations of a financing corporation, and—

(1) (i) The amounts received by the financing corporation from such acquisition are (before the termination date specified in section 4911(d)) in turn used to acquire stock of other foreign issuers or debt obligations of other foreign obligors or utilized in any other way outside the United States, and

(ii) Such amounts were not derived from sources outside the United States (as determined under paragraph (a)(2)(ii) of this section) by the U.S. person making such acquisition of stock or debt obligations of the financing corporation, or

(2) Information or records described in paragraph (a)(3) of this section are not, upon notice as prescribed in paragraph (a)(1)(ii) of this section, made readily available in accordance with such paragraph,

then liability for the tax imposed by section 4911 shall be incurred by the U.S. person making such acquisition of stock or debt obligations of the financing corporation at the time such amounts are so used or such information or records are not so available. The amount of such tax shall be equal to the amount of tax for which the U.S. person would have been liable under section 4911 upon its acquisition of the stock or debt obligations of the financing corporation involved if section 4915(e)(1) and paragraph (a) of this section had not applied to such acquisition. The amount of such tax paid by the U.S. persons under this paragraph will, as provided in § 147.7–8(b)(3)(ii), reduce the liability of the domestic financing corporation for such tax, if any, upon revocation of its election under section 4920(a)(3B)(B) and § 147.7–8(b)(3) if such revocation gives rise to the liability of such U.S. person for such tax under this paragraph.

(d) *Prior law.* Section 4915(c)(3), as in effect prior to its repeal by the Interest Equalization Tax Extension Act of 1971 on April 1, 1971, shall apply to acquisitions prior to April 2, 1971, of stock or debt obligations of foreign corporations described in and treated by virtue of such section as not formed or availed of for the principal purpose set forth in section 4915(c)(1).

PAR. 2. Section 147.7–7 is amended by revising the title of such section and by adding a new paragraph (i) to such section. The revised title and added paragraph read as follows:

§ 147.7–7 Election by certain domestic financing companies to be treated as foreign issuers or obligors with respect to acquisitions made before April 3, 1971.

* * * * *

(i) *Acquisitions before April 3, 1971.* The provisions of this section shall be applicable only with respect to acquisitions made before April 3, 1971.

PAR. 3. The following new sections are added immediately after § 147.7–7:

§ 147.7–8 Election by certain domestic financing companies to be treated as foreign issuers or obligors with respect to acquisitions made after April 2, 1971.

(a) *In general.* Under section 4920(a)(3B) as amended by section 3(e)(2) of the Interest Equalization Tax Extension Act of 1971, a domestic corporation, which is a qualified lending or financing corporation (as defined in section 4920(d) and § 147.7–9), may elect after April 2, 1971, to be treated as a foreign issuer or foreign obligor for purposes of chapter 41 of the Internal Revenue Code. Paragraph (b) of this section prescribes the manner of making the election. During the period such an election is in effect, such corporation (referred to in this section as an "electing corporation") is treated as a foreign issuer or foreign obligor for purposes of chapter 41 and, provided the requirements of section 4915(e) and § 147.2–2 are met, is treated as not formed or availed of for the principal purpose described in section 4915(c)(1). For example, a U.S. person may acquire stock of an electing corporation without liability for the tax imposed by section 4911 if the requirements of section 4915(e) and § 147.2–2 are satisfied. In addition, an electing corporation will be exempt from such tax on stock or debt obligations of one or more foreign issuers or obligors acquired by it. See, however, paragraph (b)(3) of this section with respect to revocation of the election.

(b) *Time and manner of making election*—(1) *In general.* An election under this section may be made at any time after April 2, 1971. Such election shall be made by filing the statement of election prescribed in subparagraph (2) of this paragraph with the Internal Revenue Service Center (Attention: IET Coordinator), 310 Lowell Street, Andover, MA 01812, and by filing a copy of such statement of election with the district director (Attention: IET Coordinator), for the district in which is located the legal residence, principal place of business, or principal office or agency of the U.S. person which owns or controls more than 50 percent of the stock of the electing corporation or, if no U.S. person owns or controls more than 50 percent of its stock, with the district director (Attention: IET Coordinator) for the district in which is located the principal place of business or principal office or agency of the electing corporation. Such election shall be effective with respect to acquisitions by a U.S. person of the stock or debt obligations of the electing corporation made on or after the date on which the statement of election is filed and shall remain in effect until revoked in accordance with subparagraph (3) of this paragraph. If, however, a statement of election is filed on or before (30 days after the date of publication of Treasury decision in the FEDERAL REGISTER), such election shall be effective as of April 3, 1971, or such date thereafter as such corporation may specify in such statement of election. An election in effect on April 1, 1971, made under section 4920(d) of the Internal Revenue Code (as in effect on April 1, 1971) shall be treated as satisfying the requirement of an election under this section. If a U.S. person acquires the stock or debt obligations of an electing corporation prior to the effective date of the corporation's election, the acquisition will not be treated as an acquisition covered by section 4915(e) and § 147.2–2.

(2) *Information to be furnished.* The statement of election referred to in subparagraph (1) of this paragraph shall contain the following information:

(i) A statement that the corporation elects to be treated as a foreign issuer or foreign obligor for purposes of chapter 41 of the Internal Revenue Code and is a qualified lending and financing corporation,

(ii) The name, address, employer identification number (if any), and principal place of business or principal office of the corporation,

(iii) The capitalization of the corporation disclosing the amounts of outstanding stock and debt obligations of the corporation, the names and addresses of shareholders, contributors to capital, and holders of debt obligations (if known), the number of shares owned by each shareholder, and the amounts furnished by each shareholder, contributor to capital, and holder of debt obligations, and

(iv) The district director with whom the copy of such statement is being filed.

(3) *Revocation of election*—(i) *In general.* An election under this section may be revoked by filing a statement of revocation, which shall include the name, address, employer identification number (if any), and principal place of business or principal office of the corporation, with the Internal Revenue Service Center

(Attention: IET Coordinator), 310 Lowell Street, Andover, MA 01812, and a copy of such statement of revocation with the district director (Attention: IET Coodinator) with whom it filed its copy of its statement of election under subparagraph (1) of this paragraph. In addition, an election made under this section shall be deemed revoked if, at any time, the corporation fails to meet any requirement which must be satisfied under section 4920(d) or in paragraphs (b) through (f) of § 147.7–9 in order to be a qualified lending and financing corporation. When a domestic corporation's election is revoked or is deemed revoked, it may not make any further election under this section.

(ii) *Effect of revocation.* At the time its election under this section is revoked or deemed revoked, a domestic corporation shall incur liability for the tax imposed by section 4911 with respect to all stock or debt obligations it acquired during the period for which the election was in effect and which are held by it at such time. The amount of such tax shall be equal to the amount of tax for which the corporation would be liable under section 4911 if it had acquired such stock or debt obligations immediately after such revocation. If a domestic corporation becomes liable for such tax as a result of revocation of its election, and if such revocation also causes a United States person which previously made an acquisition of the corporation's stock or debt obligations without liability for such tax to become liable for such tax on its acquisition under section 4912(b)(3) and section 4915(e)(3) and § 147.2–2(c), the liability of the domestic corporation for such tax under this subdivision shall be reduced under section 4913(c) by the amount of such tax paid by the United States person upon its acquisition under section 4912(b)(3) and section 4915(e)(3) and § 147.2–2(c).

§ 147.7–9 Qualified lending and financing corporation defined.

(a) *In general.* For purposes of §§ 147.2–2 and 147.7–8, under section 4920(d) a "qualified lending and financing corporation" is a corporation which meets the following tests:

(1) It is engaged in a lending and financing trade or business within the meaning of paragraph (b) of this section.

(2) Its funds used in its trade or business outside the United States are derived from sources described in paragraph (c) of this section.

(3) It has not acquired any stock except as permitted in paragraph (d) of this section.

(4) In the case of a domestic corporation, it has identified its stock and debt obligations in the manner prescribed in paragraph (e) of this section.

(5) It has satisfied the recordkeeping and reporting requirements of paragraph (f) of this section. If a corporation at any time fails to meet any of these tests, it will no longer be a qualified lending and financing corporation and the provisions of §§ 147.2–2(c) and 147.7–8(b)(3), in the case of a domestic corporation, will apply.

(b) *Lending and financing business—*(1) *In general.* In order to be engaged in a lending and financing trade or business as required, the corporation must derive at least 90 percent of the gross income of its trade or business in each of its taxable years, commencing with the taxable year in which it first claims status as a qualified lending and financing corporation, from one or more of the sources set forth in subdivisions (i) through (vi) of this subparagraph. For purposes of this paragraph, the term "gross income" is gross income as defined in section 61 and the regulations thereunder, except that for purposes of subdivisions (i) and (iii) of this subparagraph gross income shall be reduced by depreciation on the property leased, computed on a straight line basis. For purposes of computing such depreciation, the corporation may adopt any useful life permitted under section 167, except any useful life permitted as a variance from a class life under the last sentence of section 167(m)(1). In the case of a foreign corporation, gross income shall be determined as if such corporation were a domestic corporation. For purposes of this paragraph, the taxable year of the foreign corporation shall be determined under section 441 and the regulations thereunder, and by treating a foreign corporation which is not subject to U.S. income tax as though it were a taxpayer within the meaning of section 7701(a)(14). The permissible sources of gross income under this subparagraph are:

(i) Making loans, including the acquisition of obligations arising under a lease which is entered into principally as a financing transaction (for purposes of this section referred to as a "financing lease").

(ii) Acquiring accounts receivable, notes, or installment obligations (or similar obligations received in the ordinary course of its trade or business) arising out of the sale of tangible personal property or the performance of services.

(iii) Leasing tangible personal property, other than through financing leases, but only if such leasing accounts for less than 50 percent of its trade or business.

(iv) Servicing debt obligations.

(v) Carrying on incidental activities, such as guaranty and brokerage activities, in connection with its trade or business described in subdivision (i), (ii), (iii), or (iv) of this subparagraph.

(vi) Any combination of the foregoing.

For purposes of this paragraph, the term "tangible personal property" is tangible personal property as defined in section 48(a)(1)(A) and the regulations thereunder.

(2) *Financing leases.* For purposes of subparagraph (1) of this paragraph, whether a lease is a financing lease depends upon whether it appears at its execution that such lease is in reality a substitute for debt financing. The rules of this subparagraph and subparagraphs (3) and (4) of this paragraph for determining whether a lease is a financing lease do not apply to the determination of whether a lease is in fact a sale or other financing transaction under sections 38, 57, 163, 167, or any other section of subtitle A of the Code (relating to income tax) and the rules of those sections do not apply to the determination of whether a lease is a financing lease under this section or § 147.7–10. A lease once tested to determine if it is a financing lease will not again be so tested unless its provisions are significantly changed. A lease which is renewable without affirmative action by the lessor shall be treated as having a single term ending on the last day of the final renewal period and shall be so tested at its execution for the period of such single term. In the case of a lease which is renewable upon the affirmative action of the lessor, the initial term and each renewal term of the lease shall be treated as constituting separate leases having separate terms ending, as the case may be, on the last day of the initial term and the last day of each respective renewal term and shall be so tested at its execution for the period of the initial term and shall be so tested again at the commencement of each respective renewal term for the period of such renewal term. A lease is in reality a substitute for debt financing if:

(i) It appears at the execution of the lease that over its term the lessor is either guaranteed a specific return or is guaranteed in whole or in part against loss of income, or

(ii) It appears at the execution of the lease from the provisions of the lease agreement that over its term (*a*) the sum of the ordinary and necessary trade or business expenses (other than rental payments with respect to the leased property) to be borne by the lessor by reason of or attributable to the lease which would, were the lessor liable for income tax under subtitle A of the Code, be allowable as deductions solely by reason of section 162 will be less than (*b*) 15 percent of the gross income from rents payable under the lease.

(3) *Guarantee test.* The guarantee test set forth in subparagraph (2)(i) of this paragraph will be met if the lessor has, in any manner, formal or informal, contracted with the lessee or a party related to the lessee that as a result of the lease the lessor either will receive a specified return as a result of the lease or will not suffer a loss. This test is based upon an analysis of the leasing arrangement as a whole to determine whether over the entire term of the lease (and not just a portion of such term) the lessor is guaranteed a specified return or against loss as a result of the lease. In determining whether the lessor is assured of a specified return or that he will not suffer a loss as a result of the lease, weight will be given to all the facts and circumstances of each particular case. Thus, an arrangement whereby the lessor is assured by, or on behalf of, the lessee that the income the lessor will receive or accrue as a result

of the lessee's use of the property will exceed the expenses he will pay or accrue which are attributable to the property, or the lessee's use of the property, by a fixed or determinable amount will meet the guarantee test in subparagraph (2)(i) of this paragraph. This test will be met, for example, if the lessee is obligated to pay all the expenses attributable to the property which the lessor will incur or accrue for the period covered by the lease (including taxes other than taxes measured by or related to income) and, in the event of complete or partial destruction of the property, the lessee is obligated either to continue to pay the full rent for such period or a lump-sum amount equivalent to at least the present value of such rental payments. The fact that the residual value of leased property is unknown at the time of the execution of a lease shall not of itself affect a determination that such lease meets the guarantee test in subparagraph (2)(i) of this paragraph. The fact that amounts to be paid by the lessee may depend, in whole or in part, on fluctuation of interest rates shall not affect the characterization of such return as a specified return. A lease will not meet the guarantee test in subparagraph (2)(i) of this paragraph if the lessor bears the major risk of loss, during the term of the lease, with respect to complete or partial destruction of the property. Thus, the guarantee test of subparagraph (2)(i) of this paragraph will not be met if at no time during the lease term can the sum, of the amount of rent the lessee must continue to pay in the event of a complete or partial destruction of the property plus the liability of the lessee for all or a portion of the residual value of the property at the scheduled end of the lease term (projected as if no such event occurs), exceed 50 percent of the property's fair market value when the lease was executed. In cases where the obligation to pay rent abates only in case of certain specified natural disasters or certain specified structural defects, the determination of whether the lessor's risk is substantial is to be made from all the facts and circumstances. A lessor's risk will not be considered insubstantial because the lessor is protected against loss of income by means of rental continuation insurance unless the lessee or a related party is obligated to pay for or to reimburse the lessor for such insurance. The fact that the lessor is protected by means of escalator clauses against increases in some but not all of the expenses attributable to the property does not cause the guarantee test of subparagraph (2)(i) of this paragraph to be met unless the lessor bears no substantial risk with respect to total or partial destruction of the property and the expenses not subject to escalator clauses are not significant or are fixed by agreement with the lessee or a related party. The fact that the lessor of an equipment lease has a contract with a third party which provides all necessary repair and maintenance services for a fixed price for a period covered by the lease does not mean that the lessor is guaranteed a specified return or against loss as a result of the lease, and thus, will not cause the guarantee test of subparagraph (2)(i) of this paragraph to be met.

(4) *Expense test.* For purposes of the 15-percent expense test set forth in subparagraph (2)(ii) of this paragraph—

(i) Only those expenses (other than rental payments with respect to the leased property) deductible solely by reason of section 162 are included. Hence, examples of expenses which are not included are depreciation allowable by reason of section 167, interest allowable by reason of section 163, taxes allowable by reason of section 164, and amortization allowable by reason of section 184 or similar provisions. Only those section 162 expenses paid or payable by the lessor are included. Thus, section 162 expenses paid or payable by the lessee or any party other than the lessor are not included unless the lessor is obligated to reimburse the party paying the expense. Similarly, if the lessee or some other party is obligated to reimburse the lessor for expenses paid or payable by the lessor, expenses so reimbursed are not considered paid or payable by the lessor. If the lessee is obligated to pay to the lessor a charge for services which is separately stated or determinable, the expenses incurred by the lessor with respect to those services are not included.

(ii) The gross income from rents of the lessor is the total amount which is payable to the lessor by reason of the lease agreement other than reimbursements of section 162 expenses and charges separately stated or determinable. The fact that such amount depends, in whole or in part, on the sales or profits of the lessee, the performance of significant services by the lessor, or the fluctuation of interest rates shall not affect the characterization of such amount as gross income from rents for purposes of subparagraph (1) of this paragraph. In such cases, a reasonable estimate of the income to be earned over the term of the lease should be made to determine whether the 15-percent test will be met.

(5) *Nonfinancing leases.* For purposes of subparagraph (1)(iii) of this paragraph—

(i) Leasing transactions of tangible personal property (other than through financing leases referred to in subparagraph (2) of this paragraph) shall be deemed to account for less than 50 percent of the trade or business of the corporation if the total adjusted bases, determined under sections 1012 and 1016 (and in the case of a foreign corporation determined as if the corporation were a domestic corporation), at the end of the taxable year of tangible personal property held subject to leases which are not financing leases amounts to less than the sum of the adjusted bases, determined under sections 1012 and 1016 (and in the case of a foreign corporation determined as if the corporation were a domestic corporation), at the end of the taxable year of—

(*a*) All property owned by the corporation in connection with its business activities described in paragraph (b)(1)(i), (ii), (iv), and (v) of this section, and

(*b*) All property actively used by the corporation, not including investment assets such as portfolio investments.

(ii) If the corporation does not satisfy the test set forth in subdivision (i) of this subparagraph, leasing transactions of tangible personal property (other than through financing leases referred to in subparagraph (2) of this paragraph) shall nonetheless be deemed to account for less than 50 percent of the trade or business of the corporation if the total amount of gross income, within the meaning of paragraph (b)(1) of this section, for the taxable year derived by the corporation from leases which are not financing leases amounts to less than one-half of the total amount of gross income, within the meaning of paragraph (b)(1) of this section, of the corporation for the taxable year.

(iii) If the corporation does not satisfy either of the tests set forth in subdivision (i) or (ii) of this subparagraph, a determination by the district director with whom the corporation filed a copy of its statement of election under section 4920(a)(3B)(B) and § 147.7–8(b)(1) or its statement of notice under section 4915(e)(2)(C) and § 147.2–2(b)(2) that leasing transactions of tangible personal property (other than through financing leases referred to in subparagraph (2) of this paragraph) account for less than 50 percent of the trade or business of the corporation may be made if the corporation presents sufficient special facts and circumstances to justify such a determination.

(c) *Source of funds.* A corporation (referred to in this paragraph as the "corporation being tested") must meet the following source of funds test in order to be a qualified lending and financing corporation. If the corporation being tested acquires and carries any assets from two classes, they must be acquired and carried only from certain sources. The two classes of assets are: Debt obligations of foreign obligors (including obligations arising under a financing lease referred to in paragraph (b)(1) of this section), and tangible personal property, other than property 85 percent or more of the purchase price of which is attributable to manufacture, production, growth, or extraction in the United States, acquired for leasing in transactions which are not financing leases referred to in paragraph (b)(1) of this section. Assets of either class must be acquired and carried only with amounts derived solely from one or more of the following four sources enumerated in subparagraphs (1), (2), (3), and (4) of this paragraph:

(1) *Debt obligations.* (i) The proceeds of the sale (including a sale in a transaction described in section 4919(a)(1)) by the corporation being tested (or by a domestic corporation described in section 4912(b)(3) which is a member of a controlled group, as defined in section 48(c)(3)(C), of which the corporation

being tested is a member or would be such a member if it were a domestic corporation) of debt obligations of such corporation being tested (or such domestic corporation) to persons other than members of the three prohibited classes enumerated in subdivision (ii) of this subparagraph.

(ii) (*a*) The first prohibited class is a U.S. person (not including a foreign branch of a domestic corporation or of a domestic partnership, if such branch is engaged in the commercial banking business and acquired such debt obligations in the ordinary course of such commercial banking business).

(*b*) The second prohibited class is a foreign partnership in which the corporation being tested (or one or more includible corporations in an affiliated group, as defined in section 1504, of which the corporation being tested is a member) owns directly or indirectly (within the meaning of section 4915(a)(1)) 10 percent or more of the profits interest of the partnership.

(*c*) The third prohibited class is a foreign corporation, if the corporation being tested (or one or more includible (domestic) corporations in an affiliated group, as defined in section 1504, of which the corporation being tested is a member or would be a member if it were a domestic corporation) owns directly or indirectly (within the meaning of section 4915(a)(1)) 10 percent or more of the total combined voting power of all classes of stock of such foreign corporation, except to the extent such foreign corporation has, within 1 year after filing a statement of notice as described in subdivision (iii) of this subparagraph, acquired funds through loans from persons other than persons described in this subdivision (ii) and is using such funds to acquire the debt obligations of the corporation being tested (or such domestic corporation).

(iii) For purposes of subdivision (ii)(*c*) of this subparagraph, the statement of notice described in this subdivision shall contain—

(*a*) The name, address, and principal place of business or principal office of the foreign corporation and its connection through stock ownership to the corporation being tested.

(*b*) A statement of intention of the foreign corporation to issue debt obligations as set forth in subdivision (ii)(*c*) of this subparagraph.

(*c*) A statement of the maximum total face amount of debt obligations to be issued under subdivision (ii)(*c*) of this subparagraph which the issuer anticipates (as of the time the statement of notice is filed) will be outstanding at any one time and the proceeds of which will be used to acquire debt obligations of the corporation being tested (or such domestic corporation).

The statement of notice shall be filed with the Internal Revenue Service Center (Attention: IET Coordinator), 310 Lowell Street, Andover, MA 01812, and a copy of such statement of notice shall be filed with the district director with whom the corporation being tested filed its statement of election under section 4920(a)(3B)(B) and § 147.7–8(b)(1) or its statement of notice under section 4915(e)(2)(C) and § 147.2–2(b)(2). Such statement of notice filed under this subdivision shall be effective as of the date it is filed. If a statement of notice is filed with a district director, an internal revenue service center, or the Internal Revenue Service National Office on or before (30 days after the date of publication of Treasury decision in the FEDERAL REGISTER), the notice shall be deemed to be effective as of the date it is so filed, even though the notice does not contain the information required by (*a*), (*b*), and (*c*) of this subdivision or the notice, or a copy of it, is not filed at the place required by the preceding sentence, but only if a further statement of notice, and a copy of it, containing the information required by (*a*), (*b*), and (*c*) of this subdivision is filed on or before (30 days after the date of publication of Treasury decision in the FEDERAL REGISTER) at the placed required by the preceding sentence.

(iv) The funds used for repaying or refinancing any debt obligation sold by the corporation being tested for the purpose of obtaining funds, as provided in this subparagraph, must be derived from one or more of the four sources allowed under this paragraph. If such a domestic corporation referred to in subparagraph (1) of this paragraph, or a foreign corporation that is not a member of the prohibited class referred to in subdivision (ii)(*c*) of this subparagraph, has obtained funds through loans to acquire the debt obligations of the corporation being tested (or of such a domestic corporation), then it must repay such loans only with amounts such domestic corporation or foreign corporation derives directly from one or more of the four sources allowed under this paragraph, or with amounts it derives indirectly through the corporation being tested from one or more of the four sources allowed under this paragraph. It must refinance such loans only with amounts it derives directly from one or more of the four sources allowed under this paragraph. If a loan is repaid or refinanced from a source other than one of the four sources allowed under this paragraph, the test of this paragraph will not be met. No debt obligation sold for the purpose of obtaining funds, as provided in this subparagraph, shall be convertible into stock or debt obligations of a person who is a member of a prohibited class described in subdivision (ii) of this subparagraph.

(2) *Stock.* (i) The proceeds of payment for stock, or the proceeds of a contribution to capital, of the corporation being tested, but only if—

(*a*) The payment or contribution was derived from the sale of debt obligations by one or more corporations which are members (or would be members if they were domestic corporations) of a controlled group (as defined in section 48(c)(3)(C)) of which the corporation being tested is a member (or would be such a member if it were a domestic corporation) to persons other than persons who are members of a prohibited class described in subparagraph (1)(ii) of this paragraph, and

(*b*) Such debt obligations, if acquired by U.S. persons, would be subject to the tax imposed by section 4911.

(ii) For example, a payment or contribution shall be considered to be within the meaning of the preceding sentence where the funds for the payment or contribution are obtained by a domestic corporation making the payment or contribution through a loan from one or more corporations includible in a controlled group of which the domestic corporation is a member, provided such includible corporation or corporations acquired the funds which are loaned to the domestic corporation through the issuance of debt obligations to persons other than persons who are members of a prohibited class described in subparagraph (1)(ii) of this paragraph and provided such debt obligations, if acquired by U.S. persons, would be subject to the tax imposed by section 4911. The funds used for repaying all such debt obligations must be derived (*a*) directly by the debtor corporation from one or more of the four sources allowed under this paragraph, (*b*) indirectly by the debtor corporation through the corporation being tested from one or more of the four sources allowed under this paragraph, or (*c*) indirectly by the debtor corporation through one or more other qualified lending and financing corporations which are members (or would be members if they were domestic corporations) of a controlled group (as defined in section 48(c)(3)(C)) of which the corporation being tested is a member (or would be such member if it were a domestic corporation), from retained earnings and reserves of such other qualified lending and financing corporations which are derived from the conduct of a lending or financing business outside the United States. The funds used for refinancing all such debt obligations must be derived directly by the corporation from one or more of the four sources allowed under this paragraph. Funds derived indirectly from sources not allowed under this paragraph with actual knowledge of such indirect derivation shall be deemed to be derived from such sources. If a debt obligation is repaid or refinanced from a source other than a source allowed under this paragraph, the test of this paragraph will not be met.

(iii) For purposes of this subparagraph, debt obligations which would be subject to the tax imposed by section 4911 if acquired by U.S. persons include debt obligations of a foreign obligor and debt obligations of a domestic corporation or partnership for which an election under section 4912(c) has been made.

(3) *Earnings.* Retained earnings and reserves of the corporation being tested to the extent derived from the conduct of its lending or financing business outside the United States.

(4) *Trade accounts.* Trade accounts payable and accrued liabilities of the corporation being tested to the extent derived from the conduct of its lending or financing business outside the United States—

(i) Which are payable by the corporation being tested within 1 year (3 years in the case of tax liabilities) from the date they were incurred or accrued,

(ii) Which are not paid with funds derived from sources inside the United States, and

(iii) Which arise in the ordinary course of the lending and financing trade or business of such corporation otherwise than from borrowing.

(d) *Acquisition of stock.* In order to be a qualified lending and financing corporation, the corporation may not acquire any stock of foreign issuers or of domestic corporations or domestic partnerships other than stock of one or more members of a controlled group (as defined in section 48(c)(3)(C)) of which the qualified lending and financing corporation is a member (or of a corporation which would be a member if it were a domestic corporation) which stock is acquired as payment for stock, or as a contribution to capital, of the qualified lending and financing corporation.

(e) *Identification of debt obligations and stock.* On the face of each document evidencing any debt obligation of a domestic qualified lending and financing corporation sold for the purpose of obtaining funds, there shall be marked the following or substantially similar language: "This debt obligation is to be treated as the debt obligation of a foreign obligor for purposes of the United States Interest Equalization Tax and its acquisition by a U.S. person shall subject such person to tax liability to the extent provided in Chapter 41 of the Internal Revenue Code." Any stock certificate of such a corporation shall be similarly marked.

(f) *Recordkeeping and reporting requirements.* A qualified lending and financing corporation shall maintain at its principal place of business or principal office or agency such records (including full records of acquisitions of all debt obligations of foreign obligors and of all tangible personal property acquired for leasing, whether or not in financing transactions) as are necessary to establish that the requirements set forth in paragraphs (b) through (e) of this section have been satisfied and to substantiate the information required to be furnished under § 147.7–8(b)(2) for an electing domestic qualified lending and financing corporation or under § 147.2–2(b)(2) for a foreign qualified lending and financing corporation. Such records shall, upon written notice mailed to the qualified lending and financing corporation at its last known address within the United States, be made readily available in the United States within 45 days from the date such notice is mailed to the corporation, for inspection by the district director or his delegate with whom the corporation filed a copy of its statement of election under section 4920(a)(3B)(B) and § 147.7–8(b)(1) or its statement of notice under section 4915(e)(2)(C) and § 147.2–2(b)(2). If, however, the qualified lending and financing corporation has no last known address within the United States, the written notice shall be mailed to the corporation in the care of each U.S. person believed to own directly or indirectly 10 percent or more of the stock of the qualified lending and financing corporation at his last known address within the United States. A qualified lending and financing corporation which has at any time after April 1, 1971, received any amounts representing a direct acquisition of the stock or debt obligations of such corporation by a U.S. person shall file an annual report disclosing the use of such amounts by such corporation. Such annual report shall disclose:

(1) The name, address, employer identification number, and principal place of business or principal office of the corporation and of each of the U.S. persons making any such acquisition;

(2) The amounts received by such corporation during the year from each U.S. person, with an indication whether such amounts were derived by the U.S. person from inside the United States, and the dates such amounts were received by the corporation; and

(3) The name and address of any person receiving any portion of such amounts during the year from such corporation and the dates, amounts, and purposes of such expenditures by the corporation.

Such report shall be filed within 75 days after the close of the corporation's taxable year with the Internal Revenue Service Center (Attention: IET Coordinator), 310 Lowell Street, Andover, MA 01812, and a copy of such report shall be filed at or about the same time with the district director (Attention: IET Coordinator) with whom it filed its statement of election under section 4920(a)(3B)(B) and § 147.7–8(b)(1) or its statement of notice under section 4915(e)(2)(C) and § 147.2–2(b)(2). For purposes of this paragraph, the taxable year of a foreign corporation shall be determined under section 441 and the regulations thereunder, and by treating a foreign corporation which is not subject to United States income tax as though it were a taxpayer within the meaning of section 7701(a)(14). Such district director is authorized to grant a reasonable extension of time for filing such report under section 6081 and the regulations thereunder.

§ 147.7–10 Application of test for determining if a lease is a financing lease under section 4920(a)(1).

(a) *In general.* For purposes of section 4920(a)(1), whether a lease is entered into principally as a financing transaction shall be determined by applying the tests of § 147.7–9(b)(2), (3), and (4). In accordance with § 147.7–9(b)(2), such tests will not affect the characterization of leases for income tax purposes and other tests for determining the characterization of leases for income tax purposes will not apply to this section.

(b) *Effective date.* This section shall apply only with respect to leases executed on or after August 28, 1972 which were not executed pursuant to a binding written contract made before such date.

[FR Doc.72–11773 Filed 7–27–72;8:52 am]

[26 CFR Part 147]

CERTAIN QUALIFIED LENDING AND FINANCING CORPORATIONS

Proposal Regarding Direct Investment; Notice of Hearing

Proposed regulations under sections 4915(e), 4920(a)(3B), and 4920(d) of the Internal Revenue Code of 1954, relating to interest equalization tax, appear in the FEDERAL REGISTER for July 28, 1972 (37 F.R. 15160).

A public hearing on the provisions of the proposed regulations will be held on September 6, 1972, beginning at 10 a.m. in Room 3313, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the statement of procedural rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202—964–3935. Under such § 601.601(a)(3) persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments at such hearing should by August 25, 1972, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by August 31, 1972. In such case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents ($0.25) per page, subject to a minimum charge of $1.

LEE H. HENKEL, Jr.,
Chief Counsel.

[FR Doc.72–11772 Filed 7–27–72;8:52 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

CAROLINA SANDHILLS

Proposed Addition to List of Areas Open to Hunting of Mourning Doves

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715),

It is proposed to amend 50 CFR 32.11 by the addition of Carolina Sandhills to the list of areas open to the hunting of mourning doves.

It has been determined that regulated hunting of mourning doves may be permitted on Carolina Sandhills National Wildlife Refuge without detriment to the objectives for which the area was established. It has further been determined that the hunting of mourning doves will contribute to the Carolina Sandhills Dove Research Project determining the effects of hunting on the survival rate of mourning doves banded on the Carolina Sandhills National Wildlife Refuge; by comparing the survival rate of doves banded on and off the Refuge during nonhunting and hunting years; and by determining whether hunting causes doves to significantly change their established seasonal use patterns on the refuge.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit comments, suggestions, or objections, with respect to this proposed amendment, to the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323, within 30 days of the date of the publication of this notice in the FEDERAL REGISTER. All written comments received will be carefully considered and thereafter final regulations will be issued effective as of the date of their publication in the FEDERAL REGISTER.

C. EDWARD CARLSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

JULY 19, 1972.

[FR Doc.72-11668 Filed 7-27-72;8:45 am]

[50 CFR Part 32]

RESIDENT GAME HUNTING

Addition of Certain Open Areas

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended; 16 U.S.C. 668dd), as delegated to the Director, Bureau of Sport Fisheries and Wildlife by Chapter 2, Part 242 of the Departmental Manual, it is proposed to amend 50 CFR 32 by the addition of the Lake Woodruff National Wildlife Refuge, Fla., Wassaw National Wildlife Refuge, Ga., and Blackwater National Wildlife Refuge, Md., to the list of areas open to the hunting of big game.

It has been determined that regulated hunting of big game may be permitted as designated on the above refuges without detriment to the objectives for which the areas were established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to the proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 32.31 is amended by the following additions:

§ 32.31 List of open areas; big game.

* * * * *

FLORIDA

Lake Woodruff National Wildlife Refuge.

GEORGIA

Wassaw National Wildlife Refuge.

* * * * *

MARYLAND

Blackwater National Wildlife Refuge.

E. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

JULY 26, 1972.

[FR Doc.72-11854 Filed 7-27-72;8:55 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 912]

[Docket No. AO-333-A4]

GRAPEFRUIT GROWN IN INDIAN RIVER DISTRICT, FLA.

Recommended Decision and Opportunity To File Comments Regarding Marketing Agreement and Order

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendment of the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, hereinafter referred to collectively as the "order." The order is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601-674), hereinafter referred to as the "act."

Interested persons may file written exceptions to this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of the recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate. All such communications will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The public hearing, on the record of which the proposed amendment of the order is formulated, was held by the Agricultural Marketing Service as a result of proposals submitted by the Indian River Grapefruit Committee, the administrative agency established pursuant to the amended marketing agreement and order. A notice that such public hearing would be held on June 7, 1972, in the Community Building, 21st Street and 14th Avenue, Vero Beach, Fla., was published in the FEDERAL REGISTER on May 25, 1972 (37 F.R. 10575).

Material issues. The material issues presented on the record of the hearing involved amendatory action relating to:

(1) Providing authority to compute the prorate bases for handlers on the basis of total regulated shipments between the regulation area and any point outside thereof in the United States, Canada, or Mexico plus shipments to export markets;

(2) Providing authority to limit the volume of grapefruit that may be handled to export destinations during a specified week; and

(3) Making conforming changes.

Findings and conclusions. The findings and conclusions on the material issues, all of which are based upon the evidence adduced at the hearing and the record thereof, are as follows:

1. The order should be amended to authorize the inclusion of all shipments of grapefruit to market destinations outside of the regulation area in the computation of prorate bases for handlers. Currently, prorate bases are computed using only those fresh shipments of grapefruit from the production area to any destination outside the regulation area which is in the United States, Canada, or Mexico. Shipments of grapefruit to fresh market outlets within the regulation area or grapefruit used for processing into products are not included in the computation of prorate bases under the order, and there is no proposal or need to include such shipments in such computations.

The need to amend the order to authorize the use of all shipments of fresh grapefruit to market outlets outside of the regulation area (including shipments to export) in the computation of prorate bases stems from changes that have taken place within the industry since the order was first made effective.

In 1962, when the order was promulgated, there were approximately 28,139 acres in the Indian River District in Florida planted to grapefruit. Production totaled approximately 8.7 million boxes. Export sales were about 290 carlot equivalents. The grapefruit used in export shipments were generally of smaller sizes than the size of grapefruit marketed in the domestic markets. In sharp contrast, presently, there are more than 56,000 acres in the Indian River District planted to grapefruit and additional new acreage is being planted each year. Production in the Indian River District for the 1971-72 season is estimated at about 17.6 million boxes. Production is expected to exceed this amount during any year, beginning with the 1972-73 year, as the young trees

attain larger size, providing more bearing surface for the production of grapefruit. Exportation of grapefruit (to destinations outside the regulation area to markets other than in the United States, Canada, or Mexico) has increased during this period also. During the 1971–72 season export shipments of Indian River grapefruit are expected to reach a seasonal high of 2,000 carlot equivalents.

Export shipments have not only increased in volume, they have changed in character. No longer do the smaller size grapefruit comprise the export shipments. As evidenced by last year's shipments, the same quality and size grapefruit were sent to export destinations as were used for sales in the domestic markets. Hence, the export market is vital in connection with the total movement of Indian River grapefurit in fresh form.

The development of an export outlet requires a lot of planning, work, and expenditure of money. After considerable effort by the industry, with help from both the State and Federal Government, as heretofore shown, an export program for Indian River grapefruit is experiencing some success. A new market has been opened in Japan and a considerable volume of grapefruit was marketed there last season. This market needs to be expanded. Additional markets need to be developed. Preliminary work indicates that Indian River grapefruit may be marketed in some European, Mediterranean, and Asian countries. All of these markets need to be developed and expanded so that the industry may successfully market all of the grapefruit expected to be produced in the Indian River District.

The record shows that when the order was promulgated, the potential need for limiting the volume of grapefruit that should be marketed during a particular week appeared most likely to occur during the months of January, February, and March of any year. The situation is different now. During the 1971–72 season all of the limitation of shipment regulations that were issued during the season were for weekly periods ended before the end of the calendar year. This was due largely to two factors. First, Indian River grapefruit, under the present system of production and marketing, did not reach destinations in export markets in a satisfactory condition last year when shipped prior to December. Because of this situation, export sales prior to January 1 were light and only light shipments may be expected during any year prior to January 1. Thus, handlers must sell most of the mature grapefruit that is marketed prior to January 1 in domestic market channels. Secondly, most of the export shipments made during the 1971–72 season were made after January 1. With a fairly strong and stable demand in both the domestic markets and in export markets, there was little need for regulation during this period last year. Record evidence shows that this is a desirable situation because it offers an opportunity to widely distribute Indian River grapefruit at favorable prices.

The record shows that not all handlers ship grapefruit to export. Some handlers prefer to sell in domestic markets exclusively. There are no handlers who ship all their grapefruit that is marketed in fresh channels to the export markets. The volume of grapefruit of those handlers participating in the export market that is marketed in export varies from a very small percentage to as much as 40 percent of the fresh shipments. It is expected that handlers will attempt to market a larger proportion of the grapefruit that is available in export channels because expansion of the domestic market does not appear likely and more grapefruit is expected to be produced.

The record shows that many handlers who sold in export markets last year and in previous years faced a serious marketing problem. As heretofore stated, sales in export are not included in the calculation of prorate bases. Handlers selling in export face two serious problems. First, the risk is high and the uncertainties are great. Secondly, the prorate base of each handler selling grapefruit in export markets is eroded because such grapefruit sales are not used in the computation of his prorate base. Record evidence shows that some handlers prorate base would decrease by about 10 percent per year because of the volume of grapefruit sold in export and the corresponding smaller volume sold in domestic markets. Because of the erosion of the prorate bases, handlers have shown and continue to exhibit a reluctance to sell grapefruit in export channels. As heretofore shown, export markets need to be expanded in order for the industry to market all of the grapefruit that is produced in the Indian River District. In order to expand such markets, more handlers should sell grapefruit in export. Handlers constantly survey all market outlets in an attempt to secure the greatest return for the grapefruit. Export outlets provide a satisfactory market for a large volume of Indian River grapefruit. More handlers may be expected to sell in export markets if the erosion of their prorate bases would not result from such participation. The erosion of prorate bases of the handlers who sell grapefruit in export markets is of concern to such handlers because if the export market would no longer be available, the only outlets available for the disposition of such grapefruit would be the domestic market or to sell the grapefruit for processing into products. The amount of grapefruit that could be marketed in the domestic markets would be in relation to the prorate base of the handler. Thus, there may be little opportunity to sell an additional quantity in the domestic market. The remaining outlet would be to sell for processing into products. If this additional quantity of grapefruit was offered for fresh market sales, an oversupply situation would exist. This would result in a demoralized market and decrease the price of Indian River grapefruit and result in lower returns to the producers. Thus, it is important that a method be provided so that export market sales may be encouraged without the participating handlers having their prorate bases eroded as a result of such marketing. Amending the order to provide for the inclusion of export sales, along with domestic sales, in the calculation of prorate bases would provide a satisfactory method. By amending the order in such manner, all shipments of fresh grapefruit to market destinations outside the regulation area would be included in the calculation of prorate bases. Such would be equitable to all handlers.

It would also provide an incentive for handlers to sell grapefruit in export. Accordingly, the order should be amended as hereinafter set forth.

2. The notice of hearing contained a proposal to amend the order to include authority to limit the volume of grapefruit that may be handled to export destinations during a specified week. Testimony in support of this proposal cited the benefits that have accrued to the Indian River grapefruit industry due to the limitation of shipment regulations that have been imposed during the years the order has been in effect. These witnesses predicted that similar benefits would result from limitation of export shipments during periods when market gluts of export market outlets appear imminent. These witnesses presented evidence which shows that the export market for Indian River grapefruit is in the development stage. The industry in cooperation with the State and Federal Government is exerting considerable effort and expending large sums of money to expand the export markets. Under these conditions, the proponents do not foresee any need to limit shipments to export in the near future.

Opponents likewise see no need to limit shipments. They also contend that the inclusion of authority in the order to limit shipments to export destinations may be harmful in several ways. First, they contend that limitation of shipments may be imposed when no need exists because the authority to regulate exists. Secondly, they contend that export markets may incorrectly interpret the inclusion of such authority in the order as a threat to reduce shipments of grapefruit, and such countries may turn to other sources for supplies of grapefruit. Finally, they contend that the inclusion of the authority with the attendant threat of regulation would add to the risk of making shipments to export and thus would tend to discourage the expansion of export markets.

Proponent witnesses established that grapefruit sold in export is differently prepared for shipment from grapefruit sold fresh in domestic markets. Grapefruit for export is packed in special containers for export. Export shipments usually contain large quantities of grapefruit, up to 200,000 boxes per shipment, as compared with domestic shipments which are by rail or truck either as a full load or in mixed loads. Also, it was testified that it often requires more than a week to assemble an export shipment. The testimony established that it would be desirable to have authority so

that limitation of shipment regulations could be imposed when marketing conditions warrant. However, such testimony did not show, under present marketing conditions, that regulations of export shipments could be issued and operated effectively. Also, testimony did not show that regulations limiting shipments to export is needed at the present time. Therefore, it is concluded that the order should not be amended at this time to provide authority to limit the volume of grapefruit that may be handled to export destinations during a specified week.

(3) The amendment heretofore recommended will not require any conforming changes. Hence none are being made.

Rulings on proposed findings and conclusions. June 28, 1972, was fixed as the latest date for interested parties to file proposed findings and conclusions, and written arguments or briefs, with respect to the facts presented in evidence at the hearing.

Briefs were filed by Wilson C. McGee on behalf of United Growers and Shippers Association, Albin P. Crutchfield on behalf of Deerfield Groves Co., and Bernard A. Egan on behalf of D–N–E Sales, Inc. Each of the briefs contend, among other things, that the order should not be amended to authorize the limitation of shipments to export. Authority to limit shipments to export is not included in the recommended decision.

Each point in the brief was fully and carefully considered, along with the evidence in the record, in making the findings and reaching the conclusions herein set forth. To the extent that any suggested findings or conclusions contained in the brief are inconsistent with the findings and conclusions contained herein, they are denied on the basis of the facts found and stated in connection with this decision.

General findings. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The marketing agreement, as amended, and as hereby proposed to be amended, and the order, as amended, and as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The marketing agreement, as amended, and as hereby proposed to be amended, and the order, as amended, and as hereby proposed to be amended, regulate the handling of grapefruit grown in the Indian River District in Florida in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in, the marketing agreement and order upon which a hearing has been held;

(3) The marketing agreement, as amended, and as hereby proposed to be amended, and the order, as amended, and as hereby proposed to be amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of grapefruit grown in the Indian River District in Florida which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of grapefruit grown in the Indian River District, as defined in said marketing agreement and order, as amended, and as hereby proposed to be amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended further amendment of the marketing agreement and order. The following amendment of the amended marketing agreement and order is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. Section 912.7 *Handle or ship* is revised to read as follows:

§ 912.7 Handle or ship.

"Handle" or "ship" means to sell or transport grapefruit, or in any other way, to place grapefruit in the current of commerce between the regulation area and any point outside thereof.

2. Paragraph (a) of § 912.46 *Recommendations for volume regulation* is revised to read as follows:

§ 912.46 Recommendation for volume regulation.

(a) The committee may, during any week, recommend to the Secretary the total quantity of grapefruit which it deems advisable to be handled to destinations outside the regulation area but within the 48 contiguous States of the United States (including the District of Columbia), Canada, or Mexico during the next succeeding week: *Provided,* That such regulations shall not be recommended during the period beginning with and including the first full week in January and ending with but not including the first full week in May after regulations during such period have limited the volume of grapefruit handled during 12 weeks.

* * * * *

3. Section 912.47 *Issuance of volume regulation* is revised to read as follows:

§ 912.47 Issuance of volume regulation.

Whenever the Secretary finds, from information submitted by the committee, or from other available information, that to limit the quantity of grapefruit which may be handled to destinations outside the regulation area but within the 48 contiguous States of the United States (including the District of Columbia), Canada, or Mexico during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided,* That such regulations shall not, in the aggregate, limit the volume of grapefruit shipments during more than 12 weeks of the period beginning with and including the first full week in January and ending with but not including the first full week in May. Such regulations may, as authorized by the act, be made effective irrespective of whether the season average price of grapefruit is in excess of the parity price specified therefor in the act. The quantity so fixed for any week may be increased by the Secretary at any time during such week. The Secretary may upon the recommendation of the committee, or upon other available information, terminate or suspend any regulation at any time.

Dated: July 24, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72–11726 Filed 7–27–72;8:49 am]

[7 CFR Part 930]

CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA, AND MARYLAND

Exemptions Granted

Notice is hereby given that the Department is considering a proposed amendment, as hereinafter set forth, to the rules and regulations (Subpart—Rules and Regulations, 7 CFR 930.101–930.158; 37 F.R. 273, 13789), currently in effect pursuant to the applicable provisions of Marketing Order No. 930 (7 CFR Part 930), regulating the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland hereinafter referred to as the order. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This amendment of said rules and regulations was proposed by the Cherry Administrative Board, established under said order, as the agency to administer the terms and provisions thereof. The amendment would establish an exemption from the provision of § 930.52 through § 930.60 for cherries which are processed into a coloring agent. Such processing of cherries uses less than 5 percent of the preceding 5 year average production of cherries. The authority for granting such exemption is provided in § 930.61.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, Room 112, Administration Building, Washington, D.C. 20250, not later than the 5th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

As proposed to be added a new § 930.161 *Exemptions granted will read as* follows:

§ 930.161 Exemptions granted.

(a) Cherries which are processed into products for use as coloring agents, such as that which is used in the manufacture of cosmetics, are exempt from the provisions of §§ 930.52 through 930.60 as is authorized by § 930.61.

(b) The quantity of such exempted cherries shall be so designated on each handler's current pack report.

Dated: July 24, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-11725 Filed 7-27-72;8:49 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 391]

MERCHANT MARINE AND FISHERIES

Proposed Capital Construction Fund; Extension of Time for Filing Comments

CROSS REFERENCE: For a document extending time for filing comments on proposed rules for the Merchant Marine and Fisheries Capital Construction Fund, issued jointly by the Internal Revenue Service, Maritime Administration, and National Oceanic and Atmospheric Administration, see F.R. Doc. 72-11811, *supra*.

National Oceanic and Atmospheric Administration

[50 CFR Part 259]

MERCHANT MARINE AND FISHERIES

Proposed Capital Construction Fund; Extension of Time for Filing Comments

CROSS REFERENCE: For a document extending time for filing comments on proposed rules for the Merchant Marine and Fisheries Capital Construction Fund, issued jointly by the Internal Revenue Service, Maritime Administration, and National Oceanic and Atmospheric Administration, see F.R. Doc. 72-11811, *supra*.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 72-NW-1-AD]

BOEING MODEL 707, 727-100, AND 737 SERIES AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to all Boeing Model 707, 727-100, and 737 series airplanes incorporating spigot P/N 65-29996-1 in the forward entry door upper hinge assembly, after the accumulation of 8,000 or more landing cycles. Numerous reports of failures or cracks of the spigot have been received.

One failure on a B-737 airplane caused the forward entry door to be jammed closed. As emergency evacuation procedures are predicated upon the availability of a percentage of exits in these aircraft, the loss of a required exit results in an unairworthy condition. The threshold time proposed in the notice limiting the inspections to spigots with 8,000 or more accumulated landings is based upon service experience. Installation of improved design parts will constitute terminating action.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require inspections of spigot P/N 65-29996-1 for failures and separation, for evidence of cracks, and replacement, if necessary, on all Boeing Model 707, 727-100, and 737 airplanes incorporating spigot P/N 65-29996-1 in the forward entry door upper hinge assembly, after the spigot has accumulated 8,000 or more landings.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Northwest Region, Attention: Regional Counsel, Airworthiness Rule Docket, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before September 17, 1972, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of section 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations by adding the following new airworthiness directive.

BOEING. Applies to all Model 707, 727-100, and 737 Series airplanes incorporating spigot P/N 65-29996-1 in the forward entry door upper hinge assembly.

Compliance required as indicated.

To detect failures or cracks in the forward entry door upper spigot, accomplish the following:

(a) For all spigots which have accumulated 8,000 landing cycles on the effective date of this AD.

(1) Within the next 300 landings after the effective date of this AD, perform a one-time inspection of the spigot tab for failure and displacement by inserting a feeler gage in the gap between the upper hinge assembly upper link and guide plate bushing. If the gage can be passed through this area, the spigot tab has separated from the spigot and the spigot must be replaced prior to further flight per (b) and (c), below:

(2) Within the next 1,000 landings after the effective date of this AD, unless already accomplished within the last 2,000 landings, and thereafter, at intervals not to exceed 3,000 landings, since the last inspection, perform an X-ray inspection of the spigot in the area of the spigot tab for evidence of cracking. If evidence of cracking is discovered, replace the spigot prior to further flight per (b) and (c), below.

(b) Replace failed or cracked spigots with a spigot P/N 65-29996-1 that has (1) accumulated less than 8,000 landing cycles, or (2) has been previously inspected per this AD, and found free of evidence of cracking, or (3) any other replacement part approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(c) Aircraft may be ferried to a base for maintenance per §§ 21.197 and 21.199 of the Federal Aviation Regulations.

(d) For the purpose of this AD, when conclusive records are not available to show the number of landings accumulated by a particular spigot, the number of landings may be computed by dividing the airplane time in service since the spigot was installed in the airplane by the operator's fleet average time per flight for his airplanes of each model (707, 727-100, or 737).

(e) Inspections prescribed by this AD do not apply to new replacement spigots of an improved design approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

Issued in Seattle, Wash., on July 20, 1972.

C. B. WALK, Jr.,
Director, FAA Northwest Region.

[FR Doc.72-11701 Filed 7-27-72;8:46 am]

[14 CFR Parts 71, 73]

[Airspace Docket No. 72-EA-68]

RESTRICTED AREA, CONTINENTAL CONTROL AREA, AND TRANSITION AREA

Proposed Alteration and Designation

The Federal Aviation Administration (FAA) is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would alter Restricted Area R-5203 at Oswego, N.Y., and the continental control area and designate a transition area at Oswego.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The airspace actions proposed in this docket would:

1. Alter R–5203 as follows:

Change the designated altitudes from "Surface to flight level 310" to "Surface to flight level 500." Change the time of designation from "Sunrise to sunset, April 1 through December 31" to "Continuous." Change the restricted area from sole-use to joint-use by designating the Federal Aviation Administration, Cleveland Air Route Traffic Control Center as the Controlling Agency. Change the using agency from "Commander, Air National Guard Base, Niagara Falls Municipal Airport, Niagara Falls, N.Y., Phone: BUtler 5–6691, Extension 497" to "Commander, 107th Fighter Group, Niagara Falls International Airport." The lateral dimensions would not be changed.

2. Alter the continental control area by adding R–5203 Oswego, N.Y.

3. Designate the Oswego transition area to read as follows:

OSWEGO, N.Y.

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 43°37'00" N., long. 76°-45'00" W., thence to lat. 43°24'00" N., long. 76°45'00" W., to lat. 43°24'00" N., long. 78°00'00" W., to lat. 43°37'00" N., long. 78°00'00" W., to point of beginning.

The proposed airspace actions are needed for the following reasons:

1. The Department of the Air Force has advised that the 107th Fighter Group operating from the Niagara Falls International Airport has a change in its mission assignment. To accomplish the new mission, altitudes up to and including flight level 500 will be needed on a continuous basis in R–5203.

2. The continental control area would be altered to include R–5203.

3. Since R–5203 would be joint use, the designation of the proposed Oswego transition area (the lateral dimensions would be the same as R–5203) would permit the Air Force and the FAA to draw letters of agreement which would allow the FAA to use the airspace in R–5203 when not required by the Air Force.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 20, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-11698 Filed 7-27-72;8:46 am]

[14 CFR Part 73]

[Airspace Docket No. 72–WA–35]

RESTRICTED AREA

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a restricted area at Whidbey Island, Wash.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. All communications received within 30 days after publication of this notice will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

The airspace action proposed in this docket would designate a restricted area at Whidbey Island, Wash., bounded by a line beginning at lat. 48°25'00" N., long. 123°05'00" W.; to lat. 48°23'00" N., long. 123°06'00" W.; to lat. 48°16'30" N., long. 123°03'00" W.; to lat. 48°16'30" N., long. 122°55' 30" W.; to lat. 48°18'20" N., long. 122°50'30" W.; to lat. 48°22'45" N., long. 122°50'30" W.; to lat. 48°25'00" N., long. 122°53'30" W.; to point of beginning from the surface to 3,500 feet MSL, excluding that area within one-quarter mile of Smith Island located at lat. 48°19'10" N., long. 122°50'30" W.

The proposed restricted area is needed to provide protected airspace for anti-submarine warfare (ASW) training which will include air-to-surface target practice, night illumination and air dropping of other standard ASW ordnance. The area would be established as a joint-use restricted area to be activated approximately 3 days per week for approximately 5 hours each day.

This amendment is proposed under the authority of section 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 20, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-11697 Filed 7-27-72;8:46 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19512]

ORDER EXTENDING TIME FOR FILING REPLY COMMENTS

FM Broadcast Stations in Certain Cities in Mass., Mich., and Ind.

In the matter of amendment of § 73.-202(b), *Table of Assignments*, FM broadcast stations (Winchendon, Mass.; Adrian, Mich.; and West Lafayette, Ind.), Docket No. 19512, RM–1791, RM–1820, RM–1822.

1. The notice of proposed rule making in the above-entitled proceeding was adopted on May 17, 1972, released May 23, 1972 (FCC 72–430), and published in the FEDERAL REGISTER on May 25, 1972 (37 F.R. 10579). The dates for filing comments and reply comments were set as July 5 and July 17, 1972, respectively.

2. By letter dated July 18, 1972, counsel for Gerity Broadcasting Co. (Gerity) requests an extension of time for filing reply comments in RM–1820 only to and including July 27, 1972. Gerity states that the additional time is necessary in order to give its consulting engineer sufficient time to analyse and respond to an opposing comment concerning the proposal in RM–1820 timely filed by Lenawee Broadcasting Co. in response to our notice. Gerity maintains that the grant of the additional time requested for filing reply comments is in the public interest since its grant will provide the Commission with additional important information which it should have in order to make a public interest judgment in RM–1820.

3. We are of the view that in the circumstances the requested extension is warranted and would serve the public interest: *Accordingly, it is ordered*, That the time for filing reply comments in Docket No. 19512, RM–1820 only, is extended to and including July 27, 1972.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: July 19, 1972.

Released: July 21, 1972.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-11760 Filed 7-27-72;8:52 am]

[47 CFR Part 73]

[Docket No. 19550; FCC 72–638]

FM BROADCAST STATIONS IN SHOREWOOD AND OTTAWA, ILL.

Proposed Table of Assignments

In the matter of amendment of § 73.202 (b), *Table of Assignments*, FM broadcast stations (Shorewood and Ottawa, Ill.), Docket No. 19550, RM–1859.

1. On September 24, 1971, Joliet Radio Corp. (licensee of standard broadcast Station WJRC, Joliet, Ill.) (WJRC), filed a petition with this Commission requesting the reassignment of FM channel 252A from Ottawa, Ill., to Shorewood, Ill. and the replacement of channel 252A at Ottawa with FM channel 237A. No other revisions in our Table of Assignments were proposed. Mr. Wayne J. Hess, receiver, WOLI Broadcasting Corp., licensee of FM broadcast station WOLI operating on channel 252A at Ottawa, Ill. (WOLI), filed an opposition to the petition. WJRC responded to the opposition.

2. Shorewood, Ill. (population 1,749), is adjacent to Joliet, Ill. (population 80,378), in Will County which has 249,498 residents.[1] There are no aural broadcast facilities located in Shorewood; however, it does receive broadcast service from Joliet's two FM assignments, both class A in nature and occupied (WAJP, licensed to Alfred J. and Mary Jane Pohlers and WJOL–FM, licensed to Publishing Enterprises, Inc., Joliet's two standard broadcast stations also serve the adjacent community of Shorewood (WJOL, an unlimited service, licensed to Harris Enterprises, Inc., and WJRC, a daytime-only operation, licensed to petitioner).

3. Petitioner, in describing the incorporated village of Shorewood, after giving its 1970 population, supra paragraph 2, states:

> * * * Shorewood has increased its population 250 percent from its 1960 count of 499 * * *. Likewise, the county has shown a growth rate of 30.2 percent in the last decade. The village * * * has its own government and police department. Two major motel chains are located within Shorewood; Howard Johnson and Holiday Inn. * * *

With respect to surrounding industrialization, WJRC advises us that to the south and west of Shorewood there has been substantial recent industrial growth, with Mobil Oil Co. presently constructing a multimillion dollar refinery along Interstate Route 55, the establishment of a major livestock center to serve the entire midwest and a General Electric constructed nuclear powerplant operated by the Commonwealth Edison Co. Concerning Will County generally, petitioner notes that according to the 1967 U.S. Census of Business retail sales were $341,635,000, there were 1,484 establishments and 9,764 paid employees. Near the conclusion of the petition it is pointed out that the substitution of FM channel 237A for FM channel 252A at Ottawa is in the public interest, not only because it will release FM channel 252A for use elsewhere but additionally, because Ottawa is the only community, in the area, where channel 237A is usable.

4. WOLI, whose operation would be forced to shift from FM channel 252A to FM channel 237A at Ottawa, Ill. if petitioner's proposal is ultimately adopted, opposes the proposal on several grounds: First, it is of the view that its present dial location is important for the purposes of attracting an audience in that it is located in the midst of other local FM stations' dial positions. Although there may be a minor advantage to WOLI in retaining its present location on the dial it is well established Commission policy that such a factor would not prevent the issuance of an order to show cause to WOLI or any other station in its circumstance, if it can be demonstrated that the public interest would be served by the provision of additional needed service and the party benefiting from the required shift in channel of operation (petitioner, in this proposed instance) agrees to reimburse WOLI for all reasonable expenses incurred in making such a move. WJRC, in its reply to the opposition, has volunteered to make reasonable reimbursement for the channel shift to WOLI. Second, WOLI appears to be doubtful that channel 237A can be used at Ottawa in full compliance with our minimum mileage separation requirements. Our engineering analysis indicates that the two crucial separations involved are to WRVI at Winnebago, Ill. and WXIV–FM at Pekin, Ill. The distance from the WOLI transmitter site to WRVI is 64.6 miles while the distance to WXIV–FM is 67.4 miles. Both these distances of separation meet our requirements in that it is our practice to round-out mileages to the nearest whole number. In this case, for example, the 64.6 miles between WOLI's transmitter site and WRIV is considered the minimum separation permitted, 65 miles. In brief, it appears to be clear that channel 237A can be used by WOLI at its present transmitter site in full compliance with our rule.[2] Third, WOLI alleges that it is obvious that Shorewood, Ill. is but a bedroom community for adjacent Joliet, Ill. and that petitioner is in reality not seeking a first local service for Shorewood but instead is seeking a fifth broadcast service for the general Joliet community. Included in its assertion is the fact that petitioner's present standard broadcast station is a daytime-only operation licensed at Joliet, WJRC. On application for any channel which may be assigned to Shorewood the question certainly could arise as to the applicants' choice of actual community to be served. The question however, in itself, is not appropriate for examination in this rule making proceeding. In this matter, WOLI's thought along with the rather meager showing made by petitioner as to the importance, independence, and existing development of Shorewood proper, raise the question—is Shorewood substantial enough to support a truly local station oriented first toward the needs and interests of that community? Too, we have no information as to what are the unique and independent needs of Shorewood with respect to local radio service, which raises the question—are they already met by the four broadcast facilities located in the general Joliet community?

5. With the questions presented in the previous paragraph, the replaceability of channel 252A with channel 237A at Ottawa, Ill., and petitioner's request for the assignment of channel 252A to Shorewood, Ill., before us, we have come to the conclusion that it would be most in the public interest for us not only to consider the assignment of channel 252A to Shorewood but also to consider the needs and importance of other communities larger in size to which the channel could be assigned if deleted from Ottawa and not assigned to Shorewood. Therefore, although this notice is setting out only petitioner's proposal specifically, it contemplates showings by interested parties for the possible use of channel 252A in communities such as are indicated in the following table: [3]

City	Population	Existing Standard Broadcast Station	Existing FM Assignments
Bradley, Ill.	9,881	None	None.
Fairbury, Ill.	3,359	do	Do.
Kankakee, Ill.	30,944	One	[4] One.
Kentland, Ind.	1,864	None	None.
Momence, Ill.	2,836	do	Do.
Spring Valley, Ill.	5,605	do	Do.
Wilmington, Ill.	4,335	do	Do.

[4] Kankakee, Ill., although having FM Channels 260 and 272A assigned in § 73.202 of our rules, has local FM service on only Channel 260 since Channel 272A is used at Crete, Ill.

6. With the above questions, facts and concept before us we propose for consideration the following revisions in our FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) with respect to the cities listed below:

City	Channel No.	
	Present	Proposed
Ottawa, Ill.	252A	237A
Shorewood, Ill.		[5] 252A

[5] The transmitter location of a Channel 252A assigned to Shorewood, Ill., must be located a minimum of 7 miles southwest of the reference point for the community in order to meet our minimum mileage separation requirements.

In addition to this proposal, WOLI is hereby advised that if it is determined to be in the public interest to shift its operation from channel 252A to channel 237A in this rule making proceedings, a show cause order will be issued as part of any final decision in this matter.

7. Authority for the actions proposed herein is contained in sections 4(i), 303, 307(b), and 316 of the Communications Act of 1934, as amended.

8. Showings required. All proponents of the proposed allocations or any counterproposals should file comments with

[1] Population figures cited are from the 1970 U.S. Census unless otherwise specified.

[2] On channel 237A, WOLI would not be able to move in the northerly direction and only 2.5 miles in the southwesterly direction. There are no other significant restrictions on movement of the transmitter site in other directions.

[3] Of course, all such counterproposals must be accompanied by an offer to reimburse WOLI for reasonable expenses incurred for any shift of its operation from channel 252A to channel 237A at Ottawa, Ill.

respect to the need for their proposed assignments. They may do so, in large part, by describing the economics, sociology, and importance of the subject community. With respect to the possible Shorewood assignment, in addition to the above, a stronger showing should be made concerning the importance, independence, and existing development of Shorewood proper in order to resolve the question of Shorewood's ability to support a truly local station oriented first toward the needs and interests of that community. Additionally, a description of Shorewood's unique and independent need for a Shorewood radio service should be set out. This, in order to give the Commission the information it must have to render the required judgment that the assignment would be in the public interest. Failure to file may lead to a denial of the request.

9. Cut-off procedures. As in other recent FM rule making proceedings, the following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposals in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decisions in this docket.

10. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before September 1, 1972, and reply comments on or before September 11, 1972. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

11. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

12. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's public reference room at its headquarters in Washington, D.C. (1919 M Street NW.).

Adopted: July 19, 1972.

Released: July 24, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[*]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-11761 Filed 7-27-72;8:52 am]

[*] Commissioner Johnson concurring in the result; Commissioner Hooks not participating.

[47 CFR Parts 73, 74, 76]

[Docket No. 19554 etc.; FCC 72-652]

CABLE TELEVISION SYSTEMS

Notice of Proposed Rule Making and Memorandum Opinion and Order

In the matter of amendment of Part 76, Subpart G, of the Commission's rules and regulations pertaining to the cablecasting of programs for which a per-program or per-channel charge is made, Docket No. 19554; in the matter of amendment of Part 74, Subpart K, of the Commission's rules and regulations relative to community antenna television systems; and inquiry into the development of communications technology and services to formulate regulatory policy and rule making and/or legislative proposals, Docket No. 18397; in the matter of amendment of §§ 73.643(b)(2) and 74.1121(a)(2) of the Commission's rules and regulations pertaining to the showing of sports events on over-the-air Subscription television or by cablecasting, Docket No. 18893.

INTRODUCTION

1. The Commission has before it for consideration a number of petitions seeking reconsideration of the June 24, 1970 "Memorandum Opinion and Order in Docket 18397." [1] Also before it are petitions seeking reconsideration of the March 23, 1972 "Report and Order in Docket 18893." [2] In our decision in Docket 18397 we reconsidered our earlier "First Report and Order" in that proceeding [3] and adopted restrictions on cablecasting on a per-channel or per program basis similar to those then applicable to over-the-air subscription television. In general, these rules prohibit the cablecasting of feature films more than 2 years old, sports events televised in the community during the preceding 2 years, and series programs. Additionally, advertising may not be shown on these programs or channels and no more than 90 percent of such programming may consist of feature films and sports.[4] In the "Report and Order in Docket 18893," we revised the over-the-air subscription television rules as they pertain to the broadcast of sports events. The most significant of these changes was an extension from 2 to 5 years of the period during which sports events must not be presented on conventional television if they are to be broadcast subsequently on subscription television. Although comparable changes in the cable television rules had been proposed, these changes were not adopted. The Commission indicated that it would consider material in the comments, insofar as it pertained to the sports rule for cablecasting, at a later date.

[1] 23 FCC 2d 825 (1970).
[2] 34 FCC 2d 271 (1972).
[3] 20 FCC 2d 201 (1969).
[4] These rules, originally found in § 74.1121, are now contained in § 76.225 as a result of changes in the rules that took place in connection with Cable Television Report and Order, FCC 72-108, 37 F.R. 3252.

PLEADINGS

2. The pleadings under consideration raise procedural and substantive question concerning rules either already adopted or proposed to regulate the "siphoning" of programming away from conventional over-the-air television to cable television systems.[5] The petitions filed by broadcast interests basically request that the rules be applied to all cablecasting programing, even if there is no additional per-channel or per-program charge. Further restrictions on the types of programing that may be shown are also sought. With respect to sports programing, the Association of Maximum Service Telecasters (AMST) requests adoption of the following rules:

1. CATV systems shall not originate cablecasts of live professional sports events, or any recorded cablecasts of these events within 1 week of their occurrence.

2. CATV systems shall not originate cablecasts of live college or high school sports events, or any recorded cablecast of these events within 1 week of their occurrence, if

a. Events of the same sport involving one or more of the same colleges or high

[5] Pleadings in Docket 18397 consist of (a) "Petition for Reconsideration" filed by Motion Picture Association of America, Inc., et al. (MPAA) on Aug. 6, 1970; (b) "MST Petition for reconsideration" filed by the Association of Maximum Service Telecasters, Inc. (AMST) on Aug. 6, 1970; (c) "Petition for Reconsideration, Revision and Clarification" filed by Gridtronics, Inc. on Aug. 6, 1970; (d) "MST Opposition to Petition for Reconsideration" filed Aug. 27, 1970; (e) "Memorandum of the Department of Justice in Support of Petitions for Reconsideration" filed May 3, 1971; and (f) "Comments of the American Broadcasting Co. in response to 'Memorandum of the Department of Justice in Support of Petition for Reconsideration'" filed June 23, 1971. Also considered, to the extent they are pertinent, are the following pleadings filed in response to the Commission's Cable Television Report and Order, supra. note 4: (a) "Petition for Reconsideration" filed by Motion Picture Association of America, Inc., et al. Mar. 13, 1972; (b) "Petition for Limited Reconsideration to conform with Consensus Agreement and For Institution of further rule making Proceedings on Program Siphoning" filed by the American Broadcasting Co. on Mar. 13, 1972; (c) "Petition for Reconsideration" filed by the National Association of Theater Owners, Inc. (NATO) on Mar. 14, 1972; and (d) "Response to Petitions for Reconsideration" filed by the Association of Maximum Service Telecasters on Mar. 27, 1972. The pleadings in Docket 18893 consists of (a) "MST Petition for Reconsideration" filed May 4, 1972; (b) "Comment of American Broadcasting Co., Inc. filed June 8, 1972; (c) "CBS statement in Support of MST Petition for Reconsideration" filed June 8, 1972; (d) "Statement in Support of Petition for Reconsideration" filed by the National Broadcasting Co., Inc., on June 8, 1972; (e) "Opposition to MST Petition for Reconsideration" filed June 8, 1972 by the National Cable Television Association (NCTA); (f) "Statement in Support of Petition for Reconsideration" filed June 8, 1972 by the National Association of Broadcasters; and (g) "Reply to NCTA Opposition" filed June 30, 1972 by the Association of Maximum Service Telecasters.

schools were broadcast on a nonsubscription regular basis during any of the preceding 5 years by a television station entitled to carriage on the CATV system, or

b. Events of the same sport not involving the same colleges or high schools are presently (i.e. during the same sports season or, if there is no recognized season, within the preceding 13 weeks) being carried on a nonsubscription regular basis by a television station entitled to carriage on the CATV system: *Provided*, That this paragraph (b) shall not apply to a live or delayed originated cablecast of a collegiate or high school sports event involving a college or high school located in, or within 10 miles of, the CATV system's franchise area.

AMST would also have us ban the cablecast of all motion pictures that have been in theatrical release for more than 1 year. Special objection is voiced to the carriage of so-called "classic" films.

3. Gridtronics, Inc., also asking for reconsideration, indicates that it has developed certain equipment and program concepts enabling cable systems to provide four additional origination channels for which subscribers would be charged additional fees. One channel would carry two feature films per week, necessitating an aggregate of 104 films per year per system. The remaining channels would consist of an educational channel, an information channel, and a "professional" channel (e.g., doctors). Gridtronics' concern is that under existing rules there may not be sufficient feature films of recent origin available to program its entertainment channel. It suggests that for specialized services of its type, cable exhibition might be permitted of films for five years after their theatrical release.

4. The Motion Picture Association of America, Inc. (MPAA), joined by the Association of Motion Picture and Television Producers, Inc., and nine producers and distributors of motion pictures, questions both the manner in which the rules were adopted and their propriety. MPAA urges that the rules were adopted without complying with the Administrative Procedure Act in that "The notice did not give the slightest indication that the Commission considered or would consider imposing restrictions similar to those it had provided for STV." MPAA contends that the rules:

1. Violate the first amendment and exceed the powers of the Commission.

2. Frustrate the Commission's goal to make available to the public the largest possible diversity of programs.

3. Reduce the market for television programing and, therefore, discourage the production of quality programs.

4. Will deprive the public of a viable pay-cable industry which cannot exist on the meager fare of programs available under the restrictive rules.

5. Are based on the erroneous premise that pay cable will siphon off programs from free television.

5. Reconsideration of the rules is also sought by the Department of Justice. The Department urges that: (a) Cablecasting is sufficiently distinguishable from over-the-air pay television from both a legal and a technical standpoint that the rules adopted cannot be justified by reference to prior rules regulating subscription television, (b) the rules eliminate the potential for cablecasting by parties other than system operators, and (c) the Communications Act mandates that competition both within and between modes of communication be encouraged rather than hindered. Additionally, the Department questions whether there has been compliance with the Administrative Procedure Act, stating that the Commission "did not set forth by way of substance, terms or description of the subject and issues involved, any specific indication that a rule imposing program restrictions upon pay-cablecasting would be considered."

6. The National Association of Theatre Owners, Inc. (NATO) filed a pleading in response to the "Cable Television Report and Order."[6] NATO indicates that it did not previously participate in these proceedings involving cable television "because the Commission not only did not propose specific cable pay TV rules, it did not even propose to consider the subject. (footnote omitted)" NATO now urges, with respect to the substance of the rules, that the Commission "revoke its existing cable pay TV regulations and initiate a formal rule making proceeding which would consider: (1) Whether cable television systems should be authorized to engage in pay TV operations and, if so, (2) appropriate rules and regulations designed to prevent program siphoning."

7. In pleadings filed in response to our "Report and Order in Docket 18893"[7] AMST, with the support of the three national television networks and the National Association of Broadcasters, urges a number of changes in the sports-subscription television rules and the immediate application of these rules to cable television systems.[8] Responding to these petitions, the National Cable Television Association supports the Commission's decision to consider the application of these rules to cable television systems at a later date.

Discussion

8. The pleadings before us raise questions concerning (a) whether, in adopting rules applicable to pay-cablecasting, the Commission has complied with the requirements of the Administrative Procedure Act, and (b) what rules should be applicable to cablecast programing. We are of the opinion that in adopting the existing rules the requirements of the A.P.A. have been satisfied. But in view of the importance of the issues as against the paucity of prior comment and the indication that additional opportunity for comment will elicit useful new material, we have decided to issue a further notice of proposed rule making so that we may hear from all parties concerned and to reconsider the rules.

9. Because we are reopening the question of what rules are appropriate with respect to pay-cablecasting, we think it necessary to refer only briefly to some of the questions raised in the reconsideration petitions. With respect to the question of adequate notice and compliance with the Administration Procedure Act, the Act requires that the Commission issue a notice of proposed rule making that includes "the terms or substance of the proposed rule or a description of the subjects and issues involved",[9] and that "the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation."[10] In the further notice of proposed rule making and notice of inquiry in Docket 11279,[11] our proceeding concerned with the regulation of over-the-air subscription television was expanded to include issues concerning wire or cable operations. In the "Fourth Report and Order" in that proceeding[12] there was discussion concerning cable television and its relationship to subscription television, but the final resolution of the issues raised was left to a separate proceeding. In terminating the inquiry there, we stated "We here today issued an order instituting such a proceeding (Docket No. 18397). Accordingly, we are terminating the present inquiry, although the material submitted will continue to be appropriately considered in our evaluation of this important matter."[13] The "notice of proposed rule making and notice of inquiry in Docket 18397"[14] issued that same day contained a discussion of how cable originated programing should be regulated and what rules already existing in the broadcast area should be applied to it. After reviewing a number of other questions the Commission stated "There are, of course, other important considerations, as we recognized in San Diego (13 FCC 2d at 505): 'such as whether television broadcast service would be adversely affected through a siphoning-off of popular program material now or potentially available on the free service or a loss of audience and advertising revenue * * *'"[15] In addition to thus specifically raising the issue, the Commission also pointed out in the notice that "Matters at issue in Docket No. 15971 (an earlier CATV proceeding), which have not been resolved or which have not been specifically mentioned in this notice, can be raised in this proceeding * * *"[16] One

[6] *Supra* note 4. In our Memorandum Opinion and Order on Reconsideration of the Cable Television Report and Order FCC 72-530 paragraph 73 we noted the filing of NATO's petition but indicated it would be considered separately.

[7] Supra note 2.

[8] To the extent AMST's petition raises questions concerning the rules adopted in Docket 18893 in their application to over-the-air subscription television they will be considered separately at a later date.

[9] 5 U.S.C. 553(b)(3).

[10] 5 U.S.C. 555(c).

[11] 3 FCC 2d 1 (1966).

[12] 15 FCC 2d 466 (1968).

[13] Id. at paragraph 384.

[14] 15 FCC 2d 417 (1968).

[15] Id. at paragraph 14.

[16] Id. at paragraph 62.

such issue, raised but not resolved in Docket 15971, concerned pay-cablecasting. The Commission requested comments in that proceeding "on the feasibility or desirability of pay-TV operations by CATV, whether any conditions would be required for the protection of the public interest in free television, and what conditions might be appropriate (footnote omitted)."[17] This history, along with the specific reference to the issue involved, should, we think, have been sufficient to alert interested parties that rules might be adopted designed to preclude the siphoning of programing from over-the-air television to pay-cablecasting.

10. In light of our decision to allow for further comment on the pay-cablecasting rules, we think it unnecessary to comment at length on the other issues raised in the reconsideration pleadings. And, in light of the new opportunity for comment and inquiry, we are not, at this time, adopting the changes in the sports rule proposed in Docket 18893. We will accordingly deny the petitions for reconsideration of our "Report and Order in Docket 18893" to the extent they request the immediate application of these rules to cable systems, and will consider other questions raised in those petitions as they relate to over-the-air STV at a later date. Finally, with respect to MPAA's constitutional argument, it should be noted that we read "National Association of Theatre Owners v. F.C.C."[18] (upholding our over-the-air subscription television antisiphoning rules) as broad enough to cover the extension of similar rules to cable television systems.[19]

NEW PROCEEDING

11. As indicated, we believe a further rule making proceeding is in order so that we may hear from those parties who were not heard from before the rules were adopted and to consider whether existing rules are subject to improvement. Comments may be addressed to the existing rules (Attachment A),[20] but we are also hereby proposing adoption of the same changes in the area of sports programs that have been adopted in Docket 18893 (Attachment B).[21] Interested persons are, of course, free to address any aspect of this matter in their comments, but many of the issues have already been the subject of many years of intensive consideration by the Commission. Thus we do not think the issue is, as the National Association of Theatre Owners would suggest, "The basic desirability vel non of cable pay TV", but rather how pay-cablecasting can best be regulated to provide a beneficial supplement to over-the-air broadcasting without at the same time undermining the continued operation of that "free" television service.

12. In addition to addressing this general issue, comments are invited with respect to the following specific questions:

(a) What are the legal, technical, and economic differences between over-the-air subscription television and pay cablecasting?

(b) Are there, as the Department of Justice suggests, means of protecting the viewing public by less restrictive means than the existing rules?

(c) Are the rules appropriate for and how should they be administered with respect to access and leased channel cablecasting for which there is a per-program or per-channel charge and not subject to the control of a cable television operator?

(d) Have there been significant and relevant changes in the motion picture industry that should be reflected in the rules?

CONCLUSION AND ORDERS

Authority for the actions taken herein is contained in sections 2, 3, 4 (i) and (j), 301, 303, 307, 308, 309, 403 and 405 of the Communications Act of 1934, as amended.

DOCKET 19554

Notice of proposed rule making in Docket 19554 is hereby announced. All interested persons are invited to file written comments on the rule making proposals on or before September 15, 1972, and reply comment on or before September 29, 1972. We will make every effort to expedite resolution of this proceeding and expect to adhere to this proposed timetable. In reaching a decision in this matter, the Commission may take into account any other relevant information before it, in addition to the comments invited by this notice.

In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

DOCKETS 18397 AND 18893

In accordance with paragraphs 8–10 of this opinion: *It is ordered*, That the petitions for reconsideration of the "Memorandum Opinion and Order" in Docket 18397, 23 FCC 2d 835 (1970) are denied.

It is further ordered, That the petitions for reconsideration of the "Report and Order" in Docket 18893, 34 FCC 2d 271 (1972), are denied to the extent reflected herein and will otherwise be acted upon at a later date.

Adopted: July 19, 1972.

Released: July 24, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[22]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.72-11763 Filed 7-27-72;8:53 am]

[17] Notice of Inquiry and Notice of Proposed Rule Making in Docket 15971, 1 FCC 2d 453 at paragraph 56 (1965).

[18] 420 F. 2d 194 (D.C. Cir. 1969).

[19] In denying arguments that the STV rules violated section 326 of the Communications Act and the First Amendment to the Constitution the Court said "* * * it seems obvious that the Commission sought only to insure the continued economic vitality of free television and not to affect the ideas which could be presented on either free or subscription television. Thus, when the net effect of the program restrictions is considered, it seems quite likely that the public in STV areas will receive more rather than less diversity of expression in its television programing." *Id.* at p. 208. See also U.S. v. Midwest Video Corporation, ——— U.S. ——— (Case No. 71-506), June 7, 1972.

[20] Attachment A filed as part of the original document. See 37 F.R. 3252 (Feb. 12, 1972).

[21] Attachment B filed as part of the original document. See 37 F.R. 6738 (Apr. 4, 1972).

[22] Commissioner Johnson concurring in the result; Commissioner Hooks not participating.

DEPARTMENT OF LABOR

Manpower Administration

[20 CFR Part 602]

PUBLIC EMPLOYMENT OFFICES

Minimum Wage Rates

Pursuant to section 1184 of title 8, United States Code, § 214.2(h) of Title 8, Code of Federal Regulations, and Secretary's Order No. 7–71, I hereby propose to amend 20 CFR 602.10(a)(1) as set forth below.

Any person interested in this proposal may file a written statement of data, views, or arguments regarding it with the Manpower Administrator, U.S. Department of Labor, Washington, D.C. 20210, within 15 days after this notice is published in the FEDERAL REGISTER.

As amended, subparagraph (1) of paragraph (a) in 20 CFR 602.10b would read as follows:

§ 602.10b Wage rates.

(a) (1) Except as otherwise provided in this section the following hourly wage rates (which have been found to be the rates necessary to prevent adverse effect upon U.S. workers) shall be offered to agricultural workers in accordance with § 602.10a(j):

State:	*Rate*
Connecticut	$2.04
Maine	1.99
Massachusetts	2.01
New Hampshire	2.15
New York	2.11
Rhode Island	2.02
Vermont	2.18
Virginia	1.92
West Virginia	1.91

* * * * *

(8 U.S.C. 1184, 8 CFR 214.2(h), 34 F.R. 6502)

Signed at Washington, D.C., this 19th day of July 1972.

MALCOLM R. LOVELL, Jr., *Assistant Secretary for Manpower.*

[FR Doc.72-11794 Filed 7-27-72;8:55 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Order 3]

REGIONAL DIRECTORS AND REGIONAL COUNSEL

Delegation of Authority Regarding Release of Information Relative to Leave and Pay of Employees

Pursuant to authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, authority is hereby delegated to Regional Directors and Regional Counsel to authorize the release of information from the leave and payroll records of employees under their jurisdiction, and to the Budget and Accounting Analyst to authorize the release of information from the leave and payroll records of all employees of the National Office, when such information is requested in connection with private litigation or is subpenaed by a court, upon determination that release of the information would not be detrimental to the Bureau.

This delegation does not include authority to release information contained in official personnel folders, which is covered by regulations in section 1(11) 13.1, Part I, of the Internal Revenue Manual.

When any uncertainty exists as to the advisability of furnishing leave and pay information in a particular case, the matter should be referred to the National Office, Attention: AT:F, with a complete report of the circumstances.

Issue and effective date: July 1, 1972.

[SEAL] REX D. DAVIS,
Acting Director.

[FR Doc.72-11783 Filed 7-27-72;8:53 am]

[Order 8]

CHIEF, ADMINISTRATIVE SERVICES DIVISION ET AL

Delegation of Authority Regarding Settlement of Claims for Damage to or Loss of Personal Property Incident to Service

1. Pursuant to Treasury Department Order No. 145 (Rev. 3), dated February 13, 1967, and Treasury Department Order No. 177-22 (Rev. 2), dated December 27, 1968, there is hereby delegated to the officials listed below the authority to handle the claims and amounts of claims as specified:

(a) Chief Administrative Services Division:

(1) The authority, under 28 U.S.C. 2672 to consider, ascertain, adjust, determine, compromise, settle, and pay or transmit for payment claims for money damages for injury or loss of property or wrongful act or omission of any employee of the Bureau of Alcohol, Tobacco, and Firearms.

(2) The authority to consider, ascertain, adjust, and determine claims under the Act of December 28, 1922, 42 Stat. 1066;

(3) The authority under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, to settle and pay claims made by an employee of the Bureau of Alcohol, Tobacco, and Firearms for damage to or loss of personal property incident to his service.

(4) This authority may be redelegated but not lower than the Safety Management Officer.

(b) Chief, Facilities Management Branch, each Regional Office, the authority under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, to settle and pay claims made by an employee within the respective regions in any amount of $200 and less, for damage to or loss of personal property incident to his service. This authority may not be redelegated.

Issue and effective date: July 1, 1972.

[SEAL] REX D. DAVIS,
Acting Director.

[FR Doc.72-11784 Filed 7-27-72;8:54 am]

[Order 16]

FACILITIES MANAGEMENT SPECIALIST ET AL

Delegation of Authority Regarding Procurement of Property and Nonpersonal Services

Pursuant to authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms by Treasury Department Order No. 208, dated March 31, 1966, and subject to the limitations contained therein and in accordance with Treasury Department Administrative Circular No. 153, dated September 9, 1966, there is hereby delegated to the officicials listed below the authority to utilize the provisions of Title III of the Federal Property and Administrative Services Act of 1949, as amended, when procuring property and services:

Facilities Management Specialist, National Office. This authority may be redelegated to appropriate procurement officials under the direct control and supervision of the Section Chief, not below Grade GS-7.

Regional Directors who may redelegate to appropriate procurement officials, not below Grade GS-7.

The authority to buy routine miscellaneous items and expendable supplies from General Services Administration stores may be redelegated by either official to appropriate procurement personnel not below Grade GS-4.

Issue and effective date: July 1, 1972.

[SEAL] REX D. DAVIS,
Acting Director.

[FR Doc.72-11785 Filed 7-27-72;8:54 am]

[Order 23]

CHIEF, FISCAL DIVISION ET AL

Delegation of Authority Regarding Federal Claims Collection Act of 1966

1. Pursuant to authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, 31 CFR Part 5, the authority for administrative collection, compromise, termination, or suspension of agency collection action under the Federal Claims Collection Act of 1966 is hereby delegated as follows:

(a) The Chief, Fiscal Division, National Office; Chief Accounting Branch, National Office; Regional Directors; and Regional Fiscal Management Officers shall take aggressive action, on a timely basis with effective followup, to collect claims of the United States (except claims arising from damage to, or loss of, Government property, breach of contract cases, or other damages arising from tortious acts against the Service) for money or property arising out of the activities of, or referred to, the Bureau. They are authorized to compromise, terminate, or suspend collection action on such claims that do not exceed $20,000 exclusive of interest upon written recommendation of Chief Counsel or his designee, and may terminate collection action on such claims up to $50 without the recommendation of Chief Counsel.

(b) The Regional Facilities Management Specialist, shall take aggressive action on a timely basis with effective followup to collect claims arising from damage to, or loss of, Government property, breach of contract cases, or other damages arising from tortious acts against the Bureau up to $5,000, exclusive of interest and costs, of the United States for money or property arising out of the field activities of the Service. He is authorized to compromise such claims or terminate, or suspend collection action on such claims up to $5,000 upon written recommendation of Chief Counsel, and may terminate collection action on such claims up to $50 without the recommendation of Chief Counsel.

(c) The Chief Management and Analysis Division, National Office, shall take aggressive action, on a timely basis with effective followup, to collect claims of the United States for money or property arising out of the activities of, or referred to, the Service, for damage to, or loss of, Government property, breach of contract cases, or other damages arising from tortious acts against the Bureau. He is au-

thorized to compromise, terminate, or suspend collection action on such claims that do not exceed $20,000 upon written recommendation of Chief Counsel and may terminate collection action on such claims up to $50 without the recommendation of Chief Counsel.

2. This Order does not apply to tax claims nor any claim where there is an indication of fraud or misrepresentation on the part of the debtor.

3. The authority delegated herein may not be redelegated.

Issue and effective date: July 1, 1972.

[SEAL] REX D. DAVIS,
Acting Director.

[FR Doc.72-11786 Filed 7-27-72;8:54 am]

[Order 25]

ASSISTANT DIRECTOR, REGULATORY ENFORCEMENT ET AL.

Authority To Accept or Reject Certain Offers in Compromise of Liability

Pursuant to the authority vested in me by Treasury Department Order No. 221, dated June 6, 1972, it is hereby ordered that:

1. Subject to the limitations contained in applicable regulations and procedures the Assistant Director, Regulatory Enforcement, is delegated authority under section 7122 of the Internal Revenue Code to accept or reject offers in compromise of civil and criminal liability arising under chapters 51 and 53 of the Code in cases not subject to compromise by regional directors.

2. With respect to civil liability, the authority to accept offers in compromise delegated in paragraph 1 of this order is limited to cases in which the liability sought to be compromised (including any interest, additional amount, addition to the tax, or assessable penalty) is less than $100,000.

3. This authority may be redelegated, but not below Division Chief level.

Issue and effective date: July 1, 1972.

[SEAL] REN O. DAVIS,
Acting Director.

[FR Doc.72-11787 Filed 7-27-72;8:54 am]

[Order 27]

REGIONAL DIRECTOR

Delegation of Authority Regarding Approval of Contracts for Purchase of Information

Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms by 26 CFR 301-7623-1 and Treasury Department Order No. 221, dated June 6, 1972, there is hereby delegated to the Regional Director, Bureau of Alcohol, Tobacco and Firearms, the authority to approve contracts for the purchase of information and payment of lump sums therefor (Form 164-A).

This authority may not be redelegated.

Issue and effective date: July 1, 1972.

[SEAL] REN D. DAVIS,
Acting Director.

[FR Doc.72-11788 Filed 7-27-72;8:54 am]

[Order 28, corrected]

REGIONAL DIRECTORS

Delegation of Authority To Accept or Reject Offers in Compromise

1. Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco, and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7122-1 and 301.7701-9, Regional Directors are delegated the authority to accept or reject offers in compromise of tax liabilities arising from:

(a) Chapter 51, I.R.C., as follows:

(i) Illegal production of untaxpaid distilled spirits, wines, or beer, and

(ii) Failure to file returns of, or to pay, occupational taxes with respect to distilled spirits, wines, or beer.

(b) Chapter 52, I.R.C.

(c) Chapter 53, I.R.C.

2. Regional Directors are delegated the authority to accept or reject offers in compromise of criminal liabilities of retail dealers in liquor arising from violations of the internal revenue laws relating to liquor, including the reuse of liquor bottles.

3. This authority may not be redelegated.

4. This order supersedes Internal Revenue Service Delegation Orders No. 34, issued July 27, 1956; No. 62, issued May 22, 1958; and paragraphs 1(c) and 3 of No. 61 (Rev. 1), issued April 28, 1970.

Issue and effective date: July 1, 1972.

[SEAL] REX D. DAVIS,
Acting Director.

[FR Doc.72-11789 Filed 7-27-72;8:54 am]

[Order 29, corrected]

REGIONAL DIRECTORS

Delegation of Authority To Settle Tax Claims

1. Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco, and Firearms, by Treasury Department Order No. 221, dated June 6, 1972; section 7851(b)(3), I.R.C.; and 26 CFR 301.-7701-9, authority is hereby delegated to each Regional Director:

(a) To allow or reject, in whole or in part, claims for nonbeverage drawback filed under the provisions of section 5134(b), I.R.C., and claims for abatement, refund, allowance, remission, and credit of taxes imposed under chapters 51 and 52, I.R.C.

(b) To make determinations of tax liabilities and to allow or reject claims for abatement or refund of taxes or penalties, or for redemption of stamps, prescribed by chapter 53, I.R.C.

2. The authority delegated herein may be redelegated to (but not below) Chiefs of Technical Rulings and Services.

3. This order supersedes Internal Revenue Service Delegation Orders No. 87 (Rev. 1), issued February 26, 1968, and paragraphs 1.(a), and 2. of No. 61 (Rev. 1), issued April 28, 1970.

Issue and effective date: July 1, 1972.

[SEAL] REX D. DAVIS,
Acting Director.

[FR Doc.72-11790 Filed 7-27-72;8:54 am]

[Order 30, corrected]

REGIONAL DIRECTORS

Authority Delegation To Sign Consents Fixing Limitation Periods on Assessment or Collections

1. Pursuant to authority vested in the Director, Bureau of Alcohol, Tobacco, and Firearms, by Treasury Department Order No. 221, dated June 6, 1972; and by 26 CFR 301.6501(c)-1, 301.6502-1, and 301.7701-9, authority is delegated to Regional Directors to sign all consents fixing the period of limitations on assessment or collection.

2. This authority may be redelegated but not below Chief, Regulatory Enforcement.

3. This order supersedes paragraph 1.(a), Internal Revenue Service Delegation Order No. 42 (Rev. 2), issued March 20, 1969.

Issue and effective date: July 1, 1972.

[SEAL] REX D. DAVIS,
Acting Director.

[FR Doc.72-11791 Filed 7-27-72;8:54 am]

[Order 32]

ASSISTANT DIRECTORS ET AL.

Delegation of Authority Regarding Classification of Documents

The authority vested in the Director, Bureau of Alcohol, Tobacco, and Firearms, by Treasury Department Order No. 160, Revised, issued July 16, 1968, and by No. 221, issued June 6, 1972, for the administrative classification of certain nondefense official information requiring confidential handling but not subject to classification safeguards or dissemination restrictions imposed by law or by Executive Order No. 10501 (as amended), is hereby delegated as follows:

(a) Assistant Directors are authorized to classify for "Limited Official Use" those nondefense documents as material of an important, delicate or sensitive nature which should be treated confidentially and restricted to the officials and their immediate surbordinates who need to know such information. This authority may not be redelegated.

(b) Assistant Directors and Regional Directors are authorized to classify for "Official Use Only" those nondefense documents or materials which should be safeguarded but to a lesser degree than "Limited Official Use." This authority may be redelegated to (but not below)

Branch Chiefs and to as few persons as is consistent with the orderly and expeditious transaction of Government business.

Issue and effective date: July 1, 1972.

[SEAL] REX D. DAVIS,
Acting Director.

[FR Doc.72-11792 Filed 7-27-72;8:54 am]

[Order 33]

DEPUTY DIRECTOR ET AL.

Emergency Order of Succession and Delegation of Authority

1. By virtue of the authority vested in me by Treasury Department Orders No. 129, Revision No. 2, dated April 22, 1955; and No. 221, dated June 6, 1972; the officials in the positions listed below are hereby authorized, in the event of an enemy attack on the United States, and the disability of the Director, his absense from the Main Treasury Relocation Site, or if there is a vacancy in the office, to succeed to the position of Acting Director in the order listed, and are authorized to perform the functions of Director to insure the continuity of the functions of that office:

(a) Deputy Director.

(b) Assistant Director, Criminal Enforcement.

(c) Assistant Director, Regulatory Enforcement.

(d) Assistant Director, Administration.

(e) Assistant Director, Inspection.

(f) Assistant Director, Scientific and Technical Services.

2. If none of these officials is available, the first available Regional Director, in the order of appointment as Regional Director (or as Assistant Regional Commissioner), will become Acting Director.

3. If none of the officials listed in paragraphs 1 and 2 is available, the first available Division Chief in the order shown in the list filed at each National Office Relocation Site (prepared on the basis of the higher GS grades first, date of promotion to the grade and alphabetical order when grade and promotion dates are identical) will assume the position of Acting Director until relieved or further instructions are given by proper authority.

4. There is hereby delegated to Regional Directors, or the officials acting in their stead, in the event of an enemy attack on the United States, all authority vested in the Director, Bureau of Alcohol, Tobacco, and Firearms, by law or transfer from the Secretary of the Treasury to insure the continuous performance of Bureau functions in their areas of jurisdiction. This delegation of authority will remain in effect until notice is received from proper authority that it has been terminated.

Issue and effective date: July 10, 1972.

[SEAL] REX D. DAVIS,
Acting Director.

[FR Doc.72-11793 Filed 7-27-72;8:54 am]

Bureau of Customs

CERAMIC GLAZED WALL TILE FROM THE PHILIPPINES

Antidumping Proceeding Notice

On June 28, 1972, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that ceramic glazed wall tile from the Philippines is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: July 25, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-11884 Filed 7-27-72;8:55 am]

[T.D. 72-204]

WOOL

Drawback; Substitution

JULY 24, 1972.

Basis for determining what wools are of the "same kind and quality" under section 313(b), Tariff Act of 1930, as amended. Procedures applicable.

T.D. 55038 (25 F.R. 916) sets forth, among other things, eight categories of wool (based on grades of wool) within each of which category imported and domestic wools may be substituted as being merchandise of the same kind and quality within the meaning of section 313(b), Tariff Act of 1930, as amended.

Effective immediately the said system of eight categories is hereby revoked, and the following system of six categories of wool, within each of which imported and domestic wools may be substituted (on the basis of clean content), as being merchandise of the same kind and quality within the meaning of section 313(b), is established in lieu thereof:

(a) Imported wools named in the inferior heading to items 306.10-306.14, Tariff Schedules of the United States, in the grease or washed, and similar imported and domestic wools without merino or English blood, in the grease or washed.

(b) Imported and domestic wools, in the grease or washed, not finer than 40s, which are not covered by the preceding paragraph.

(c) Imported and domestic 44s wool in the grease or washed.

(d) Imported and domestic wools in the grease or washed, finer than 44s but not finer than 48s.

(e) Imported and domestic wools in the grease or washed, finer than 48s but not finer than 58s.

(f) Imported and domestic wools in the grease or washed, finer than 58s.

T.D. 55038 is modified accordingly.

This decision applies to articles exported on and after the date of the decision and to articles exported prior to the date of the decision, provided that drawback claims on such previously exported articles have not been liquidated.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

[FR Doc.72-11782 Filed 7-27-72;8:53 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[Docket No. SH-309]

DOMESTIC BEET SUGAR PRODUCING AREA

Notice of Hearing on Proportionate Shares for 1973 Crop

Notice is hereby given that the Secretary of Agriculture, acting pursuant to the Sugar Act of 1948, as amended, will conduct a hearing to receive the views and recommendations of interested persons on the need for establishing proportionate shares (farm acreage allotments) for the 1973 crop of sugarbeets in the domestic beet sugar area. Also, for use by the Secretary if he determines that proportionate shares are needed, views and recommendations are desired on all phases of the proportionate share program, including the level of the national sugarbeet acreage requirement. The hearing will be conducted at Denver, Colo., on August 17, 1972, in Room 269, U.S. Post Office Building, 1823 Stout Street, beginning at 10 a.m. local time.

In accordance with the provisions of paragraph (1), subsection (b) of section 302 of the Sugar Act of 1948, as amended (7 U.S.C. 1132(b)), the Secretary must determine for each crop year whether the production of sugar from any crop of sugarbeets will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal

carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

With the exception of the 1970 crop, proportionate shares have not been in effect since the 1966 crop. Acreage restrictions on 1970-crop plantings were established in October 1969 but were removed in April 1970 because of deficiencies in the 1969 crop. Latest estimates indicate that approximately 3,472,000 short tons, raw value, of sugar was produced from 1971-crop plantings and that 1972-crop acreage planted or to be planted will total about 1,420,000 acres.

Views and recommendations on the need for establishing proportionate shares and the details of the program may be presented orally at the hearing, preferably supported in writing by an original and two copies of the oral statement. Views and recommendations may also be submitted in writing (original and two copies) at the hearing without an oral presentation or they may be mailed to the Director, Sugar Division, Agricultural Stabilization and Conservation Service U.S. Department of Agriculture, Washington, D.C. 20250, postmarked not later than August 31, 1972.

Oral and written proposals that proportionate shares be established for the 1973 crop in addition to the rationale should include recommendations as to the level of the national sugarbeet acreage requirement and as to the details of a program. These would include such items as methods (formulae) of establishing State allocations, area allotments and farm bases, and the level of set-asides for new producers, appeals, and adjustments.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C. on: July 21, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-11727 Filed 7-27-72;8:49 am]

Soil Conservation Service

T OR C WILLIAMSBURG ARROYOS WATERSHED, SIERRA COUNTY, N. MEX.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, Department of Agriculture, has prepared a final environmental statement for the T or C Williamsburg Arroyos Watershed project, USDA-SCS-ES-WS-(Adm)-72-16-(F).

The environmental statement concerns plans for reducing floodwater damages in and near the towns of Truth or Consequences and Williamsburg, N. Mex. The planned project includes conservation land treatment supplemented by four floodwater retarding structures, about 1 mile of channel and pipeline, and about 0.6 mile of floodway.

The final environmental statement was filed with CEQ on July 19, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Soil Conservation Service, Washington Office, South Agriculture Building, Room 5227, 12th Street and Independence Avenue SW., Washington, DC 20250.

USDA, Soil Conservation Service, 517 Gold Avenue SW., Post Office Box 2007, Albuquerque, NM 87103.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151 for $3 each. Please refer to the name and number of the statement when ordering.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the Council on Environmental Quality Guidelines.

NORMAN A. BERG,
Acting Administrator, Soil Conservation Service.

JULY 24, 1972.

[FR Doc.72-11728 Filed 7-27-72;8:49 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-288, Sub. 1]

AMERICAN EXPORT LINES, INC.

Notice of Amended Application

Notice is hereby given that American Export Lines, Inc., has amended its application for operating-differential subsidy, as published in the FEDERAL REGISTER on July 26, 1972 (37 F.R. 14893), for a maximum of 55 sailings per annum to embrace both North Atlantic and South Atlantic ports of the United States, as far south as Savannah, Ga., and all European ports within the trading description of Essential Trade Routes 5-7-8-9, 6 and 11. This amendment adds the European ports within the trading description of Essential Trade Route No. 6 briefly described as Scandinavian and Baltic countries.

Any person, firm, or corporation having any interest in such amended application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1175, should, by the close of business on August 11, 1972, notify the Secretary, Maritime Subsidy Board, in writing in triplicate, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated on a service, route, or line served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry in such service, route, or line is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

By order of the Maritime Subsidy Board, Maritime Administration.

Dated: July 26, 1972.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.72-11860 Filed 7-27-72;8:55 am]

Office of the Secretary

[Dept. Org. Order 10-8; Transmittal 127]

ASSISTANT SECRETARY FOR MARITIME AFFAIRS

Organization, Functions, and Delegations of Authority

This order effective June 19, 1972, supersedes the material appearing at 36 F.R. 1223 of January 26, 1971, 36 F.R. 5921 of March 31, 1971, 36 F.R. 16701 of August 25, 1971, 37 F.R. 12249 of June 21, 1972, and 37 F.R. 14421 of July 20, 1972.

SECTION 1. *Purpose.* This order delegates authority to the Assistant Secretary for Maritime Affairs and to the Maritime Subsidy Board and prescribes the general functions of the Maritime Administration. This revision adds a new function (paragraph 4.02) involving coordination of the Department's trade documentation effort.

SEC. 2. *Status and line of authority.*

.01 The Maritime Administration, established in the Department of Commerce by Reorganization Plan No. 21 of 1950, effective May 24, 1950, as affected by Reorganization Plan No. 7 of 1961, effective August 12, 1961, is continued as a primary operating unit of the Department of Commerce.

.02 By effect of section 38 of the Merchant Marine Act of 1970 (Public Law 91-469 of October 21, 1970), the Assistant Secretary for Maritime Affairs (the "Assistant Secretary"), who is ex-officio Maritime Administrator, is the head of the Maritime Administration. The Assistant Secretary is appointed by the President by and with the advice and consent of the Senate. He shall report and be responsible to the Secretary of Commerce.

.03 The Assistant Secretary for Maritime Affairs shall be principally assisted by the following officials who shall have the responsibilities herein indicated.

a. The Deputy Assistant Secretary for Maritime Affairs (ex-officio Deputy Maritime Administrator) shall perform such duties as the Assistant Secretary shall assign. In addition, he shall assume the duties of the Assistant Secretary in his absence or during a vacancy in the office, unless the Secretary shall designate another person.

b. The Deputy Assistant Secretary for International Planning shall perform such duties as the Assistant Secretary shall prescribe in providing executive direction and coordination of activities related to international policy and planning, with emphasis on maritime aspects.

.04 The Assistant Secretary is also designated Commandant of the United States Maritime Service.

SEC. 3. *Delegation of authority to the Assistant Secretary.* .01 Pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 21 of 1950, as affected by Reorganization Plan No. 7 of 1961, and Reorganization Plan No. 5 of 1950, and otherwise by law, the Assistant Secretary is hereby delegated the authority vested in the Secretary of Commerce under:

a. Reorganization Plan No. 21 of 1950 (64 Stat. 1273) and section 202 of Reorganization Plan No. 7 of 1961 (75 Stat. 840), except the authority delegated to the Maritime Subsidy Board by section 6 of this order. This delegation includes but is not limited to the authority vested in the Secretary of Commerce by:

(1) The Shipping Act, 1916, as amended (46 U.S.C. 801 et seq.);

(2) The Merchant Marine Act, 1920, as amended (46 U.S.C. 861 et seq.), including the Ship Mortgage Act, 1920, as amended (46 U.S.C. 921 et seq.);

(3) The Merchant Marine Act, 1928, as amended (46 U.S.C. 891 et seq.);

(4) The Intercoastal Shipping Act, 1933, as amended (46 U.S.C. 843 et seq.);

(5) The Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 et seq.), except the authority delegated to the Administrator of the National Oceanic and Atmospheric Administration relating to the establishment of capital construction fund agreements and the adoption of regulations pursuant thereto for vessels operating in the fisheries of the United States under section 607 thereof; and

(6) The Merchant Ship Sales Act of 1946, as amended (50 U.S.C. App. 1735 et seq.).

b. Title VI of the Civil Rights Act of 1964, which is applicable to the Assistant Secretary, as provided in Department Administrative Order 201-7 and the regulations referred to therein;

c. The Act of August 9, 1954 (50 U.S.C. 196 et seq.) commonly called the Emergency Foreign Vessels Acquisition Act;

d. The Act of July 24, 1956 (46 U.S.C. 249 et seq.) commonly called the Merchant Marine Medals Act of 1956;

e. The Maritime Academy Act of 1958, as amended (46 U.S.C. 1381 et seq.);

f. The Act of September 14, 1961 (46 U.S.C. 1126(b)) commonly called the Merchant Marine Academy Act;

g. Executive Order 10480, as amended, and Executive Order 11490, with respect to defense mobilization and emergency preparedness of coastwise, intercoastal, and overseas shipping and ports and port facilities;

h. Section 617 of the Act of December 29, 1969 (40 U.S.C. 483a), commonly known as the Department of Defense Appropriations Act, 1970, with respect to transferring or otherwise making available vessels under the jurisdiction of the Maritime Administration to another Federal agency or, similarly, accepting vessels from another Federal agency;

i. The Suits in Admiralty Act (1920), as amended (46 U.S.C. 741 et seq.) except in relation to the arbitration, compromise or settlement of any claim in the amount of $5,000 or less involving a vessel operated by the National Oceanic and Atmospheric Administration.

j. The Civilian Nautical School Act, 1940 (46 U.S.C. 1331 et seq.); and

k. The Act of June 2, 1951 (46 U.S.C. 1241a) regarding the "Vessel Operations Revolving Fund."

.02 The Assistant Secretary is also hereby vested with the authorities of the Director, National Shipping Authority, which was established by the Secretary of Commerce effective March 13, 1951.

.03 Pursuant to the authority delegated to the Secretary of Commerce by the Administrator of the General Services Administration, dated August 15, 1967, the Assistant Secretary is hereby delegated authority to appoint uniformed guards as special policemen, with such powers as are conferred in the Act of June 1, 1948 (62 Stat. 281), as amended, for protection duties on those parcels of property at the U.S. Merchant Marine Academy, Kings Point, N.Y., which are not protected by General Services Administration guards, and over which the Federal Government has exclusive or concurrent jurisdiction. This authority shall be exercised in accordance with the limitations and requirements of the above-cited Act, and policies, procedures, and controls prescribed by the General Services Administration.

.04 The Assistant Secretary may exercise other authorities of the Secretary as applicable to performing the functions assigned in this order.

.05 The Assistant Secretary may redelegate his authority to officials of the Maritime Administration subject to such limitations in the exercise of such authority as he may prescribe.

SEC. 4. *Functions.* .01 The Maritime Administration, in accordance with the declaration of policy stated in Title I of the Merchant Marine Act of 1936, as amended, shall be responsible for fostering the development and maintenance of an American merchant marine sufficient to meet the needs of the national security and of the domestic and foreign commerce of the United States. In carrying out these responsibilities, the Maritime Administration shall:

a. Award and administer construction-differential subsidy contracts and operating-differential subsidy contracts with the American merchant marine and trade-in allowances for new ship construction;

b. Administer capital construction funds and construction reserve funds;

c. Provide insurance on construction loans and ship mortgages obtained from private sources for ship construction and reconstruction;

d. Provide assistance to the shipping industry to generate increased trade and cargo shipments on U.S.-flag ships;

e. Promote development of ports and intermodal transportation systems;

f. Oversee the administration of cargo preference statutes;

g. Administer charters and general agency agreements for operation of Government-owned ships;

h. Maintain custody and preserve ships in the National Defense Reserve Fleets;

i. Administer the sale and exchange of ships;

j. Supervise design and construction of ships for Government account;

k. Furnish war risk insurance on privately owned merchant ships;

l. Train merchant marine officers;

m. Administer a research and development program in the maritime field; and

n. Issue rules and regulations with respect to the foregoing functions.

.02 In carrying out its responsibilities, the Maritime Administration shall also coordinate and provide leadership to the department's overall effort to reduce, simplify and otherwise facilitate the use of documents required for trade, travel, and transport purposes.

SEC. 5. *Maritime Subsidy Board.* .01 The Maritime Subsidy Board (the "Board") is continued within the Maritime Administration. The Board shall be composed of the Assistant Secretary, the Deputy Assistant Secretary for Maritime Affairs, and the General Counsel of the Maritime Administration, and during a vacancy in any one of those offices, the person acting in such capacity shall be a member of the Board, unless the Secretary of Commerce designates another person. In case there still is a vacancy in the Board or in the absence or disability of one of its members, the Secretary of the Maritime Administration and Maritime Subsidy Board, or any other persons designated by the Secretary of Commerce, shall act as a member or members of the Board. Each member of the Board, while serving in that capacity, shall act pursuant to direct authority from the Secretary of Commerce and exercise judgment independently of authority otherwise delegated to the Assistant Secretary. The Assistant Secretary or the Acting Assistant Secretary serves as Chairman of the Board. The concurring votes of two members shall be sufficient for the disposition of any matter which may come before the Board.

.02 The Chairman of the Maritime Subsidy Board may make use of officers and employees of the Maritime Adminis-

tration to perform activities for the Maritime Subsidy Board. Employees of the Maritime Administration may be designated as the Secretary or Assistant Secretaries of the Board.

SEC. 6. *Delegations of authority to the Maritime Subsidy Board.* .01 Pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 21 of 1950, as affected by Reorganization Plan No. 7 of 1961, and Reorganization Plan No. 5 of 1950, and otherwise by law, the Maritime Subsidy Board is hereby delegated authority to perform the following functions vested in the Secretary of Commerce:

a. All functions previously vested in the Federal Maritime Board pursuant to section 105(1) (except the last proviso thereto), section 105(2), and, insofar as applicable to these functions, section 105 (3) of Reorganization Plan No. 21 of 1950, as the same have been transferred to the Secretary of Commerce by section 202(b)(1) of Reorganization Plan No. 7 of 1961, except investigations, hearings, and determinations, including changes in determinations, with respect to minimum manning scales, minimum wage scales, and minimum working conditions referred to in section 301(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 et seq.).

b. All functions previously vested in the Federal Maritime Board pursuant to section 103(e) of Reorganization Plan No. 21 of 1950, as the same have been transferred to the Secretary of Commerce by section 202 (b)(2) (except requiring the filing of reports, accounts, records, rates, charges, and memoranda under section 21 of the Shipping Act, 1916, as amended, and making reports and recommendations to Congress) and section 202(b)(3) of Reorganization Plan No. 7 of 1961, insofar as said functions relate to the functions described in subparagraph a. of this paragraph.

c. All functions under Title VI of the Civil Rights Act of 1964, which are applicable to the Maritime Subsidy Board, as provided in Department Administrative Order 201–7 and the regulations referred to therein, which delegated authority shall be performed in accord with the provisions of said Department Administrative Order and regulations, and shall be exempted from review under section 7 of this order.

.02 The Maritime Subsidy Board may exercise other authorities of the Secretary of Commerce as applicable to performing the functions assigned to the Board in this order.

.03 Any member of the Maritime Subsidy Board or the Secretary or an Assistant Secretary of the Maritime Subsidy Board is authorized to execute and sign contracts and other documents authorized or approved pursuant to sections 6 or 7 of this order. The execution of such contracts or documents may be attested, under the seal of the Maritime Administration, by the Secretary or an Assistant Secretary of the Maritime Subsidy Board.

.04 The Maritime Subsidy Board may, with the approval of the Secretary of Commerce, redelegate its authority and prescribe necessary limitations, restrictions and conditions on the exercise of such authority. Action taken by any redelegee shall be exempt from the provisions of section 7 of this order.

SEC. 7. *Review and finality of actions by Maritime Subsidy Board.* .01 The Secretary of Commerce (hereinafter referred to as the "Secretary") may on his own motion or on the basis of a petition filed as hereinafter provided, review any decision, report and/or order of the Maritime Subsidy Board based on a hearing held pursuant to (a) statutory requirements or (b) Board order, by entering a written order stating that he elects to review the action of the Board. Copies of all orders for review shall be served on all parties of record. Petitions for review under this paragraph may be filed by parties of record, shall be in writing, and shall state the grounds upon which petitioner relies. Ten (10) copies of such petitions for review, together with proof of service thereof on all parties of record, shall be filed with the Secretary within fifteen (15) days after the date of the service of the Board's decision, report or order. Parties of record may file answers in writing thereto. Ten (10) copies of such answers, together with proof of service thereof on the petitioner and all other parties of record, shall be filed with the Secretary within ten (10) days after the date the petition for review is timely filed. Petitions for review and answers thereto shall be limited to the record before the Board. If a petition for review is filed within the time prescribed, a decision, report or order of the Board shall be final fifteen (15) days after expiration of the time prescribed for filing answer thereto unless the Secretary, prior to expiration of the fifteen (15) days, enters a written order granting the petition for review. If no petition for review is filed within the time prescribed, a decision, report or order of the Board shall be final twenty (20) days after the date of service of the decision unless the Secretary, prior to expiration of the twenty (20) days, enters a written order stating that he elects to review the action of the Board. If upon any review the decision of the Secretary rests on official notice of a material fact not appearing in the evidence in the record, any party of record shall, if request is made within ten (10) days after the date of service of the Secretary's decision on said party, be afforded an opportunity to show the contrary. The said ten (10) days shall constitute the period for a "timely request" within the meaning of the provisions of 5 U.S.C. 556(e). A copy of all orders for review, petitions for review, answers to petitions for review, and decisions of the Secretary shall be filed with the Secretary of the Board concurrent with service upon all parties of record.

.02 The Secretary may on his own motion review all actions of the Maritime Subsidy Board other than those referred to in paragraph .01 of this section by entering a written order stating that he elects to review the action of the Board. Any person having an interest in any action of the Board under this paragraph shall have the privilege of submitting to the Secretary, within ten (10) days after the date of such Board action, a request that the Secretary undertake such review. Such request shall be in writing and shall state the grounds upon which the person submitting the same relies and his interest in the action for which review is requested. Ten (10) copies of such requests shall be submitted to the Secretary. Any other person having an interest in such matter shall have the privilege of submitting within fifteen (15) days after the date of the Board's action, a written request that the Secretary not exercise such review. Copies of request that the Secretary undertake or not exercise review will be open for public inspection at the office of the Secretary of the Board. If either a request that the Secretary undertake review or a request that he not exercise review is submitted within the time prescribed, an action of the Board shall be final in ten (10) days, after expiration of the time prescribed for submission of a request that review not be exercised unless the Secretary, prior to the expiration of the ten (10) days, enters a written order stating that he elects to review the action of the Board. If neither a request that the Secretary undertake review nor a request that he not exercise review is submitted within the time prescribed, an action of the Board shall be final in twenty (20) days after the date of such action unless the Secretary, prior to expiration of the twenty (20) days, enters a written order stating that he elects to review the action of the Board. Copies of all orders for review shall be filed with the Board, and served upon all persons filing requests as herein described.

.03 If a timely petition for reopening is filed under the rules prescribed by the Board, the time for filing a petition or request for review by the Secretary under paragraph .01 or .02 of this section, respectively, or the entry of an order by the Secretary on his own motion electing to review an action of the Board under paragraph .01 or .02 of this section, shall, in the case of actions under paragraph .01 of this section run from the date of service of the Board's action and, in the case of actions under paragraph .02 of this section, run from the date of the Board's action, finally disposing of the issues presented by the petition for reopening.

.04 In computing any period of time under this section, the time begins with the day following the act, event, or default, and includes the last day of the period unless it is Saturday, Sunday, or national legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or such holiday. The prescribed time for action by the Secretary in a proceeding in which additional days have been added pursuant to the provisions of this paragraph shall be extended by the total of such additional days.

.05 Petitions and requests for review by the Secretary shall not be filed:

a. Unless the petitioner shall have first exhausted his administrative remedies (other than a petition for reopening) before the Maritime Subsidy Board; or

b. With respect to interlocutory decisions of the Maritime Subsidy Board in actions or proceedings referred to in paragraphs .01 and .02 of this section.

.06 The Secretary may, for good cause and/or in order to prevent undue hardship in any particular case, waive or modify any procedural provision of this section by written order.

SEC. 8. *Saving provision.* All orders, determinations, rules, regulations, permissions, delegations, approvals, agreements, rulings, certificates, directives and other actions heretofore issued or taken by or relating to the Federal Maritime Board, Maritime Administration, Maritime Subsidy Board, National Shipping Authority and their predecessor agencies, and in effect on the effective date of this order shall, insofar as they relate to the functions referred to herein and are not inconsistent herewith, remain in full force and effect until hereafter suspended, amended or revoked under appropriate authority.

All actions, proceedings, hearings, or investigations pending on the effective date of this order before the Maritime Administration or the Maritime Subsidy Board in respect to the functions referred to in this order shall be continued before the Maritime Administration or the Maritime Subsidy Board, as the case may be, in accordance with the delegations made pursuant to this Order.

Effective date: June 19, 1972.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.72-11749 Filed 7-27-72;8:50 am]

[Dept. Org. Order 30-5B; Transmittal 128]

OFFICE OF TELECOMMUNICATIONS

Organization and Functions

This order effective July 11, 1972 supersedes the material appearing at 36 F.R. 14492 of August 6, 1971 and 37 F.R. 5402 of March 15, 1972.

SECTION 1. *Purpose.* .01 This order prescribes the organization and assignment of functions within the Office of Telecommunications. Department Organization Order 30-5A prescribes the scope of authority of the Director of the Office of Telecommunications and the functions of the Office.

.02 This revision establishes a more definitive title for the Associate Director, who has primary responsibility in the Office for liaison with other agencies (paragraph 3.04 of this order).

SEC. 2. *Organization structure.* The organization structure and line of authority of the Office of Telecommunications shall be as depicted in the attached organization chart. (A copy of the organization chart is on file with the original document with the Office of the Federal Register.)

SEC. 3. *Office of the Director.* .01 The Director, as the head of the Office of Telecommunications, shall direct and be responsible for all operations of the organization.

.02 The Deputy Director shall assist the Director in directing the Office and perform the functions of the Director during his absence.

.03 The Assistant Director fo Program Development and Evaluation shall initiate and maintain a formal program planning and evaluation system for the Office of Telecommunications, including such functions as: Supervised planning and development of future programs for all elements of the Office; establish management, evaluation, report, and control standards and procedures for all elements; evaluate past performance of all elements; review current performance of all elements; and coordinate the management of all program activities which involve more than one line division.

.04 The Associate Director for Other Agency Programs and International Activities shall:

a. Have primary responsibility in the Office of Telecommunications for liaison with other Federal departments and agencies,

b. Develop and propose new programs and plans to serve the needs of Federal departments and agencies,

c. Serve as senior representative of the Director, to other agencies, and monitor, on behalf of sponsoring agencies, progress and results in reimbursable programs, and

d. Be responsible, on behalf of the Director, for planning, coordination, and review of the Office of Telecommunications activities in the field of international telecommunications, particularly those related to the International Telecommunications Union, and to represent the Office of Telecommunications in these matters.

.05 The Administrative Officer shall:

a. Provide analysis and assistance for the Director toward developing or improving the management systems of the Office, and

b. Be the principal assistant and advisor to the Director on administration management and support functions, including: procurement, accounting, budgeting, personnel services, property management, security, emergency planning, and civil defense, office services (such as mail, messenger, communications, and duplicating) and office management (such as records and forms management).

SEC. 4. *Frequency Management Support Division.* The Frequency Management Support Division shall provide centralized technical and administrative support for coordination of Federal frequency uses and assignments and such other services and administrative functions, including the maintenance of necessary files and data bases, responsive to the needs of the Director of the Office of Telecommunications Policy in the Executive Office of the President, in the performance of his responsibilities for the management of the radio spectrum.

SEC. 5. *Telecommunications Analysis Division.* The Telecommunications Analysis Division shall:

a. Conduct technical and economic research and analysis of a long-term, continuing nature to provide information and alternatives for the resolution of policy questions, including studies leading to the more efficient allocation and utilization of telecommunications resources;

b. Provide forecasts of technological developments affecting telecommunications and estimate their significance; and

c. Provide advisory services in telecommunications to agencies of Federal, State, and local governments.

SEC. 6. *Institute for Telecommunication Sciences.* The Institute for Telecommunication Sciences shall provide the scientific, engineering, and technological competence necessary to the functions of the Office of Telecommunications. As such, it shall:

a. Serve as the central Federal agency for research on the transmission of radio waves;

b. Acquire, analyze, synthesize, and disseminate data and perform research in general on the description and prediction of electromagnetic wave propagation, on the nature of electromagnetic noise and interference, and on methods for the more efficient use of the electromagnetic spectrum for telecommunication purposes;

c. Prepare and issue predictions of electromagnetic wave propagation conditions and warnings of disturbances in those conditions;

d. Conduct research and analysis on radio propagation, radio systems characteristics, and operating techniques affecting the utilization of the radio spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility;

e. Conduct research, engineering, and analysis in the general field of telecommunications science in support of other Government agencies as required; and

f. Develop methods of measurement of system performance and standards of practice for telecommunication systems.

SEC. 7. *Policy Support Division.* The Policy Support Division shall:

a. Provide economic and policy studies in support of the Office of Telecommunications Policy; and

b. Perform such other analysis as is required to support Office of Telecommunications Policy.

Effective date: July 11, 1972.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.72-11750 Filed 7-27-72;8:51 am]

[Dept. Org. Order 35-4B, Amdt. 1; Transmittal 129]

SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION

Organization and Functions

This order effective July 11, 1972 amends the material appearing at 37 F.R. 3462 of February 16, 1972.

Department Organization Order 35-4B is hereby amended as follows:

1. In section 3, *Office of the Administrator*, a new paragraph .03 is added to read:

.03 The Management Information System Staff shall develop and implement information systems, provide ongoing information systems maintenance and upgrading, and support management in planning and controlling its programs and projects.

2. in section 4, *Assistant Administrator for Administration*, paragraphs .02 and .03 are amended to read:

.02 The Budget and Finance Division shall perform financial analysis, budget and fiscal functions which shall include preparation of official budget estimates and justifications, allocation and control of all funds, maintenance of financial accounts, coordination of payroll and leave audits, preparation of financial reports; and shall provide computer programing and systems services for the processing of administrative and management data.

.03 The Management and Organization Division shall conduct studies and perform related activities concerned with improving organization structure and management systems and practices; provide technical support for work measurement programs; perform directives and reports management functions; and prepare special analytic reports on management matters.

3. In sec. 7, *Bureau of the Census*, a. subparagraph .02 b is amended to read:

b. The Scheduling and Control Office shall schedule and coordinate the assignment of manual and ADP processing resources in headquarters and decentralized processing locations.

b. New subparagraphs .02d and .02e are added to read:

d. The Associate Director for Demographic Fields shall represent the Bureau as the foremost technical authority in demographic statistics in dealing with the Department of Commerce, with other Federal agencies, and with the Congress. The Associate Director shall represent the Director's Office on relevant interagency committees established by the Office of Management and Budget, and organize technical backup materials and attend Congressional hearings with the Director, as required.

e. The Associate Director for Economic Fields shall represent the Bureau as its foremost technical authority in economic statistics in dealing with the Department of Commerce, with other Federal agencies, and with the Congress. The Associate Director shall represent the Director's Office on relevant interagency committees established by the Office of Management and Budget, and organize technical backup materials and attend Congressional hearings with the Director, as required.

c. Paragraph .03 is revised as follows:

.03 The Associate Director for Demographic Operations shall plan and direct the demographic statistical programs and advise the Director in these fields. The Associate Director shall have and direct the following units.

d. Paragraph .04 is revised as follows:

.04 The Associate Director for Economic Operations shall plan and direct the economic statistical programs and advise the Director in these fields. The Associate Director shall have and direct the following units.

The attached organization chart dated July 11, 1972, supersedes the organization chart dated January 1, 1972. (A copy of the chart is on file with the original document with the Office of the Federal Register.)

Effective date: July 11, 1972.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.72-11751 Filed 7-27-72;8:51 am]

[Dept. Org. Order 30-5A; Transmittal 130]

OFFICE OF TELECOMMUNICATIONS

Delegation of Authority Regarding Functions

This order supersedes the material appearing at 35 F.R. 15176 of September 29, 1970.

SECTION 1. *Purpose.* This order delegates authority to the Director of the Office of Telecommunications and prescribes the functions of the Office.

SEC. 2. *Status and line of authority.* .01 The Office of Telecommunications (the Office) is hereby continued as a primary operating unit of the Department of Commerce. The Office shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Science and Technology. The Director shall be assisted by a Deputy Director who shall perform the functions of the Director during his absence.

SEC. 3. *Delegation of authority.* .01 Pursuant to the authority vested in the Secretary of Commerce by law and subject to such policies and directives as the Secretary of Commerce or the Assistant Secretary for Science and Technology may prescirbe, the Director is hereby delegated the authority vested in the Secretary of Commerce under:

a. 15 U.S.C. 272(f) (12) and (13), which relate to the investigation of the conditions which affect transmission of radio waves and to the compilation and distribution of information about such transmissions;

b. Section 13 of Executive Order 11556 of September 4, 1970, which pertains to performing research and analysis and other functions in support of the Director of the Office of Telecommunications Policy; and

c. Other authorities of the Secretary as applicable to performing the functions assigned in this order.

.02 The Director may redelegate his authority to any employee of the Office subject to such conditions in the exercise of such authority as he may prescribe.

SEC. 4. *Functions.* The mission of the Office shall be to assist the Secretary in fostering, serving, and promoting the Nation's economic development and technological advancement by improving man's comprehension of telecommunication science and by assuring effective use and growth of the Nation's telecommunications resources. To carry out this mission, the Office shall:

a. Acquire, analyze, synthesize, and disseminate data and perform research in general on the description and prediction of electromagnetic wave propagation and the conditions which affect such propagation, on the nature of electromagnetic noise and interference, and on methods for the more efficient use of the electromagnetic spectrum for telecommunication purposes; prepare and issue predictions of electromagnetic wave propagation conditions and warnings of disturbances in those conditions; and conduct economic analyses related to telecommunications;

b. Conduct technical research and analysis needed in the evaluation and development of telecommunications policy;

c. Conduct research and analysis in particular, under the policy guidance of the Director of the Office of Telecommunications Policy, on radio propagation, radio systems characteristics, and operating techniques affecting the utilization of the radio spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility;

d. Perform analysis, engineering and administrative functions, including the maintenance of necessary files and data bases, responsive to the needs of the Director of the Office of Telecommunications Policy in the performance of his responsibilities for the management of the radio spectrum;

e. Conduct technical and economic research upon request to provide information and alternatives required by the Director of the Office of Telecommunications Policy;

f. Conduct research, engineering, and analysis in the general field of telecommunication sciences in support of other Government agencies as required and in response to specific requests from the Director of the Office of Telecommunications Policy;

g. Conduct such other activities as may be required by the Director of the Office of Telecommunications Policy to support him in the performance of his functions; and

h. Assist other Federal agencies, States and communities in the use of telecommunications.

SEC. 5. *Support services.* The Office of the Assistant Secretary for Administration shall perform personnel, accounting, and payroll services for the Office.

Effective date: July 13, 1972.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.72-11752 Filed 7-27-72;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 4589; Docket No. FDC-D-490; NDA 4-589]

ALCOHOL-DEXTROSE INTRAVENOUS SOLUTIONS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs for intravenous use:

1. 5 percent Alcohol, 5 percent Dextrose in Normal Saline containing alcohol, dextrose, and sodium chloride; McGaw Laboratories, Inc. (successor to Don Baxter, Inc.), 1016 Grandview Avenue, Glendale, CA 91201 (NDA 4-589).

2. 5 percent Alcohol, 5 percent Dextrose with Vitamins containing alcohol, dextrose, niacinamide, riboflavin, and thiamine hydrochloride; McGaw Laboratories, Inc. (NDA 4-589).

3. 5 percent Alcohol, 5 percent Dextrose in Distilled Water containing alcohol and dextrose; McGaw Laboratories, Inc. (NDA 4-589).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classifications and conditions for approval and continued marketing are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available information, and concludes that:

1.a. 5 percent Alcohol, 5 percent Dextrose in Normal Saline and 5 percent Alcohol, 5 percent Dextrose in Distilled Water are effective for increasing caloric intake.

b. They lack substantial evidence of effectiveness for promoting water excretion in postoperative or other dilutional hyponatremias.

c. They are possibly effective for their other labeled indications.

2.a. 5 percent Alcohol, 5 percent Dextrose with Vitamins lacks substantial evidence of effectiveness for promoting water excretion in postoperative or other dilutional hyponatremias.

b. The drug is possibly effective for its other labeled indications.

B. *Conditions for approval and marketing of drugs having an effective classification.* The Food and Drug Administration is prepared to approve abbreviated new-drug applications and abbreviated supplements to previously approved new-drug applications under conditions described herein.

1. *Form of drug.* The drugs are in sterile aqueous solution form suitable for intravenous administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug. The "Indications" section is as follows: (The possibly effective indications may also be included for 6 months.)

INDICATIONS

For increasing caloric intake.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new-drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new-drug application, the submission of an abbreviated new-drug application as described in paragraph (a)(3)(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as possibly effective (not included in the "Indications" section above), continued use as described in (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A.1.b. of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new drug application, offered for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355), and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well-organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

D. *Conditions for marketing parenteral preparations containing alcohol, dextrose and vitamins.* 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any approved new drug application for a drug classified in paragraph (A)(2)(a) above as lacking substantial evidence of effectiveness is requested to submit a supplement to his application, as needed, to provide for revised labeling which deletes those indications for which substantial evidence of effectiveness is lacking. Such a supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to do so may result in a proposal to withdraw approval of the new drug application.

2. If any such preparation is on the market without an approved new drug application, its labeling should be revised if it includes those claims for which substantial evidence of effectiveness is lacking as described in paragraph (A)(2)(a) above. Failure to delete such indications and put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. The notice Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), describes in paragraphs (d), (e), and (f) the marketing status of a drug labeled with those indications for which it is regarded as possibly effective.

A copy of the Academy's report has been furnished to the firm referred to above. Communications forwarded in response to this announcement should be identified with the reference No. DESI 4589, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Adminis-

tration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Request for Hearing (identify with docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-88, Parklawn Building.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 11, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11715 Filed 7-27-72;8:47 am]

[DESI 5812; Docket No. FDC-D-493; NDA 5-812]

AMINOPHYLLINE SUPPOSITORIES WITH BENZOCAINE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Aminophylline Supposicones with Benzocaine; G. D. Searle and Co., Post Office Box 5110, Chicago, Ill. 60680 (NDA 5-812).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new-drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this drug is:

1. Effective for bronchial asthma.

2. Lacks substantial evidence of effectiveness for status asthmaticus and congestive heart failure.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new-drug applications and abbreviated supplements to previously approved new-drug applications under conditions described herein.

1. *Form of drug.* Such drugs are in suppository form suitable for rectal administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The "Indications" section is as follows:

INDICATIONS

Bronchial asthma.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new-drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a)(1)(i), (ii), and (iii) of the notice of July 14, 1970. Clinical trials which have established effectiveness of the drug may also serve to establish the bioavailability of the drug if such trials were conducted on the currently marketed formulation.

b. For any person who does not hold an approved or effective new-drug application, the submission of an abbreviated new-drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed, as described in paragraph (a)(3)(ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new-drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A. of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new-drug application offered for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355), and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well-organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 5812, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new-drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Request for Hearing (identify with docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-88, Parklawn Building.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the hearing clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the

Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 11, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11717 Filed 7-27-72;8:48 am]

[DESI 10911]

BUCLIZINE HYDROCHLORIDE WITH PYRIDOXINE HYDROCHLORIDE, SCOPOLAMINE HYDROBROMIDE, ATROPINE SULFATE, AND HYOSCYAMINE SULFATE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Bucladin tablets, containing buclizine hydrochloride, pyridoxine hydrochloride, scopolamine hydrobromide, atropine sulfate, and hyoscyamine sulfate; marketed by The Stuart Co., Division of Atlas Chemical Industries, Inc., Wilmington, Del. 19899 (NDA 10-911).

The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that this fixed combination drug has the effects that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling and that each ingredient contributes to the total effects claimed.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the above listed new drug application.

Prior to initiating such action, however, the Commissioner invites the holder of the new drug application for this drug and any interested person who might be adversely affected by its removal from the market, to submit pertinent data bearing on the proposal within 30 days after publication hereof in the FEDERAL REGISTER.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12 (a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

This announcement of the proposed action and implementation of the Academy's report for this drug is made to give notice to persons who might be adversely affected by its withdrawal from the market. Any related drug for human use, not the subject of an approved new drug application, may be affected by this action.

A copy of the Academy's report has been furnished to the firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 10911, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 11, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11718 Filed 7-27-72;8:48 am]

[DESI 793, Docket No. FDC-D-501; NDA 793 etc.]

CERTAIN BARBITURIC ACID DERIVATIVES

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs for oral, rectal, or parenteral administration:

1. Seconal sodium injection containing sodium secobarbital; Eli Lilly and Co., Inc., 307 East McCarthy, Indianapolis, Ind. 46206 (NDA 7-392).

2. Napental capsules containing sodium pentobarbital; The S. E. Massengill Co., 527 Fifth Street, Bristol, Tenn. 37620 (NDA 2-368).

3. Pentobarbilake ampules containing sodium pentobarbital; Lakeside Laboratories, Inc., 1707 East North Avenue, Milwaukee, Wis. 53201 (NDA 3-962).

4. Bubartal sodium injection containing sodium butabarbital; Philips Roxane Laboratories, Inc., 330 Oak Street, Columbus, Ohio 43216 (NDA 9-769).

5. Butisol sodium tablets containing sodium butabarbital; McNeil Laboratories, Inc., Camp Hill Road, Fort Washington, Pa. 19034 (NDA 793).

6. Medomin tablets containing heptabarbital; Geigy Pharmaceuticals, Division of Ciba-Geigy Chemical Corp., Saw Mill River Road, Ardsley, N.Y. 10502 (NDA 9-592).

7. Delvinal capsules containing vinbarbital; Merck Sharp and Dohme, Division of Merck and Co., Inc., West Point, Pa. 19486 (NDA 2-313).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new-drug application is required from any person marketing such drug without approval.

ORALLY ADMINISTERED FORMS OF SODIUM PENTOBARBITAL, SODIUM BUTABARBITAL, HEPTABARBITAL, AND VINBARBITAL; PARENTERAL FORMS OF SODIUM SECOBARBITAL, SODIUM PENTOBARBITAL, AND SODIUM BUTABARBITAL

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. All of these drugs (oral and parenteral) are effective as sedatives and hypnotics.

2. Sodium secobarbital (intramuscularly or intravenously), Sodium pentobarbital (intramuscularly), and Sodium butabarbital (intramuscularly) are effective for the control of certain acute convulsive conditions.

3. These drugs lack substantial evidence of effectiveness when labeled for use in psychoses—catatonic, negativistic, and manic depressive reaction types; congestive heart failure; delirium; delirium tremens; "hysteria"; "muscular contractions of nervous etiology"; and as antispasmodics.

4. These drugs, in the dosage forms described above, are possibly effective for their other labeled indications.

B. *Conditions for approval and marketing for drugs having an effective indication.* The Food and Drug Administration is prepared to approve abbreviated new-drug applications and abbreviated supplements to previously approved new-drug applications under conditions described herein.

1. *Form of drug.* The injectable preparations are in sterile solution form suitable for parenteral administration (and rectal administration in the case of sodium secobarbital). The other drugs are in tablet or capsule form suitable for oral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations and their labeling bears adequate information for safe and effective use of the drug. The "Indications" section is as follows:

INDICATIONS

For use as a sedative or hypnotic. (Add for the parenteral dosage forms: The drug is indicated, in anesthetic doses, for the emergency control of certain acute convulsive conditions; e.g., those associated with tetanus, status epilepticus, and toxic reactions to strychnine and local anesthetics.)

(The possibly effective indications may also be used for 6 months.)

3. *Marketing status.* Marketing of such drugs may be continued under the

conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new-drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a) (1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new-drug application, the submission of an abbreviated new-drug application as described in paragraph (a) (3) (i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as possibly effective (not included in the "Indications" section above), continued use as described in paragraphs (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new-drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A.3. of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new-drug application, offered for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 793, directed to the attention of the approriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new-drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Request for hearing (identify with docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-88, Parklawn Building.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the hearing clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 11, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11722 Filed 7-27-72;8:48 am]

[DESI 7245; Docket No. FDC-D-498; NDA 7-245 etc.]

CERTAIN INHALATION BRONCHODILATORS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following inhalation bronchodilator drugs:

1. Duo-Medihaler containing isoproterenol hydrochloride and phenylephrine bitartrate; Riker Laboratories, 19901 Nordhoff Street, Northridge, Calif. 91324 (NDA 13-296).

2. Aerolone Compound Solution containing cyclopentamine hydrochloride and isoproterenol hydrochloride; Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206 (NDA 7-245).

3. Nebu-Prel with Phenylephrine containing isoproterenol sulfate and phenylephrine hydrochloride; Thomas J. Mahon, Inc., 19 Sylvan Avenue, Englewood Cliffs, N.J. 07632 (NDA 11-726).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new-drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. These drugs are effective for the treatment of bronchospasm associated with acute and chronic bronchial asthma, pulmonary emphysema, bronchitis, and bronchiectasis.

2. The drugs are possibly effective for treatment of bronchiectasis, pulmonary emphysema, and bronchitis.

3. The drugs lack substantial evidence of effectiveness for the treatment of pulmonary fibrosis.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These bronchodilator preparations are in liquid form suitable for inhalation administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations and the labeling bears adequate information for safe and effective use of the drug, including warnings concerning isoproterenol prescribed in Part 3 of the regulations (21 CFR 3.67). The "Indications" section is as follows:

INDICATIONS

For the treatment of bronchospasm associated with acute and chronic bronchial asthma, pulmonary emphysema, bronchitis, and bronchiectasis.

The possibly effective indications may also be included for 6 months.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the

submission of a supplement for revised labeling and a supplement for updating information as described in paragraphs (a)(1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new-drug application, the submission of a full new-drug application as described in paragraph (a)(3)(iii) of that notice. (It is recommended that applicants discuss with the Administration the kinds of clinical studies needed.)

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as possibly effective (not included in the "Indications" section above), continued use as described in paragraphs (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new-drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Any related drug for human use, not the subject of fered for the indications for which substantial evidence of effectiveness is lacking, may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355), and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under controlled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 7245, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Request for a hearing (identify with docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-88, Parklawn Building.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 11, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11716 Filed 7-27-72;8:48 am]

[DESI 8082]

CERTAIN PREPARATIONS FOR VAGINAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Sporostacin Cream containing chlordantoin and benzalkonium chloride; marketed by Ortho Pharmaceutical Corp., Division Johnson and Johnson, Route 202, Raritan, N.J. 08869 (NDA 11-816).

2. Propion Gel containing calcium propionate and sodium propionate; marketed by Wyeth Laboratories, Inc., Division American Home Products Corp., Post Office Box 8299, Philadelphia, Pa. 19101 (NDA 8-082).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are probably effective in the treatment of vulvovaginal candidiasis.

B. *Marketing status.* 1. Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as probably effective may be continued for 12 months as described in paragraphs (c), (e), and (f) of the notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

2. Within 60 days from publication hereof in the FEDERAL REGISTER, the holder of any approved new-drug application for such drug is requested to submit supplements to his application to provide updating information needed to make the application current and to provide for revised labeling as needed, which, taking into account the comments of the Academy, furnishes adequate information for safe and effective use of the drug; and recommends use of the drug for the probably effective indications as follows:

INDICATION

For the treatment of vulvovaginal candidiasis.

The supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new-drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period.

3. After 60 days following publication hereof in the FEDERAL REGISTER, any such drug on the market without an approved new-drug application and shipped within the jurisdiction of the Federal Food, Drug, and Cosmetic Act should be labeled in accord with this notice.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 8082, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new-drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to

the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 11, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11720 Filed 7-27-72;8:48 am]

[DESI 12177]

COMBINATION DRUG CONTAINING METHSCOPOLAMINE RESIN AND METHAQUALONE RESIN

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following anticholinergic-sedative drug:

Dimethacol Capsules containing methscopolamine resin and methaqualone resin (formerly called Akalon-T '5' Capsules and Akalon-T '10' Capsules); Strasenburgh Laboratories, Division Pennwalt Corp., 755 Jefferson Road, Rochester, N.Y. 14623 (NDA 12-177).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this combination drug is possibly effective for its labeled indications.

B. *Marketing status.* Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as possibly effective may be continued for 6 months as described in paragraphs (d), (e), and (f) of the notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

A copy of the Academy's report has been furnished to the firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 12177, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original new-drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 11, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11721 Filed 7-27-72;8:48 am]

[DESI 12383]

COMBINATION PREPARATION CONTAINING PROBENECID AND COLCHICINE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

ColBenemid Tablets containing probenecid and colchicine; Merck Sharp & Dohme, West Point, Pa. 19486 (NDA 12-383).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new-drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that probenecid with colchicine is effective for the treatment of chronic gouty arthritis when complicated by frequent, recurrent, acute attacks of gout.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new-drug applications and abbreviated supplements to previously approved new-drug applications under conditions described herein.

1. *Form of drug.* Probenecid with colchicine preparations are in tablet form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The "Indications" section is as follows:

INDICATIONS

For the treatment of chronic gouty arthritis when complicated by frequent, recurrent acute attacks of gout.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER, July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new-drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new-drug application, the submission of an abbreviated new-drug application as described in paragraph (a)(3)(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

A copy of the Academy's report has been furnished to the firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 12383, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original abbreviated new-drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.
Request for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 11, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11723 Filed 7-27-72;8:48 am]

[DESI 5307]

PARENTERAL MERCURIAL DIURETICS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following mercurial diuretics for parenteral use:

1. Cumertilin Injectable, containing mercumatilin; Endo Laboratories, Inc., subsidiary of E. I. du Pont de Nemours & Co., Inc., 1000 Stewart Avenue, Garden City, N.Y. 11530 (NDA 7-519).

2. Thiomerin Injection and Thiomerin Lyophilized Powder for Injection, containing sodium mercaptomerin; Wyeth Laboratories, Division American Home Products Corp., Post Office Box 8299, Philadelphia, Pa. 19101 (NDA 8-059).

3. Mercuhydrin Injection, containing meralluride; Lakeside Laboratories, 1707

East North Avenue, Milwaukee, Wis. 53201 (NDA 5–307).

4. Dicurin Procaine Injection, containing merethoxylline procaine; Eli Lilly & Co., 307 East McCarty Street, Indianapolis, Ind. 46206 (NDA 8–869).

5. Neomersyl Injection, containing mersalyl, theophylline, and betaine; The Central Pharmacal Co., 116–128 East Third Street, Seymour, Ind. 47274 (NDA 9–211).

The drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications for such drugs. A new-drug application is required from any person marketing such drugs without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. These drugs are effective diuretics for the treatment of edema secondary to congestive heart failure, the nephrotic syndrome, the nephrotic stage of glomerulonephritis, and hepatic cirrhosis or portal obstruction.

2. These drugs are possibly effective for maintenance in cardiac failure following recent coronary occlusion; subacute and chronic nephritis; cardiac asthma; edematous distention of the gastrointestinal tract; and patients on "delayed onset" spironolactones.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new-drug applications and abbreviated supplements to previously approved new-drug applications under conditions described herein.

1. *Form of drug.* Mercurial diuretic preparations are in solution or powder form suitable for parenteral administration.

2. *Labeling conditions.* 1. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drugs are labeled to comply with all requirements of the Act and regulations, and the labeling bears adequate information for safe and effective use of the drugs. The "Indications" section is as follows:

INDICATIONS

This drug is indicated for the treatment of edema secondary to congestive heart failure, the nephrotic syndrome, the nephrotic stage of glomerulonephritis, and hepatic cirrhosis or portal obstruction.

The possibly effective indications may also be included for 6 months.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new-drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1)(i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new-drug application, the submission of an abbreviated new-drug application as described in paragraph (a)(3)(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as possibly effective (not included in the "Indications" section above); continued use as described in paragraphs (d), (e), and (f) of that notice.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 5307, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.

Original abbreviated new-drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD–60), Bureau of Drugs.

Request for the Academy's report: Drug Efficacy Study Information Control (BD–67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 11, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11719 Filed 7-27-72;8:48 am]

Office of the Secretary

OCCUPATIONAL SAFETY AND HEALTH

Request for Information on Certain Airborne Dust Contaminants and Chemical Agents

Section 20(a)(3) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(3)) provides that the Secretary of Health, Education, and Welfare, on the basis of information available to him, shall develop criteria dealing with toxic materials and harmful physical agents and substances which will describe exposure levels that are safe for various periods of employment. Section 22(c) of the Act authorizes the National Institute for Occupational Safety and Health to develop recommended occupational safety and health standards and to perform all functions of the Secretary of Health, Education, and Welfare, under sections 20 and 21 of the Act. The Institute is developing criteria documents and recommended occupational health standards for a number of airborne dust contaminants and chemical and physical agents including:

1. Benzene.
2. Cadmium.
3. Chromic acid.
4. Fibrous glass.
5. Toluene.
6. Toluene 2,4-Diisocyanate.
7. Trichloroethylene.

Each criteria document may include, among other items, an evaluation of available information relative to the nine areas listed below:

1. Establishment of safe occupational environment levels for such agents, including levels for acute and chronic exposure to airborne concentrations of the chemical agents, as well as safe practices concerning direct contact with such agents.

2. Establishment of biologic standards; i.e., the levels of such agents, metabolites, or other effects of exposure which may be present within man without his suffering ill effects, taking into consideration (a) the correlation of airborne concentrations of, and extent of exposure to such substances with effects on specific biologic systems of man, such as the circulatory, respiratory, urinary, and nervous systems, and (b) the analytical methods for determining the amount of the substance which may be present within man.

3. Engineering controls, including ventilation, environmental temperature, humidity, and housekeeping and sanitation procedures, with attention to the technological feasibility of such controls.

4. Specifications for the conditions under which personal protective devices should be required.

5. Methodology, including instrumentation, for air sampling and sample analysis of chemical agents.

6. The need for medical examinations for workers exposed to such agents, the frequency of such examinations, and the specific diagnostic tests which should be used, and the rationale for their selection.

7. Work practices or procedures which may be instituted for control of the workplace environment in normal operations, and those which may be instituted when environmental levels are temporarily exceeded, or where peak concentrations of chemical agents in man are reached.

8. The types of records concerning occupational exposure to such agents that employers should be required to maintain.

9. Warning devices and labels which should be required for the prevention of occupational diseases and hazards caused by such agents.

Any person having information or data which is not readily available in "open scientific literature" in any of the nine areas listed, or in other areas which the person considers relevant to the estab-

lishment of a safe and healthful occupational environment involving the substances set forth above, is invited to submit such information, with accompanying documentation, to the Assistant Director for Research and Standards Development, National Institute for Occupational Safety and Health, Room 10-28, 5600 Fishers Lane, Rockville, Md. 20852, within 90 days after publication of this notice.

All information received concerning any agent will be available for public inspection after the development of the respective criteria document.

Dated: July 21, 1972.

EDWARD J. BAIER,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc.72-11691 Filed 7-27-72;8:46 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 72-140N]

BROWN & WILLIAMSON TOBACCO CORP.

Notice of Qualification as a Citizen of the United States

This is to give notice that pursant to 46 CFR 67.23-7, issued under the provisions of section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883-1), the Brown & Williamson Tobacco Corp. of 1600 West Hill Street, Louisville, KY 40201, incorporated under the laws of the State of Delaware, did on July 17, 1972, file with the Commandant, U.S. Coast Guard, in duplicate, an oath for qualification of a corporation as a citizen of the United States following the form of oath prescribed in form 1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States (list of names, home addresses, and citizenship attached to the oath);

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States, or in a territory, district, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States, its territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, U.S. Coast Guard, having found this oath to be in compliance with the law and regulations, July 21, 1972, issued to the Brown & Williamson Tobacco Corp. a certificate of compliance on form 1262, as provided in 46 CFR 67.23-7. The certificate and any authorization granted thereunder will expire 3 years from the date thereof unless there first occurs a change in the corporate status requiring a report under 46 CFR 67.23-7.

Dated: July 21, 1972.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.72-11688 Filed 7-27-72;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-410]

NIAGARA MOHAWK POWER CORP.

Notice of Receipt of Application for Construction Permit and Facility License and Applicant's Environmental Report; Time for Submission of Views on Antitrust Matter

Niagara Mohawk Power Corp., 300 Erie Boulevard West, Syracuse, NY 13202, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application dated June 7, 1972, for authorization to construct and operate a single cycle, forced circulation, boiling water nuclear reactor at its site, located in the town of Scriba, Oswego County, N.Y. The site consists of 900 acres and is located 300 feet due west of Nine Mile Point Unit 1 (Docket No. 50-220) on the southeast shore of Lake Ontario, approximately 7 miles northeast of the city of Oswego.

The proposed nuclear facility, designated by the applicant as Nine Mile Point Unit 2, is designed for initial operation at approximately 3,300 megawatts (thermal) with a net electrical output of approximately 1,100 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after July 14, 1972.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, and at the Oswego City Library, 120 East Second Street, Oswego, NY 13126.

Niagara Mohawk Power Corp. has also filed, pursuant to the National Environmental Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, a report entitled "Applicant's Environmental Report—Construction Permit Stage," dated June 1972. The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations related to the proposed construction of Nine Mile Point Unit 2, is also being made available at the New York State Office of Planning Services, 488 Broadway, Albany, NY 12207, and at the Central New York Regional Planning and Development Board, 321 East Water Street, Syracuse, NY 13202.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement related to the proposed action will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement. The summary notice will request comments from Federal agencies, State and local officials, and interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that comments will be made available when received.

Dated at Bethesda, Md., this 6th day of July 1972.

For the Atomic Energy Commission.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Directorate of Licensing.

[FR Doc.72-10706 Filed 7-13-72;8:45 am]

[Docket No. 50-301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Notice Reconvening Hearing

In the matter of the application of Wisconsin Electric Power Co. and Wisconsin Michigan Power Co. (Point Beach Nuclear Plant, Unit 2).

The evidentiary hearing in the above-identified proceeding will reconvene at 9:30 a.m., Friday, August 4, 1972, at

Conference Room, Sheraton Oak Brook Motor Hotel, 1401 West 22d Street, Oak Brook, IL 60521, (312) 325-8555.

Issued: July 24, 1972, Washington, D.C.

ATOMIC SAFETY AND LICENSING BOARD,
ROBERT M. LAZO,
Chairman.

[FR Doc.72-11731 Filed 7-27-72;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23333; Order 72-7-70]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority July 21, 1792.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 3 of the International Air

Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated July 6, 1972, names an additional specific commodity rate, as set forth below. The rate reflects a reduction from the otherwise applicable general cargo rate.

Specific commodity item No.	*Description and Rate*
0006	Foodstuffs, Spices and Beverages, N.E.S., 26.85 U.K. pence per kg.,[1] minimum weight 500 kgs. From Hong Kong to Guam.

[1] 70 U.S. cents per kg.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the condition hereinafter ordered.

Accordingly, it is ordered, That:

Agreement CAB 23018, R-3, be and hereby is approved, provided that approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication, provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-11797 Filed 7-27-72;8:55 am]

[Docket No. 23486; Order 72-7-71]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Currency Matters

Issued under delegated authority, July 21, 1972.

An agrement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above-designated CAB agreement number.

The agreement would amend existing resolutions governing currency exchange matters for the purpose of local publication, sale, and rounding-off of passenger fares and cargo rates by introducing currency provisions for Bangladesh.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the following resolutions, which are incorporated in Agreement CAB 23162, are adverse to the public interest or in violation of the Act:

100(Mail 904)021b, 023a, and 023b.
200(Mail 151)021b, 023a, and 023b.
300(Mail 382)021b, 023a, and 023b.
JT12(Mail 796)023a and 023b.
JT23(Mail 303)023a and 023b.
JT31(Mail 225)023a and 023b.
JT123(Mail 694)023a and 023b.

Accordingly, it is ordered, That:

Agreement CAB 23162 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-11798 Filed 7-27-72;8:55 am]

[Docket No. 23333; Order 72-7-72]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Cargo Rate Matters

Issued under delegated authority July 21, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Joint Conferences 3-1 and 1-2-3 of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above-designated CAB agreement number.

The agreement would amend a currently effective resolution governing special rates for personal effects moving between points in the Far East and Honolulu/West Coast so as to increase these rates by approximately 7 percent to reflect the recent worldwide currency revaluation. This increase was inadvertently overlooked during the IATA currency conference in Geneva in January 1972, and our approval herein is consistent with earlier Board approval of similar increases in transpacific fares[1] and North/Central Pacific specific commodity rates.[2]

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that Resolutions JT31(Mail 218)314 and JT123(Mail 689)314, which are incorporated in agreement CAB 23068, are adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Agreement CAB 23068 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may within 10 days from the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-11799 Filed 7-27-72;8:55 am]

[Docket No. 24447]

LEEWARD ISLANDS AIR TRANSPORT SERVICES LTD.

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on August 29, 1972, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C., July 24, 1972.

[SEAL] LOUIS W. SORNSON,
Hearing Examiner.

[FR Doc.72-11795, Filed 7-27-72;8:55 am]

[Docket No. 19923, etc.]

LIABILITY AND CLAIM RULES AND PRACTICES INVESTIGATION

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on September 6, 1972, at 10 a.m. (local time) in Room 1031, North Universal

[1] Order 72-3-105, dated March 30, 1972.
[2] Order 72-6-138, dated June 29, 1972.

Building, 1875 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C., July 25, 1972.

[SEAL] JOHN E. FAULK,
Hearing Examiner.

[FR Doc.72-11796 Filed 7-27-72;8:55 am]

SOUTHERN AIRWAYS, INC.

Notice of Application for Amendment of Certificate

JULY 21, 1972.

Notice is hereby given that the Civil Aeronautics Board on July 21, 1972, received an application, Docket 24625, from Southern Airways, Inc. for amendment of its certificate of public convenience and necessity for route 98 to provide nonstop service between Memphis and Nashville, Tenn. The applicant requests that its application be processed under the expedited procedures set forth in Subpart M of Part 302 (14 CFR Part 302).

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-11704 Filed 7-27-72;8:46 am]

CIVIL SERVICE COMMISSION

MANPOWER SHORTAGE

Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found on July 10, 1972, a manpower shortage for a single position of Document Analyst, GS-1397-9, Secret Service, Treasury Department, Washington, D.C. The finding is self-canceling when the position is filled.

Assuming other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-11690 Filed 7-27-72;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATOR'S DECISION ON APPLICATIONS FOR SUSPENSION OF 1975 AUTOMOBILE EMISSION STANDARDS

Availability of Technical Appendix

On May 12, 1972, the Administrator of the Environmental Protection Agency issued a decision pursuant to section 202 (b)(5) of the Clean Air Act, as amended, 42 U.S.C. 1857f-1(b)(5), denying the applications of five automobile manufacturers for a 1-year suspension of the 1975 new motor vehicle emission standards applicable to light-duty vehicles. At page 13 of that decision the Administrator indicated that "[a]n appendix setting forth a detailed analysis of vehicle test data submitted by applicants and other witnesses will be issued in the near future."

Although the Administrator's decision was based on the entire record, the material included in the technical appendix was evaluated by the Administrator in the course of reaching his decision. Since the material contained in the technical appendix was not at that time completely compiled and reduced to writing, publication of the technical appendix was not possible at the time of issuance of the decision.

Therefore, notice is hereby given of the availability of the technical appendix to the Administrator's decision of May 12, 1972. Interested persons may receive copies of the technical appendix and decision by writing to the Environmental Protection Agency, Office of Public Affairs, Public Inquiries Branch, 401 M Street SW., Washington, DC 20460.

Issued in Washington, D.C., on July 24, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-11747 Filed 7-27-72;8:50 am]

PESTICIDES CONTAINING STROBANE AND TOXAPHENE

Submission of Views With Respect to Uses

This Agency has the responsibility for the continuous review of all economic poisons which are registered pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) (FIFRA). Of particular concern in this process are pesticides which are persistent and cause or can cause contamination of the enivronment and damage to various life forms within it. Strobane and toxaphene are suspected of being such pesticides.

Notice is hereby given that this Agency is initiating an extensive review of the registration of products containing strobane and toxaphene to determine whether such registrations should be canceled, in whole or in part. The review is being conducted on a use-by-use basis and the agency staff, in making its determinations concerning continued registration of these products, will weigh benefits against risks for each use category.

Although all registered uses are being considered, areas of particular concern include the following uses:

Strobane—Control of (1) cotton insects, (2) lawn insects, (3) household insects, (4) insects on agricultural premises, and (5) pests attacking fabrics.

Toxaphene—Control of (1) cotton insects, (2) forage crop insects, (3) tree fruit insects, (4) vegetable insects, (5) field and fiber crop insects, (6) nut crop insects, (7) livestock pests, and (8) insects of agricultural premises.

This notice is to afford interested persons an opportunity, within 60 days of publication, to submit written comments on the question of whether the registrations of economic poisons containing strobane and toxaphene should be retained.

Comments are solicited particularly with respect to the benefits resulting from, and risks incident to, the use of these products, including relevant information on the following:

(1) Importance of use by crop category or pattern of use, including degree of control achieved by use:

(a) Formulations of particular chemical pesticides used,

(b) Detailed specifics of the method of application employed (e.g., foliar application by ground spray or serial, ground application by serial, ground spray rig, or disced in by machine, etc.).

(2) Effect of discontinuing use, including degree of:

(a) Anticipated crop loss and geographical area affected;

(b) Effect of such loss on consumer price of the crop; and

(c) Effect of such loss on producers.

(3) Alternate pesticides available, including safety and effectiveness and cost of alternatives for any use. Relevant factors are not merely the cost of alternatives, but the relationship of such costs to overall costs and the likelihood that alternatives might be cheaper if more extensively used;

(4) Any use for which alternative economic poisons are not available;

(5) Volume or extent of use;

(6) Geographical areas of use;

(7) Adverse effects on humans, livestock, fish, and wildlife, and other living organisms of the environment, resulting from acute, short-term or long-term exposure to these pesticides;

(8) Adverse effects on crops or other beneficial plants;

(9) Chemical and toxicological data on the extent, persistence, and significance of environmental contamination resulting from any pattern of use;

(10) The fate of these products when metabolized by soil organisms, plants, animals, or human beings and their chemical capacity for producing breakdown products during manufacture or application.

All persons who desire to submit written data, views, or arguments in connection with this matter should file the same in triplicate with the Deputy Assistant Administrator for Pesticides Programs, Environmental Protection Agency, Washington, D.C. 20460, within 60 days after the date of publication of this notice in the FEDERAL REGISTER. Please make reference in any submission to "F.R. Strobane and Toxaphene Notice."

Dated July 21, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-11746 Filed 7-27-72;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19129; FCC 72-662]

AMERICAN TELEPHONE & TELEGRAPH CO., AND THE ASSOCIATED BELL SYSTEM COMPANIES

Memorandum Opinion and Order

By the Commission: Commissioners Robert E. Lee and H. Rex Lee concurring and issuing statements; Commissioner Johnson dissenting and issuing a statement; Commissioner Hooks issuing a separate statement.

In the Matter of American Telephone & Telegraph Co., and the Associated Bell System Companies. Charges for Interstate Telephone Service, Transmittal Nos. 10989 and 11027, Docket No. 19129; FCC 72-662.

1. We have under consideration the hearing record in this case, the initial decision of the Hearing Examiner issued herein on August 23, 1971, the exceptions and briefs filed by the parties, and oral argument en banc before the Commission on October 26 and 27, 1971. We also have under consideration the regulations promulgated by the Price Commission applicable to the authorization of interim rates in Phase I of this proceeding, which regulations became effective on June 1, 1972, and were amended on July 6, 1972. In addition, the Commission noted the position of the Trial Staff and the Respondents, as well as the Hearing Examiner, that it would be appropriate for the Commission, in reaching decision on the allowable rate of return and the amount of any allowable interim rate adjustments, to take account of relevant financial and operating data applicable to the period subsequent to the close of the record. Accordingly, we deem it necessary and appropriate to take official notice of (a) the actual cost to the Bell System of long term debt issued since the close of the record in Phase I and (b) the actual interstate operating results experiencd by the Bell System since the close of the record. The data (as of this date) which we propose to officially notice are set forth in the attachment.[1]

2. We are cognizant of the amount of time that has elapsed in this case since the close of the record on June 3, 1971 and the recent promulgation of the Price Commission regulations regarding interim rates. In addition, two of the present seven Commissioners were not members of the Commission at the time of oral argument. Therefore, the Commission is of the view that its resolution of the issues in Phase I of this case will be assisted by a limited reargument thereof in the context of the changes reflected by the aforementioned financial and operating results which have occurred since the close of the record, and the Price Commission's regulations currently applicable to any interim rates which may be authorized by our decision herein.

3. Accordingly, *it is ordered*, That oral reargument with respect to the foregoing matters involved in Phase I of this proceeding shall be held before the Commission en banc at Washington, D.C., commencing at 9:30 a.m. on September 19, 1972.

4. *It is further ordered*, That each party desiring to participate in such argument shall file with the Commission on or before September 5, 1972, a written notice of intention to do so which shall set forth a summary of its oral argument and the amount of time desired. The order of argument and the specific time allotments will be specified by further order of the Commission.

Adopted: July 21, 1972.

Released: July 24, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-11767 Filed 7-27-72;8:52 am]

[1] Attachment filed as part of the original document.

[Docket No. 19552; FCC 72-644]

COMMUNICATIONS SATELLITE CORP.

Memorandum Opinion and Order Instituting Investigation and Hearing

1. On April 19, 1972, the Communications Satellite Corp. (Comsat) filed revisions to its Tariff FCC No. 1,[1] to become effective June 3, 1972,[2] providing (1) that the monthly charge for leased half circuits between the U.S. Mainland and Hawaii be reduced from $2,700 to $2,500, and (2) that when the total number of leased half circuits furnished to a customer between the U.S. Mainland and Hawaii reaches a level 10 percent in excess of those leased by such customer at the close of business on April 18, 1972 (base date), then each additional half circuit will be leased at a charge of $1,000 per month.[3] The $1,000 rate would expire on June 30, 1974 and Comsat states that pending its review of the results of the experiment, a "provisional" rate would go into effect after that date, which would be equivalent to the average rate per half circuit being paid by all customers as a group on this route during the 3 months preceding June 1, 1974.

2. The rationale underlying the proposed tariff revisions is explained in the transmittal letter (No. 167) accompanying the filing and in a letter of the same date to the Chief, Common Carrier Bureau, a copy of which was made part of the filing. Some background may be helpful to an understanding of this letter. In 1971, the staff informally requested Comsat's views as to future rate reductions. On March 30, 1971, Comsat submitted to the Common Carrier Bureau estimates of traffic, revenues, and rate base for each of the 6 month periods January–June 1971 and July–December 1971. There followed a meeting between Comsat representatives and commission staff on April 13, 1971, at which Comsat made a submission which explained that the basis for the satellite traffic estimates in the Pacific Basin area was the traffic estimates filed in the Cable/Satellite Inquiry, Docket No. 18875, discounted by 25 percent. In a memorandum to the Chief, Common Carrier Bureau on May 20, 1971, Comsat proposed a two-step rate reduction, subject to certain conditions. The first step was a 25 percent general reduction in Atlantic Basin rates on July 1, 1971, which was implemented on schedule. The second step proposed further reductions in the Atlantic Basin, as well as initial reductions on the Central American and U.S. Mainland/Hawaii routes at the beginning of 1972. The conditions referred to were (1) that the actual 1971 year-end satellite traffic should have reached at least 90 percent of the March 30, 1971 forecast, and (2) that the launch of the second Atlantic Intelsat IV satellite be successful. Both of these conditions have been met—on December 31, 1971 Atlantic Basin traffic reached 98.4 percent of the Comsat forecast and Pacific Basin traffic reached 92.5 percent of the Comsat forecast and the second Atlantic Intelsat IV satellite was successfully launched by Comsat on December 19, 1971. In response to the Common Carrier Bureau's letter of December 9, 1971, inquiring as to Comsat's plans for its second phase of rate reductions in early 1972, Comsat replied on December 29, 1971 that due to short falls of satellite traffic below estimates[4] and uncertainties as to the distribution of traffic between cables and satellites, it was not in a position to make any rate reductions at that time.

3. However, in its April 19, 1972 filing, Comsat states that a continuing review

[2] Commissioners Robert E. Lee and H. Rex Lee concurring and issuing statements; Commissioner Nicholas Johnson dissenting and issuing a statement. These statements filed as part of the original document. Commissioner Hooks issuing a separate statement to be released at a later date.

[1] 136th revised page 1; 10th revised page 11AAA; 1st revised page 11AAAA; original page 11AAAAA; and original page 11AAAAAA.

[2] At the request of the Commission, the effective date was deferred by Comsat to Aug. 1, 1972.

[3] Proposed regulations provide that (1) for circuits disconnected, the principle of "last in, first out" would apply; (2) for new customers, a monthly rate of $2,500 would apply until the number of half circuits leased by such new customer equaled those leased by the pre-existing customer who had the least number of half circuits on the base date, after which the $1,000 rate would apply; (3) for the purposes of interruption allowances, the "last in, first out" principle would apply; and (4) for temporary service, the $2,500 rate would apply.

[4] Comsat said that year-end Atlantic Basin circuit use was only 81.5 percent of the estimates filed in the Cable/Satellite Inquiry, Docket No. 18875, and that year-end Hawaii/Mainland circuit use was only 73.5 percent of such estimates. Thus, in its Dec. 29, 1971 letter, Comsat incorrectly used the Cable/Satellite Inquiry traffic forecasts for its base rather than the Mar. 30, 1971 forecasts which were submitted by Comsat for the purpose of determining the possibility of future rate reductions.

of the situation, particularly the Mainland/Hawaii route, has led it to a desire to accommodate Hawaii's interest in economical service and Comsat's interest in making the best use of existing satellite facilities. Comsat contends that although present revenues do not meet its revenue requirements, it believes that a lowering of Hawaii/Mainland charges in the short term can be justified if there were reasonable expectation of a long term substantial growth on such route. However, although Comsat is unable to conclude that there is sufficient assurance of long-term growth, in view of present circumstances (e.g., the possibility of a domestic satellite system serving the Hawaii/Mainland route), it was nevertheless prepared to make a reduction on the Mainland/Hawaii route in somewhat modified form, i.e., from $2,700 to $2,500 or 7½ percent. Moreover, it is prepared to undertake an experiment to test the demand for very low cost service to Hawaii, and to this end proposes the $1,000 half-circuit charge after certain traffic levels at the $2,500 charge are reached. It points out that if the carriers' usage equals their 1972 year-end forecasts as a group, they would receive a reduction of about 25 percent from the current ($2,700) rate.

4. Comsat requests a waiver of § 61.38 of the Commission's rules and regulations, 47 CFR 61.38, on the ground that it has already submitted extensive information concerning its revenue requirements in the Comsat Rate Case, Docket 16070, and that in any event it does not calculate revenue requirements on a route by route basis, and therefore it has no additional cost information to be furnished with the filing.

5. Petitions to reject or suspend were filed by ITT World Communications Inc. (ITT), RCA Global Communications, Inc. (RCA), Western Union International, Inc. (WUI), and the Western Union Telegraph Co. (Western Union) (hereinafter referred to collectively as "petitioners"), and Comsat has replied to all of these pleadings.[a] All petitioners raise basically the same arguments.

6. First, it is clear from the outset that petitioners are troubled by the $1,000 experimental rate and not by the $2,500 rate. RCA and WUI specifically ask that the $2,500 rate be allowed to become effective saying that it is separable from the $1,000 rate. While ITT and Western Union do not specifically mention that point, their pleadings are directed entirely at the $1,000 rate.

7. It is argued that Comsat did not comply with § 61.38 of the Commission's rules and regulations, and that Comsat's reliance on the information submitted by it in Docket 16070, is unavailing since nothing submitted by Comsat in that docket could possibly be regarded as economic justification for the proposed experimental rates.

8. The largest part of petitioner's arguments are directed at the discriminatory effect of the $1,000 experimental rate. It is pointed out that since each carrier will have a different April 18, 1972, circuit base, then each carrier will have a different point at which the lower rate will begin to apply. This will result in a different total cost, and thus a different per-circuit cost, for each carrier for the same number of circuits. Furthermore the international carrier petitioners state that since their rates are based on their overall circuit costs, there is no way they can pass along the savings on a specific circuit to a specific customer. In addition, under certain assumptions of growth during the next 2 years, the reduction in satellite charges will be 10 percent to 15 percent, but since the overall costs to the carriers are based on the composite of both satellite and cable costs, assuming each facility is used approximately equally, the reduction in overall costs would be only 5 percent to 7½ percent. It is contended that this reduction, even if passed on to the ultimate customers, would not be enough to test the elasticity of demand.

9. ITT also mentions that Comsat has offered no economic justification of these rates as promotional rates. It maintains that Comsat must show that the $1,000 rate will increase usage of Mainland/Hawaii circuits or that users of other services will be benefited thereby.

10. Petitioners state that the effects of the proposed rate may result in a realignment of circuits taken from the international carriers by the ultimate customers. They explain that governmental entities, the largest users of leased channels, would be motivated to rebid the bulk, if not all, of the channels presently leased by them, and the successful bidder would far exceed its April base, while the unsuccessful bidders would fall below the April base. Furthermore, the successful bidder would have a competitive advantage in bidding for any new business since it could base its bids on the availability of additional channels at a monthly rental of $1,000, and the result would be a monopolization of Mainland/Hawaii record services.

11. With regard to the matter of possible future competition from domestic satellite entities, RCA alleges that the $1,000 rate could not possibly cover relevant costs and thus is aimed at foreclosing the market from future competitors. Thus Comsat would be firmly entrenched with respect to Mainland/Hawaii satellite channels by the time any other carriers are authorized for domestic satellite systems. It would also be able to subsidize this route with revenues from its monopoly routes so that other entrants would be forced to forego the Hawaii route or also price it below the relevant costs.

12. In replying to the above points raised by petitioners, Comsat reiterates that, with respect to compliance with § 61.38 of the Commission's rules, it does not calculate its revenue requirements on a route-by-route basis, and in any event it has submitted, in Docket No. 16070, calculations of its present system revenue requirements and its projected system revenue requirements through 1975. Comsat adds that it "obviously has no information at this time that could be used to determine the effect of the proposed rates on demand, and, thus, on its total revenues as called for under the provisions of § 61.38."

13. In answer to petitioners' arguments that the tariff revision is discriminatory since each carrier will have a different per channel cost for the same number of channels, Comsat states that the per channel cost from Comsat can be substantially equal for each record carrier if their respective market shares remain approximately the same after the tariff revision as before. Comsat says that it has specifically designed the experiment to be nondiscriminatory by starting with a base date and keying the reduced rate to a percentage of growth, so that the unequal proportion of business enjoyed by each carrier has no impact; this allegedly has avoided the problem of a bulk rate tariff which would provide a rate reduction only to the large user.

14. Because the determination of the record carrier's tariff charge to the ultimate customer is not under Comsat's control, it maintains that no other Comsat rate structure would have a greater effect on the ultimate tariff rates. In addition, Comsat believes that the tariff is justified as a promotional rate because a 60 percent rate reduction stands on its own as evidence that a traffic increase can be expected.

15. With respect to RCA's contention that this tariff is aimed at foreclosing the market from future competition from domestic satellite licensees, Comsat states that no domestic system will be in operation before the mid-1974 end of this tariff experiment.

16. Finally, with respect to the separability of the 7½-percent reduction and the $1,000 experimental rate, Comsat states that they were offered as a unitary tariff submission. If it were determined that the entire tariff revision is unacceptable, then Comsat believes it should have the opportunity to initiate a new proposal.

17. The threshold question posed by the instant filing is the request for waiver of § 61.38 of the rules. In view of Comsat's recent earnings history, which shows a post tax return of approximately 12 percent for calendar year 1971 based upon reports filed with the Commission, in our judgment, Comsat should move in the direction of reducing its tariff rates in the Pacific area. With respect to the 7½-percent reduction, we see no need, under the circumstances, to insist on the extensive economic data ordinarily required by § 61.38, particularly in view of the relatively small percentage reduction proposed.

18. With reference to the $1,000 experimental rate, we believe that petitioners have raised a number of questions with respect to unlawful discrimination which Comsat has not answered adequately. Absent justification on a cost basis or as a promotional rate, discounts

[a] In addition, Hawaiian Telephone Co. filed a protest by letter and the Department of Defense and the State of Hawaii filed statements in support of the tariff filing.

for volume usage are questionable.[5] The Commission has stated flatly that "different charges to different users for similar service are prima facie unlawful."[6] The Commission is of the view that experimental rate offerings, properly structured, may well be in the public interest. However, this does not relieve Comsat from complying with the requirements of the Communications Act or the Commission's rules and regulations. Therefore, we will suspend, pursuant to section 204 of the Communications Act, those portions of the proposed tariff revisions which provide for the $1,000 experimental rate and set such revisions for hearing. Inasmuch as a suspension and hearing is required because of the question of unlawful discriminations, we will require that the information required by § 61.38 of the rules be supplied by Comsat as part of its direct case on the $1,000 experimental rate.

19. Because of circumstances surrounding this filing, we have chosen to accept the 7½-percent reduction while, at the same time, suspending and setting for investigation the $1,000 experimental rate. Understandably petitioners are clearly in favor of the initial 7½-percent reduction, and for the reasons stated above, we are of the feeling that there is no reason to delay the effectiveness of this reduction. However, because of the possible discrimination which may result from the unusual way in which the $1,000 rate applies to each international carrier and because of the possibility of a realignment of circuits taken from the international carriers by the ultimate customers which could artifically concentrate the market in one carrier, we believe that we must take a closer look at the $1,000 rate.

20. Aside from the foregoing, there are very special considerations applicable to Hawaii and Alaska as set forth in our second report and order in the domestic satellite matter, Docket No. 16495, released on June 16, 1972, which required the carriers proposing to provide service to Alaska and Hawaii to take appropriate action to bring those States into the domestic rate pattern or some variation thereof justified by the special circumstances applicable in the case of communication with these two States.

21. Despite its apparent shortcomings as highlighted by the comments of the other carriers, the Comsat proposal offers at least an initial step toward reduced costs which in principle could and should be reflected in reduced rates to the using public. Accordingly, we are of the opinion that even this relatively minor step should not be discouraged or delayed. However, because of the aforementioned doubts we will set the matter for hearing on a series of issues designed to determine whether these tariff schedules or others would be most conducive to the achievement of our policy goals. In this connection we must stress that our interest is not only in the charges made by Comsat as a carrier's carrier, but also in the charges which the carriers in turn make to the using public.

22. In connection with the determination of the most effective rate patterns to achieve our policy goals, it is relevant to note that Intelsat has established a new policy under which a whole transponder is being made available for use by Brazil in the handling of domestic communications services at charges equal to those made for 180 whole circuits. This represents a very substantial reduction in the per circuit charges provided an entity has sufficient traffic to fill the potential capacity of an entire transponder. It appears to us that the cost savings inherent in the lease of a transponder might provide an effective means whereby service between the contiguous States and Hawaii could be provided at lower charges more compatible with the domestic rate pattern. To the extent that idle transponder capacity was available, it could be used to meet the needs of the sparsely populated portions of Alaska for service.

23. We will expect Comsat and all carriers now providing service to these offshore states to address themselves specifically to this question and to indicate what services could be provided at what price levels if appropriate arrangements were made for the lease of transponders from Intelsat at rates similar to those being proposed in the case of Brazil. In addition, we would expect the parties to address themselves to the most appropriate method of handling the earth station question, i.e., leasing of specified bulk capacity in existing earth stations or the construction of new earth stations dedicated to this service. To this end, we will name A.T. & T., Hawtel, ITT, RCA, and WUI as parties respondent herein and specifically charge them with the obligation of addressing themselves to the aforementioned issues in an affirmative manner with specific proposals. We note that, while we are setting this matter for formal hearing, it may well be that this matter can be more expeditiously and efficiently handled through informal prehearing procedures. If the latter should prove to be the case, a dismissal or termination may be requested prior to the evidentiary hearing stage.

24. Accordingly, *it is ordered*, That pursuant to the provisions of sections 4 (i), 201, 202, 204, 205, and 403 of the Communications Act of 1934, an investigation is hereby instituted into the lawfulness of such portions of the tariff revisions considered herein which relate to the $1,000 "experimental" rate.

25. *It is further ordered*, That, pursuant to section 204 of the Communications Act, such tariff revisions are hereby suspended until October 30, 1972.

26. *It is further ordered*, That no changes shall be made in the tariff revisions under investigation herein except as authorized or directed by the Commission, pending a final decision.

27. *It is further ordered*, That, without in any way limiting the scope of the proceeding, it shall include inquiry into the following issues:

1. Whether any of the charges, classifications, regulations, and practices contained in such tariff revision are or will be unjust or unreasonable within the meaning of section 201(b) of the Communications Act;

2. Whether such revision will make an unjust or unreasonable discrimination or will subject any person or class of persons to undue or unreasonable prejudice or disadvantage, or will give any undue or unreasonable preference or advantage to any person or class of persons, within the meaning of section 202(a) of the Communications Act;

3. Whether the Commission should prescribe just and reasonable charges, classifications, regulations, and practices to be hereafter followed with respect to the service governed by such tariff revision and, if so, the charges, classifications, regulations, and practices that should be prescribed.

28. *It is further ordered*, That a hearing be held in the proceeding at the Commission's offices in Washington, D.C., at a time to be specified in a subsequent order and that the hearing examiner designated to preside at the hearing shall certify the record to the Commission for decision without preparing either an initial decision or a recommended decision, and that the Chief, Common Carrier Bureau, shall prepare and issue a recommended decision, which shall be subject to the submission of exceptions and requests for oral argument as provided in §§ 1.276 and 1.277 of the Commission rules (47 CFR 1.276, 1.277), after which the Commission shall issue its decision as provided in § 1.282 of the Commission's rules (47 CFR 1.282).

29. *It is further ordered*, That American Telephone and Telegraph Co., Western Union International, Inc., ITT World Communications, Inc., RCA Global Communications, Inc., and Hawaiian Telephone Co. are hereby made parties to this proceeding, and leave to intervene is granted to the Secretary of Defense and the Governor of Hawaii upon the filing of an appropriate notice to such effect.

Adopted: July 19, 1972.

Released: July 19, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[7]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.72-11768 Filed 7-27-72;8:52 am]

[Docket No. 16495; FCC 72-645]

DOMESTIC COMMUNICATIONS-SATELLITE FACILITIES BY NON-GOVERNMENT ENTITIES; SECOND REPORT AND ORDER

Extension of Effective Date

1. On June 30, 1972, the Communications Satellite Corp. (Comsat) filed a request for stay of the effective date of the

[5] See AT&T and Western Union Private Line Cases, 34 F.C.C. 217, 316 (1963); All America Cables & Radio, Inc., 36 F.C.C. 691 (1964); Telpak, 38 F.C.C. 370 (1964), 37 F.C.C. 1111 (1964), 38 F.C.C. 761 (1965); and ITT World Communications Inc. (48 kHz), 30 F.C.C. 2d 101 (1970), 29 F.C.C. 2d 493 (1971).

[6] All America Cables & Radio, Inc., supra at 697.

[7] Commissioner Johnson concurring in the result; Commissioner Hooks not participating.

Second Report and Order in this proceeding, 37 F.R. 12312, issued on June 16, 1972 (FCC 72-531). Pleadings in opposition to Comsat's request for stay have been submitted by Western Union Telegraph Co., MCI Lockheed Satellite Corp., Hughes Aircraft Co., and Western Telecommunications, Inc. A letter in support of Comsat's request has been filed by American Telephone and Telegraph Co. It does not appear practicable for the Commission to give due consideration to these pleadings and to act on the request for stay prior to the presently scheduled effective date, July 25, 1972. It is our intention, however, to consider the request for stay in early September 1972.

2. Accordingly, in the interest of orderly procedure *It is hereby ordered*, On the Commission's own motion pursuant to section 403 of the Communications Act, that the July 25, 1972 date specified in paragraph 45 (a) and (b) of the Second Report and Order is hereby extended pending action on the request for stay.

Adopted: July 19, 1972.

Released: July 24, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.72-11765 Filed 7-27-72;8:53 am]

[Docket No. 19544; FCC 72-624]

PUBLIC COAST RADIOTELEGRAPH STATIONS

Notice of Inquiry

1. This inquiry is instituted under section 403 of the Communications Act of 1934 to review problems relating to operations of public coast stations providing common carrier telegraph service between the mainland United States on the one hand, and ships at sea, on the Great Lakes, the St. Lawrence River, and aircraft, on the other. The problems set forth in greater detail below indicate that an overall review of coast station operations at this time may provide the basis for long-term policy decisions, which may be more in the public interest than would separate action only on matters relating to coast stations now pending before the Commission.

2. At present there are 18 radiotelegraph coast stations operated by three major telegraph carriers and five independents. Message telegraph service is provided by all stations, scheduled press transmission service and telex service are provided by one major carrier from two of the stations, and another major carrier provides a commercial news service and a radiophoto service. These 18 stations link points on land with ships and aircraft. The ships and aircraft with which they communicate have stations which are separately licensed, and the links between the coast station and points on land are provided by either The Western Union Telegraph Co. or the carriers operating the coast stations.

3. Since May 15, 1963, at which time the Commission allowed RCA Global Communications, Inc. (RCA), as the bellwether carrier, increases in rates for coast station service and for landline handling,[1] the number of separate stations has been reduced by five.[2] Of the present 18 stations, six are licensed to ITT World Communications Inc. (ITT), five are licensed to RCA, and two are licensed to Tropical Radio Telegraph Co. (TRT).[3] The remaining five coast stations are operated by independent licensees.

4. At the present time, there are pending applications to close five of the above 18 stations. There are also pending applications for licenses to open two new stations, one for public service and one for limited service.[4] Table 1 gives detailed information regarding the location and licensees of the present and proposed stations, together with the file number of relevant applications to close or to construct new stations.

5. It is alleged that the stations proposed to be closed are either losing money or making only a marginal profit. ITT, which has proposed to close three of its six stations, has urged the Commission to give prompt attention to the serious economic problems associated with continued operation of its coast radiotelegraph stations. It asserts that the revenue from its stations in recent years has not been sufficient to support all of the facilities which are currently in service. It alleges a pretax loss in 1970 of $171,000 and a predicted pretax loss in 1974 of $776,000, and believes that the Commission should promptly grant applications to close the three stations, which it claims are redundant. RCA indicates, in support of its application to close its station at Lantana, Fla., that direct operating revenues were only slightly more than direct operating expenses, and that if overhead costs were attributed to the station, it would lose money. The Maryland Port Administration indicates that its station near Baltimore, Md., has been losing money for many years. TRT recently stated that its economic circumstances precluded it from taking action to insure maintenance of its operations, of which its two coast stations are a part.[5]

[1] Commissioner Hooks not participating.

[1] Marine Telegraph Charges, Docket No. 14851, 34 FCC 929. Separate charges are made for coast station handling, landline handling, and ship handling of messages.

[2] At that time ITT was operating seven coast stations, RCA was operating eight stations, and TRT was operating two stations. In addition, there were six independent stations, two of which were operated by RCA under service agreements.

[3] All of these carriers also provide point-to-point telegraph and other services between the Mainland and overseas points.

[4] ITT seeks to close its stations at New York City; Arcadia, Tex.; and San Francisco, Calif. RCA seeks to close its station at Lantana, Fla.; and the Maryland Port Administration seeks to close its station at Baltimore, Md. Alpha Martin has applied to open a station at Savannah, Ga., and J. Ray McDermott & Co., Inc. wants to open a limited coast station at Harvey, La.

[5] This statement was made by TRT in connection with its application for transfer of control of TRT to RCA, Tropical Radio Telegraph Co., Docket No. 19175, 28 FCC 2d 95, 97 (1971). The application was subsequently dismissed with prejudice by order released Apr. 23, 1971.

TABLE 1

MARINE RADIOTELEGRAPH—PUBLIC AND LIMITED COAST STATIONS

Area	Call	Location	Licensee or applicant [1]	Kind of application	File No.
North Atlantic Coast	WCC	Chatham, Mass	RCA		
	WSL	Amagansett, Long Island, N.Y.	ITT		
	WSF	New York, N.Y	ITT	Close	T-D-17509.
	WSC	Tuckerton, N.J	RCA		
	WMH	Baltimore, Md	MPA	do	P-D-216.
South Atlantic Coast	(2)	Savannah, Ga	Martin	Construct	939-M-L-80.
	WOE	Lantana, Fla	RCA	Close	T-D-17603.
	WAX	Hialeah, Fla	TRT		
Gulf Coast	WPD	Tampa, Fla	Wood		
	WLO	Mobile, Ala	MMR		
	WNU	New Orleans, La	TRT		
	(3)	Harvey, La	McDermott	Construct	990-M-L-61.
	WPA	Port Arthur, Tex	RCA		
	KLC	Arcadia, Tex	ITT	Close	T-D-18395.
Pacific Coast	KOK	Los Angeles, Calif	ITT		
	KFS	San Francisco, Calif	ITT	do	T-D-18394.
	KPH	do	RCA		
	KLB	Seattle, Wash	ITT		
Great Lakes	WLC	Rogers City, Mich	CRT		
	WBL	Buffalo, N.Y	GLM		

[1] RCA=RCA Global Communication, Inc.; ITT=ITT World Communications Inc; MPA=Maryland Port Authority; Martin=Alpha Martin; Wood=Clara Lee Warner Wood; MMR=Mobile Marine Radio; TRT=Tropical Radio Telegraph Co; McDermott=J. Ray McDermott & Co., Inc.; CRT=Central Radio Telegraph Co.; GLM=Great Lakes Marine Radio.

[2] No call sign has been assigned since the application for the station construction permit is pending.

[3] No call sign has been assigned since the application for the station construction permit is pending. This station is different from the others in that it is proposed to be limited rather than common carrier.

6. For the three major carriers (RCA, ITT, and TRT), information available to the Commission indicates that as a group they operated at a loss for calendar year 1970, although RCA had a positive return. This was despite an industry increase in 1970 over 1963 (the date of the last rate increase) of 21.1 percent in messages handled, 49.2 percent in words handled, and 67.6 percent in gross revenues from marine operations. The figures in recent years for the three major carriers also show increases in messages, words, and gross revenues. However, no data except that indicated above is available to show net revenues or profits either overall or by individual coast stations. In view of the number of closures in past years, the pending applications for closure, the lack of complete financial information, and the problems outlined below, it is appropriate at this time to consider an overall review of the financial situation of public coast radiotelegraph station operations.

7. Various filings before the Commission, including comments in connection with closure applications, have raised the question of the adequacy of the service of public coast telegraph stations. In particular, it is asserted that it is difficult to reach a station, or that the length of time necessary to make contact with the coast station and to transmit the message between the ship and the coast station is excessive. Comments in connection with the application for a limited coast station allege that new service desired is not available.[6]

8. The Commission recently adopted rule amendments in Docket No. 18577, which tightened the technical standards relating to frequency stability and spurious emissions applicable to coast radiotelegraph stations. Section 81.137(d) of the Commission's rules was changed to require the use of type-accepted transmitters by January 1, 1971; however, non-type-accepted transmitters installed before that date could continue to be used until January 1, 1973. ITT states that compliance by their coast radiotelegraph stations with this rule amendment would require an expenditure of approximately $1.3 million, and greatly increase revenue requirements without any benefit to the public. RCA asserts that, if it is required to comply, it would cost approximately $1 million; that RCA will not be encouraged to remain in the maritime service; and that such compliance will necessitate a rate increase in an already financially overburdened service.

9. The aforementioned comments about the adequacy of current service may indicate a need to improve current operating procedures. In this connection there is a petition before the Commission, requesting that operating procedures be required (1) that would provide for each coast station establishing, at the time contact with the ship is made, one frequency for receiving calls, and (2) that would provide for more frequent transmission of traffic lists.[7] It is contended that such procedures would reduce the amount of calling, and thus the congestion in the calling bands and delay in delivery of traffic. It is stated that after contact is made between the coast station and ship, most public coast stations inform the ship operator of several frequencies and bands to which the coast station operator may listen for the call, rather than only one. Thus, the ship operator must call a number of times on various frequencies in several bands to establish communications with the desired coast station, rather than calling once on a preestablished frequency. It is also suggested that traffic lists should be transmitted more frequently than every 2 hours to lessen queries as to whether there is traffic for the caller.

10. There may be an increasing demand for new services, such as data, in the near future. In this connection the application by J. Ray McDermott & Co., Inc. (McDermott), for a limited coast station, referred to above, indicates that the company desires to provide radioteletype transmission service to numerous ship stations which the company owns. McDermott states that such service is not available from common carrier coast radiotelegraph stations, and it proposes to establish a limited coast radiotelegraph station at Harvey, La., to provide this service. At the present time, there are no outstanding radio station authorizations for limited coast radiotelegraph stations. Heretofore, the demand for radiotelegraph service has been supplied by common carrier coast stations, except for service to Government stations. Provision of the data service by McDermott on a regular basis would require that frequencies not now available under the rules be provided, and would set a precedent for authorizing further limited coast station operations. Private telegraph operation would make for inefficient use of available radio frequencies, which are in relatively short supply, and would also eliminate a possible source of additional revenue to the existing public coast telegraph stations. Since limited coast telephone stations have taken traffic formerly handled by public telephone and telegraph coast stations, it appears likely that limited coast telegraph stations, if authorized, would also obtain traffic and revenue currently handled by public coast telegraph stations. Such a reduction in revenue would further impair the economic viability of public coast telegraph stations. Thus a determination should be made as to whether this service desired by McDermott or other desired services can be provided on a reasonable basis by common carriers.

11. It appears that the proportion of message telegraph traffic to total telegraph traffic will decrease, and that the proportion of traffic attributable to telex and data will increase. Likewise, there may be decreasing use of manual methods of transmission, and an increased use of telex and other machines for transmission purposes. It appears desirable in connection with the provision of telex and data services, including the kind proposed by McDermott, that the coast station be in a position to rapidly interconnect with the land communication point through some method such as Western Union message service, telex, TWX or leased lines. It appears desirable that the carriers take the necessary steps to properly provide for these changes.

12. The foregoing review indicates that there are economic, operational, and technical problems in connection with the operation of the public coast radiotelegraph stations as a group. However, more information is needed to make an informed judgment about possible overall remedies, particularly with respect to the following general areas:

a. The nature and causes, including possible redundancy, of economic problems facing the public coast stations;

b. The adequacy of present services and methods of operations of public coast stations;

c. The equipment needed to be installed to provide adequate service and to meet the requirements of Docket No. 18577, including the amount of the investment and operating costs required;

d. Possible new methods of operation to be employed by the public coast stations to provide improved service at a reasonable cost, and the services which should be provided to the public; and

e. The appropriate regulatory scheme for public coast telegraph stations, including alternatives; e.g., the possibility that the Commission should deregulate the service, permitting licensees to provide service as competition and the market for their services demand, with only minimum technical and safety requirements imposed, but specifically without detailed rate or entry regulation.

13. In view of the discussion above, and for the guidance of those concerned with this inquiry, Appendix A sets out the areas in which specific information and comments are sought from interested persons in addition to the irresponses in the general areas set forth in paragraph 12 hereinbefore. Appendix B sets out a list of the carriers, users, unions, and others who can provide information in response to this inquiry. Since this inquiry is instituted pursuant to section 403 of the Communications Act, the licensees shown in Part I of Appendix B are hereby made parties respondent. Since RCA files reports on behalf of a number of the independents, we believe that it may be appropriate that RCA undertake that responsibility for such independents in this instance as well.

14. The carriers listed in Part I of Appendix B should answer the questions in Part I of Appendix A, and those questions that are relevant in Parts II and III of Appendix A. Persons involved in

[6] In addition, the American Institute of Merchant Shipping, a national association representing major operators of U.S.-flag vessels engaged in domestic and foreign commerce of the United States, in opposing two closure applications, asserted that, since 1950, the substantial reduction in the number of coast stations operating in this industry has diminished or eliminated service competition in principal shipping areas.

[7] Petition of Steffan Sorenson, RM-1938.

the transmission and reception of traffic between coast stations and ship stations and their representatives, including those persons listed in Part II of Appendix B, are requested to provide the information set forth in Part II of Appendix A. Users, including user associations set forth in Part III of Appendix B, should answer questions contained in Part III of Appendix A. Any person may, of course, address itself to relevant areas other than those on which comments are requested. In reaching a determination, the Commission may take into consideration any other relevant information before it.

15. A copy of this notice of inquiry will be served on each person listed in the attached Appendix B. Comments should be filed within 90 days of the date of release of this order, and reply comments should be filed within 45 days thereafter. An original and four copies should be filed. Persons listed in the attached Appendix B who file should serve a copy of their comments and replies on each of the other parties listed in Appendix B at the address indicated.

Adopted: July 12, 1972.

Released: July 20, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[8]
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX A

I. Licensees of public coast radiotelegraph stations listed in Part I of Appendix B, or persons filing on their behalf, should provide the following information.

A. For each coast station provide the following information.

1. Name and location of coast station involved, street address, and present hours of service. Describe the services being provided, including relevant details from the tariffs. Indicate the extent and nature of any local pickup and delivery facilities, including the number of messengers and description of any arrangements for transferring traffic to other carriers for local delivery or transmission to distant points.

2. Identification of land area served by the public coast station involved, including population and general character of marine interests served. For the most recent typical month for which statistics are available, the distribution, by service, of the traffic sent to and received from communities to which the carrier itself picks up and delivers, and similar information as to communities to which the carrier does not itself pickup and deliver. Indicate the amount of traffic by service handled within a radius of 25 miles, within a radius of 25 to 100 miles, and over a radius of 100 miles from the station. Show distribution of traffic within each area by communities served where such communities originate or terminate 5 percent or more of the traffic.

3. Description of geographical marine area served on each frequency band used at the station, and approximate range of distance in operating with marine mobile stations. For the most recent typical month for which statistics are available, the amount of traffic sent and received by type of service, and the distribution of such traffic, as specifically as possible, by the nearest latitude and longitude in degrees, of the marine mobile station at the time the communication occurred.

4. By service, for each of the years 1966 through 1971, the amount of traffic sent and the amount received, the associated revenues, the associated direct operating expenses allocated by components, the associated overhead by components, including depreciation related to equipment, and the basis for such allocations, and a forecast for 1972 and 1973 of the above items if present services were continued, and the basis for such estimates.

5. Show the investment in each station, as of December 31 in each of the years 1969, 1970 and 1971, including (1) the original cost and current market value of the land, and the original and depreciated cost separately for buildings, equipment, and other related items, allocated where appropriate by service, and the basis for the calculation of the depreciation expense for each category of plant, and (2) if applicable, other elements of investment, such as construction work in progress, materials, supplies, etc.

6. For the most recent typical month for which statistics are available, the distribution, separately, of inbound and outbound traffic, by service, separately as between number handled over the counter, by teleprinter, messenger, agent, telephone, TWX, transferred to or from another coast station of applicant transferred to or from another carrier, or other method.

7. For the most recent typical month for which statistics are available, by service, the average traffic sent and received per hour, each day for the hours during which the station is open, separately; and an estimate of the traffic per hour in a typical month that the station could send and receive, separately, if demand were present, and the basis for such estimates.

8. List of U.S. Coast Guard stations providing radiotelegraph safety and distress coverage in the marine area served by the coast station involved.

B. For each radiotelegraph station, describe in detail all equipment currently installed at the station and the relevant operating parameters of each piece of equipment, including a functional block diagram of the station. In particular, the following information should be included.

1. For each transmitter.
a. Type, manufacturer, etc.
b. Maximum output power, and power at which normally operated.
c. Frequency range.
d. Emission types.
e. Frequency selection mechanism and tolerance.
f. Bandwidth selection mechanism.
g. Out of band emission suppression.
h. Date transmitter was placed in service.
2. For each receiver.
a. Type, manufacturer, etc.
b. Frequency range.
c. Frequency selection mechanism.
d. Bandwidth selection mechanism.
e. Sensitivity.
f. Selectivity.
g. Date receiver was placed in service.
3. For each antenna.
a. Physical construction, i.e., type.
b. Frequency range.
c. Gain in each direction.
d. Geographical coverage area.
e. Date antenna was placed in service.

The functional block diagram should clearly indicate all capabilities of switching transmitters and receivers between antennas during normal operation, and should indicate which equipment, if any, is installed for redundancy or backup purposes. To the extent possible, indicate which equipment is used to provide each of the services provided by the coast station. Also, list all frequencies currently authorized at each station, whether they are calling or working frequencies, and the amount of usage of each frequency in relation to the other frequencies authorized at the station. To what degree is the usage of each of these frequencies determined by interference considerations or by the operating procedures employed at the station?

C. For each station, list as completely as possible, the new equipment and modifications required to bring the station into compliance with the technical standards established in Docket No. 18577, and the cost associated with each piece of equipment or modification as well as any other costs entailed.

D. For each radiotelegraph station:

1. State the normal operating and watch shifts and the number of persons assigned to each shift and the general responsibilities of each person on the shift. Describe any departures, if any, from this pattern in the last 3 years and the reasons for those departures.

2. Indicate which of the transmitters and receivers are used by each operator on watch, preferably by referring to the functional block diagram requested in Question B above. Describe any changes in this pattern of equipment usage that occurs between shifts.

E. For each radiotelegraph station, provide a detailed description of all operating procedures performed in the provision of communications services by that station. Particular emphasis should be placed on the following procedural aspects:

1. In regard to inbound traffic—
a. procedures used to determine if any ship stations have traffic for the coast station,
b. procedures used to acknowledge ship stations and indicate the frequency to be used for the actual transmission of the traffic to the coast station,
c. procedures used to scan frequencies and actually establish the communication link between the ship and coast station, and
d. procedures used to forward traffic to its final destination from the coast station after it has been received at the coast station.

2. In regard to outbound traffic—
a. procedures used to place messages at the coast station for transmission to ship stations,
b. procedures used to inform a ship station that the coast station has traffic for it, in particular, the frequencies on which traffic lists are transmitted and the interval between transmissions of the traffic list,
c. procedures typically used by ship stations to inform the coast station that the ship station is ready to receive traffic,
d. procedures used to inform ship stations as to the frequency to be used for the actual transmission of the traffic to the ship stations, and
e. procedures used to actually establish the communication link between coast and ship station.

Fully describe any changes in these procedures among different operators and different shifts.

F. In regard to the operating procedures listed in Question E above, provide information in regard to the amount of time normally required for the performance of each of these procedures. In particular, provide quantitative information, based on a study for a typical week of telegrams kept on file or other information, regarding the maximum, minimum, and average times required to perform the following steps during the specified study period:

1. Inbound traffic—
a. if available, the time between the first attempt by the ship's radio operator to establish contact with the coast station for the transmission of a message to the coast station and the reception of the message by the coast station operator, or, alternatively, the time between the filing of the message with the ship's radio operator and its reception at the coast station, and
b. time between the reception of the message by a coast station operator and the time the message is transmitted over landline fa-

[8] Commissioner Robert E. Lee absent. Commissioner Hooks not participating.

cilities to the local office which delivers the messages.

2. Outbound traffic—

a. time between the placement of the message at an office of the landline carrier and its reception at the coast station,

b. time between the reception of the message at the coast station and its first transmission on a traffic list, and

c. time between the placement of the message on traffic list and its transmission to a ship station.

Discuss any changes in operating procedures, equipment, or staffing levels that might be made to decrease amount of time required to perform any of these steps and to improve service quality, and the cost of each such change.

G. In regard to services to be provided by coast radiotelegraph stations in the foreseeable future:

1. Indicate the number of personnel involved in selling the services provided, and any attempts to expand sales of existing services or to sell new services.

2. Describe in detail any new record and data services that could be provided by public coast radiotelegraph stations and for the next 5 years the estimated charges, volume, revenues, and expenses associated with these new services.

3. Describe in detail any new technology that can be utilized to advantage by public coast radiotelegraph stations and the estimated costs and savings of using these innovations.

4. With regard to Items 2 and 3, describe the changes in operating procedures that would be required to provide these services and to utilize new technology. Also, describe the effects of these new services and technology on costs and revenues.

II. The following information should be provided by employees at the various public coast radiotelegraph stations, persons involved in the transmission and reception of messages from and to ship stations, such as radio officers, and the unions of such employees and radio officers, which unions are listed in Part II of Appendix B. Any other persons may address themselves to the matters below.

A. Describe, in as much detail as possible, the procedures involved in handling traffic through the public coast radiotelegraph stations. In particular, discuss the following steps taken in:

1. The transmission of traffic from mobile stations to the coast station—

a. Contacting the coast station in order to inform the coast station that the ship station has traffic for it,

b. determining the actual frequency on which the message will be transmitted to the coast station, and

c. establishing the actual communication link for the transmission of the traffic from the ship to the coast station.

2. The transmission of traffic from the coast station—

a. Determining whether a coast station has any traffic for the ship station, including how often the traffic list is transmitted,

b. informing the coast station that the ship station is ready to receive the message,

c. determining the actual frequency on which the message will be transmitted from the coast station, and

d. establishing the actual communication link for the transmission of the traffic from the coast to the ship station.

B. In regard to the responses to Question A, provide any available data regarding the amount of time required to complete each step. In particular, provide any quantitative data available regarding the amount of time between the placing of a message with the ship's radio operator and its reception at the coast station, the amount of time required for traffic to be received at its final destination after transmission from the ship station, and the amount of time between the placement of a message at a coast station and its reception at the ship station.

C. Discuss in detail any changes that might be made in any of these procedures or any new equipment that might be installed at either coast stations or ship stations to improve the quality of service and reduce the total amount of time elapsing between the placing of a message and its final delivery.

D. Are the staffing levels at the coast stations adequate to handle current traffic loads? If not, explain how the operating personnel should be changed to handle this traffic load. Would an increase or decrease in personnel increase efficiency and reduce time to handle traffic or reduce costs? If so, explain how. If new data services were provided, what changes in personnel would be needed?

III. The following information should be provided to the extent possible by any user associations, including those listed in Part III of Appendix B, companies utilizing the services of the public coast stations, other users, and radio officers on ships. Any other persons may address themselves to the following matters.

A. Discuss the quality of present service provided by public coast radiotelegraph stations, including accuracy and speed of service, and the reasonableness of rates currently charged for services. How might this service be improved?

B. How adequate are current procedures for communicating between coast station and ship? How could these procedures be improved, particularly in respect to reducing to a practical minimum the time required for a ship station to establish communications with a coast station? Should coast radiotelegraph stations establish a specific working frequency when acknowledging a ship station on the calling frequency? At what intervals should coast radiotelegraph stations transmit traffic lists?

C. Which public coast stations do you prefer to use and why? Does proximity of coast station to land point and/or ship of origination or destination of the message enter into the decision as to which coast station is chosen? If so, how? What relative effects do signal strength and quality, and ease of access have on choice of coast station? In what geographical location should public coast stations be located to assure adequate service at all times, including times when normal procedures are disrupted because of adverse propagation conditions, interference from other stations, and other conditions?

D. Describe any new type of record or data services desired together with estimated volumes and what you consider to be a reasonable cost for such services.

E. Discuss any new technology that may be applicable to the transmission of traffic from ship stations to coast radiotelegraph stations, particularly with respect to high-speed data services. Discuss the impact of these innovations on all aspects of operating procedures, quality of service, costs, and charges.

APPENDIX B

Interested parties for purposes of service.

I. Licensees of public coast radiotelegraph stations.

ITT World Communications, Inc., 67 Broad Street, New York, NY 10004.

RCA Global Communications, Inc., 60 Broad Street, New York, NY 10004.

Tropical Radio Telegraph Co., Prudential Center, Boston, Mass. 02199.

Maryland Port Administration, Pier 2, Pratt Street, Baltimore, MD 21202.

Clara Lee Warner Wood, 3410 Obispo Street, Tampa, FL 33609.

Mobile Marine Radio, Inc., Post Office Box 743, Mobile, AL 36601.

Central Radio Telegraph Co., c/o R. R. Wertz, 600 Grant Street, Pittsburgh, PA 15230.

Great Lakes Marine Radio, Post Office Box 473, North Tonawanda, NY 14120.

II. Employee and radio officer interests.

American Communications Association, 1 Park Row, New York, NY 10038.

The Communications Workers of America, 1925 K Street NW., Washington, DC 20006.

Southern Electronic Association, Attention: S. S. Pyle, President, Post Office Box 502, Lacombe, LA 70445.

American Radio Association, 270 Madison Avenue, New York, NY 10016.

Mr. Steffan Sorenson, Post Office Box 2060, Norfolk, VA 23501.

III. User groups.

American Institute of Merchant Shipping, Suite 930, 1120 Connecticut Avenue NW., Washington, DC 20036.

American Maritime Association, 1612 K Street NW., Washington, DC 20006.

American Petroleum Institute, 1801 K Street NW., Washington, DC 20006.

IV. Applicants and other interested parties.

American Telephone & Telegraph Co., 195 Broadway, New York, NY 10007.

The Western Union Telegraph Co., 60 Hudson Street, New York, NY 10013.

Alpha Martin, 2405 West Reynolds Avenue, Plant City, FL 33566.

J. Ray McDermott & Co., Inc., 1010 Common Street, Post Office Box 60035, New Orleans, LA 70160.

United States Coast Guard, 400 Seventh Street SW., Washington, DC 20591.

[FR Doc.72-11769 Filed 7-27-72;8:53 am]

[Docket No. 19546; FCC 72-627]

WESTERN UNION TELEGRAPH CO., AND MICROWAVE COMMUNICATIONS, INC.

Memorandum Opinion and Order Instituting Investigation and Hearing

In the matter of Western Union Telegraph Company (Revision of Tariff FCC No. 254). Microwave Communications, Inc. (Tariff FCC No. 1).

1. We have before us a "Petition for Rejection of Tariff or, In The Alternative, For Suspension and Designation For Hearing," filed on May 22, 1972, by Microwave Communications, Inc. (MCI), and a reply thereto which was filed on June 8, 1972, by The Western Union Telegraph Company (Western Union). Both MCI and Western Union also filed the following additional pleadings for which authorization pursuant to § 1.45(c) of the Commission's rules was neither requested nor received. A response of MCI to Western Union's reply to petition for rejection or suspension filed by MCI on June 19, 1972. A motion to strike response of MCI to Western Union's reply to petition for rejection or suspension filed by Western Union on June 23, 1972, and a reply to motion to strike filed by MCI on June 27, 1972. Since these pleadings are unauthorized we have not considered them in our disposition of this matter. The MCI petition is directed to revisions in Western Union's private line Tariff FCC No. 254, which were filed on April 6, 1972, to

become effective June 5, 1972,[1] MCI contends that the proposed tariff revisions should be rejected or suspended and designated for hearing, since said revisions are barred by paragraph 11 of our memorandum opinion and order of February 3, 1972, in Docket No. 18128 33 F.C.C. 2d 522, fail to comply with § 61.38 of the Commission's rules, are predatory in purpose and impact, and are designed to exclude or limit competition in a market where the FCC has found that such competition is feasible and will serve the public interest.

2. On April 6, 1972, Western Union filed its Transmittal No. 6721 covering revisions to its Tariff FCC No. 254 designed to reduce rates for voice and medium speed data channels between St. Louis and Chicago to match those for similar services currently being provided by MCI. Western Union premises its changes in rate levels and rate structures upon competitive necessity. As a result of the proposed revisions, Western Union submits that its total charges between St. Louis and Chicago for voice and medium speed data channels will be reduced 14 percent to 32 percent overall, as compared to its current charges. However, the proposed service terminal charge represents an increase over the service terminal charge presently applicable to private line voice and data channels provided elsewhere in the United States. Western Union also proposes to match MCI's offering of daytime-only service from 7 a.m. to 7 p.m. or from 8 a.m. to 8 p.m. at a 25-percent reduction in channel rates under full-time, 24-hour, service.

3. MCI urges that Western Union's revised tariff schedules either be rejected, or in the alternative, suspended and designated for hearing. MCI believes the revised tariff schedules raise serious questions of lawfulness, since they are predicated upon new ratemaking principles and that these matters should be resolved in Docket No. 18128. Therefore, MCI contends that the current Western Union filing is barred by paragraph 11 of our memorandum opinion and order of February 3, 1972, 33 F.C.C. 2d 522, unless special permission is obtained from the Commission for such a filing and that, since Western Union has neither requested nor received such permission, the filing should be rejected.

4. MCI also maintains that the proposed tariff changes in effect institute a new subclassification of service since Western Union has no voice frequency channel customers between Chicago and St. Louis, except for Telpak or Datacom users. MCI concludes that since Western Union's section 214 authority and radio licenses contain conditions that no new classification or subclassification of service be instituted without prior authorization of this Commission, the instant filing is barred, and should be rejected in the absence of such permission.

5. More specifically, MCI alleges that the instant filing does not explain the changed matter, the reasons for the filing, and the basis of ratemaking employed; that it does not include a cost-of-service study for the most recent 12-month period nor does it include projected costs for a 3-year period beginning at the date of filing; that it does not include adequate estimates of the effects of changes upon Western Union's other services and overall operations; and that the working papers do not contain the required underlying data nor clearly indicate how they relate to the data called for by the rules. Such failures, MCI contends, constitute violations of § 61.38 of the Commission's rules, and on this basis Western Union's filing should be rejected.

6. In summary, MCI submits that Western Union's revised tariff schedules constitute more than just minor tariff changes on a short segment of Western Union's transcontinental system and that the instant filing is the first departure by an established carrier from nationwide averaging of costs and rates. Thus, it could assertedly become a precedent for similar action by the American Telephone and Telegraph Co. and other existing carriers. MCI alleges that the revised tariff schedules are predatory in purpose and impact, are discriminatory, and are designed to exclude or limit competition in a market where the FCC has found such competition is feasible and will serve the public interest. Moreover, MCI alleges that because of Western Union's monopoly position, a great danger exists of cross-subsidization of its competitive services—a danger the Commission must recognize and guard against.

7. Western Union, in its reply to MCI's petition, contends that MCI's allegations as to predatory pricing and unlawful discrimination are unfounded and unsubstantiated. It alleges that it is only meeting, and not underpricing competitive rates established by MCI, and that competition implies that a supplier be free to meet the price set by a competitor. Specifically, Western Union denies that its present filing is barred because of our memorandum opinion and order of February 3, 1972, supra, or because of the conditions we have imposed on its 214 certificates and radio licenses. In the first instance, Western Union urges that the purview of paragraph 11 of our February 3d order is beyond our statutory authority, that, alternatively, the instant tariff revisions would not impede in the slightest the conclusion of Docket No. 18128, and that, in any event, the filing is authorized by Special Permission 6466 issued by the Chief, Common Carrier Bureau on March 9, 1972. In particular, Western Union contends that neither the issues nor the evidence in Docket No. 18128 relate directly to the principles applicable to the pricing of Western Union's competitive services, but solely to those of the Bell System. Western Union denies MCI's contention that a subclassification of service has been created and alleges it has been offering voice transmission since at least 1938.

8. Western Union maintains that its supporting statement of 24 pages and 6 attachments demonstrate clear and complete compliance with § 61.38 of the Commission's rules, and that while MCI's allegations may be indicative of its disagreement with the accuracy of the content and methodologies used, MCI has failed to show any specific deficiencies in the Western Union filing as to § 61.38 of the rules. Western Union contends that since it presently has no customers for the service covered by the revised tariffs, the most recent 12-month-period rule is inapplicable. Moreover, Western Union does not believe that § 61.38 of the Commission's rules requires the use of data reflecting the most recent 12-month period but rather means the use of the most recently available data for the purpose used. Western Union also notes that the use of a 12-month noncalendar year is not practical for its purposes. In both instances, Western Union insists that a strict interpretation of § 61.38 would require it to institute substantial and time consuming special studies. Generally, Western Union contends that the requirements of § 61.38 of the Commission's rules have been met, and no ground exists for rejection.

9. In summarizing its position, Western Union contends that it is meeting MCI's charges as a matter of competitive necessity, that its reductions are cost justified on the basis of fully allocated costs, that the Commission provided for such competition in its decision in Docket No. 18920, and that in effect, MCI is seeking a "protective umbrella" from such competition, a shelter it was not guaranteed in Docket No. 18920.

10. In our decision in Specialized Common Carrier Services 29 FCC 2d 870, we stated that our policy objective is "to promote and maintain an environment within which existing and any new carriers shall have an opportunity to compete fairly and fully in the sale of specialized services" and that "our ratemaking and regulatory policies and practices will be appropriately adapted to accomplish this objective." (29 FCC 2d, at page 915) Further, we stated that, although we would address any problems that may arise with due regard for the pricing and costing principles and factors established by our proceedings in Docket 18128, "we will not delay the institution of new specialized services by existing or new carriers pending the outcome of that Docket." (29 FCC 2d, at page 917). Finally, we stated that "where services may be in direct competition, departure from uniform nationwide pricing practices may be in order, and in such circumstances will not be opposed by the Commission," and that "there is no reason to delay the public benefits that may derive from active and vigorous participation by the Bell System and Western Union in this market, so long as their participation is not a burden upon or significantly detrimental to their other services." (29 FCC 2d, at page 915)

11. Western Union's tariff filing is the first rate action by an established carrier which raises questions of compliance with the aforementioned policy objectives of the Commission. Thus, one of the

[1] Western Union voluntarily deferred the effective date thereof until July 15, 1972.

questions raised by this filing is whether the offering is or will be a burden on or siginficantly detrimental to Western Union's other services. The general rate-making principles and guidelines to be determined in Docket 18128 may have relevance to this particular issue. However, the filing herein also raises other questions relating, for example, to internal rate structure and rate relationships that will not be resolved in Docket 18128 (e.g. the imposition of substantially higher charges on nighttime than daytime service and higher charges for local service terminals used in the St. Louis-Chicago service than apply to service to or from other points.) It is our opinion that we should designate this particular tariff offering for investigation and hearing on all questions of lawfulness in a proceeding separate from Docket 18128, particularly in view of our objective to complete the record in Docket 18128 and to resolve the issues therein as soon as possible. To the extent applicable herein, we will of course give due consideration to the principles and guidelines determined in Docket 18128 in resolving the question of lawfulness raised by this particular tariff filing.

12. We need not resolve the question of whether Western Union has complied with paragraph 11. of our February 3, 1972 order in Docket 18128. The purpose of that requirement was to prevent the filing of tariff revisions that might "unduly disrupt or delay the conclusion of the case." We do not consider that the Western Union tariff filing herein is in that category. Accordingly, this particular requirement is waived under the circumstances of this case.

13. We agree with MCI that Western Union's offering is for a new class or subclassification of service and that Western Union was required under the conditions of its outstanding authorizations and licenses to obtain prior approval by the Commission before offering the service. However, that particular requirement was imposed upon Western Union (and the Bell System) before the Commission established its aforementioned policies with respect to full and fair competition between established and new carriers in the sale of specialized services. We shall therefore waive this particular requirement particularly under the circumstances of this case where MCI and other interested parties have had more than 90 days' notice of the proposed tariff offering and have had ample opportunity to submit their objections thereto.

14. We disagree with MCI's contention that Western Union failed to comply with § 61.38 of our rules by not submitting a cost of service study for the "most recent 12-month period." This requirement does not apply where, as in this case, the tariff offering is for a service not previously offered (see § 61.38(a)). However, MCI is correct in alleging that Western Union failed to comply with § 61.38 insofar as the carrier submitted a projection of costs for a 3-year period that did not begin with "the date of the filing of the tariff matter" as our rules require. The tariff was filed on April 6, 1972, and Western Union's 3-year cost projection begins with the first of the calendar year rather than the April filing date. We deem this deviation from our rules to be inconsequential under the circumstances of this case. In the hearing that we are ordering, MCI and other parties will have full opportunity to inquire into the reasonableness of the claims of Western Union as to the costs of this service offering. Accordingly, we waive the requirements of our rules in this particular respect.

15. MCI makes other allegations concerning the methods used by Western Union in making its cost studies and projections that raise questions as to the weight to be given to such studies. For example, the utilization by the carrier of different time frames for the development of cost data and estimates raise a question of consistency in Western Union's approach. However, such questions as these can best be resolved on the basis of evidence adduced on the record in the hearing we are ordering. To sum up, therefore, we are instituting an investigation and hearing to determine the cost, competitive and other considerations underlying Western Union's new rate offering; its relationship to the other nationwide offerings of Western Union; and whether, in any respect, the tariff offering is or will be unjust, unreasonable or unduly discriminatory or preferential within the meaning of sections 201(b) and 202(a) of the Act.

16. Western Union argues that, if the Commission concludes that an investigation of its tariff offering is necessary, then even-handed treatment of competitors also requires an investigation into the lawfulness of MCI's tariff. We disagree. Western Union has not challenged the lawfulness of MCI's tariff and we see no need to designate MCI's tariff for hearing at this time. However, MCI will be named herein as a party and it is expected that MCI will provide, as requested, such relevant data as may be needed to facilitate the resolution of the issues in this proceeding.

17. Accordingly, in view of the foregoing, *it is ordered,* That, pursuant to the provisions of sections 201, 202, 203, 204, 205, and 403 of the Communications Act of 1934, as amended, an investigation and hearing is instituted into the lawfulness of Western Union's revised private line service schedules in its tariff FCC No. 254, which were filed on April 6, 1972, under transmittal No. 6721, as enumerated in Appendix A hereto including cancellations, amendments, or reissues thereof;

18. *It is further ordered,* That, without in any way limiting the scope of the investigation, it shall include consideration of the following:

(1) Whether the charges, classifications, practices, and regulations published in the aforesaid tariffs are or will be unjust or unreasonable within the meaning of section 201(b) of the Act;

(2) Whether such charges, classifications, practices, and regulations will, or could be applied to, subject any person or class of persons to unjust or unreasonable discrimination or give any undue or unreasonable preference to any person, class of persons, or locality, within the meaning of section 202(a) of the Act;

(3) If any of such charges, classifications, practices, and regulations are found to be unlawful: (a) whether the Commission should prescribe charges, classifications, practices, and regulations for the service governed by the tariffs, and if so, what should be prescribed; or (b) whether the Commission should take other corrective action and, if so, the nature thereof.

19. *It is further ordered,* That, a hearing be held in this proceeding at the Commission's offices in Washington, D.C., at a time to be specified; and that the examiner to be designated to preside at the hearing shall certify the record, without preparation of an initial or recommended decision, and the Chief of the Common Carrier Bureau shall thereafter issue a recommended decision which shall be subject to the submittal of exceptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277, after which the Commission shall issue its decision as provided in 47 CFR 1.282;

20. *It is further ordered,* That, MCI's petition for rejection of tariff, or in the alternative, for suspension and designation for hearing is granted to the extent herein indicated and otherwise denied:

21. *It is further ordered,* That, Western Union Telegraph Co. is hereby named party respondent and Microwave Communications, Inc. is named party intervenor.

Adopted: July 12, 1972.

Released: July 25, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-11766 Filed 7-27-72;8:53 am]

FEDERAL POWER COMMISSION

[Docket No. RP72-142]

CITIES SERVICE GAS CO.

Notice of Change in Rates and Charges

JULY 24, 1972.

Take notice that on July 3, 1972, Cities Service Gas Co. (Cities Service) tendered for filing a Notice of PGA Rate Change (Original Sheet PGA-1) and certain revised tariff sheets which are stated to be offered for the purpose of restating the rate sections of each rate schedule so as to coordinate with Tariff Sheet PGA-1, rather than a superseded tariff sheet. The Company proposes an effective date of August 23, 1972. Tariff Sheet

[2] Dissenting Statement of Commissioner Nicholas Johnson filed as part of the original document. Commissioner Robert E. Lee absent; Commissioner Hooks not participating.

PGA-1 reflects an increase of 0.31 cent per Mcf above the rates which became effective November 14, 1971, in Docket No. RP71-106. The increase is stated to result in increased jurisdictional revenues of $1,069,705, based on sales for the 12-month period ended May 22, 1972. The company states that the increased costs reflecting the filing stem from increased purchased gas costs from its suppliers.

Copies of the tender have been served upon all jurisdictional customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 11, 1972, file with the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11705 Filed 7-27-72;8:46 am]

[Docket No. CI73-7]

COASTAL PRODUCTION CO.

Notice of Application

JULY 24, 1972.

Take notice that on July 3, 1972, Coastal Production Co. (Applicant), Post Office Box 44, Winter Park, FL 32789, filed in Docket No. CI73-7 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Florida Gas Transmission Co. (Florida Gas) from the Agua Dulce Field, Nueces County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it, Southeastern Exploration, Ltd., and Austral Oil Co., Inc., hold gas leases, or interests in gas leases, covering lands in the Agua Dulce Field on which a productive well has been completed. Applicant, as operator of said leases, states that on June 1, 1972, it commenced an emergency sale of natural gas to Florida Gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29). Applicant requests authorization for that sale pursuant to a contract between the parties dated April 20, 1972. Applicant indicates that it proposes to sell to Florida Gas 16,500 Mcf of gas per month at 24 cents per Mcf, subject to upward or downward B.t.u. adjustment, at 14.65 p.s.i.a. Pursuant to said contract, Applicant will deliver the subject gas to Natural Gas Pipeline Company of America (Natural) in the Agua Dulce Field. Under the terms and conditions of an exchange agreement between Florida Gas and Natural, Florida Gas will receive volumes of gas equivalent to those delivered by Applicant to Natural. Natural and Florida Gas have filed applications for certificates in Dockets Nos. CP73-1 and CP73-2, respectively.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11707 Filed 7-27-72;8:47 am]

[Docket No. E-7122]

DUKE POWER CO.

Order Terminating Order To Show Cause

JULY 20, 1972.

On August 21, 1963, the Commission issued an order in Docket No. E-7122 directing Duke Power Co. (Duke) to show cause why certain provisions in its wholesale contracts were not unduly restrictive and therefore unlawful. Subsequently, Duke filed supplements to a number of its rate schedules and new wholesale power contracts, removing such restrictive provisions. On August 12 and October 30, 1964, the Commission issued orders accepting those filings and terminating the issues raised in the order to show cause with respect to those rate schedules and contracts. The remaining issue raised by the Commissions' show cause order relates to a resale limitation of five horsepower in Duke's contract with the city of High Point, N.C. (City).

Duke in its answer to the order to show cause, filed September 25, 1963, stated that the resale limitation contained in its contract with the City arose from a limited franchise it had in the City, under which the City had the primary right to serve residential and small commercial customers and Duke has a franchise right to serve large commercial and industrial loads within the City. Further, the provisions of FPC Rate Schedule Nos. 28 and 29, were inserted by mutual agreement of the parties and represented their practical interpretation of the limited franchise in their course of dealing with that provision of the contract.

On May 26, 1972, Duke requested the Commission issue an order terminating Docket No. E-7122. In support of its request, Duke states that the franchise given to Duke by the City expired on February 9, 1969, and that the City has neither elected to renew that franchise nor enter into any other agreement with Duke respecting the limitation of any electric load that the City may or may not serve.

After timely notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention, or protest to the requested termination of this docket has been filed.

Under these circumstances, no further purpose can be achieved by continuing this proceeding and accordingly we will terminate it.

The Commission finds:

It is necessary and appropriate for purposes of the Federal Power Act that the Commission's order to show cause issued August 21, 1963, in this docket, be terminated.

The Commission orders:

(A) The Commission's order to show cause issued August 21, 1963, in this docket, is hereby terminated.

(B) Nothing contained in this order shall be construed as constituting approval by this Commission of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such service or rate provided for in the rate schedules as above designated, nor shall this order be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate.

(C) This order is without prejudice to any findings or orders which have been or may hereafter be made by this Commission in any proceeding now pending, or hereafter instituted, by or against the aforementioned company.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11732 Filed 7-27-72;8:49 am]

[Docket No. DA-544-Oregon]

FOREST SERVICE

Finding and Order Under Section 24 of the Federal Power Act

JULY 24, 1972.

Lands withdrawn in Power Site Reserve No. 108, Power Site Classification No. 284, and Project No. 873, Docket No. DA-544-Oregon, U.S. Forest Service.

Application has been filed by the Forest Service, U.S. Department of Agriculture, for partial vacation of the land withdrawal for Project No. 873, thereby requiring Commission consideration under section 24 of the Federal Power Act.

This instrument pertains to:

(1) All lands withdrawn pursuant to the filing on January 25, 1928, by Milton City, Oreg., of an application for preliminary permit for Project No. 873 for which the Commission gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letter dated January 31, 1928.

(2) Power Site Reserve No. 108 and Power Site Classification No. 284, dated July 2, 1910, and February 27, 1934, respectively, insofar as they overlap the withdrawal for Project No. 873.

(3) Power Site Reserve No. 108 insofar as it pertains to lands adjacent to those withdrawn for Project No. 873.

The subject lands are described in the attached "Land List."

The lands lie along the 6-mile reach of the South Fork Walla Walla River between elevation 1,920 in sec. 9, T. 4 N., R. 37 E., and elevation 2,500 in sec. 8, T. 4 N., R. 38 E. The lands in T. 4 N., R. 38 E., are within the Umatilla National Forest.

Project No. 873 contemplated construction of a dam across the South Fork Walla Walla River in the NE¼ of sec. 14, T. 4 N., R. 37 E., or at an alternate site in lot 3 of sec. 12, T. 4 N., R. 37 E., to create a reservoir with a capacity of about 8,000 acre-feet. The water was to be used in existing and proposed powerhouses. A 3-year preliminary permit for the project expired on April 18, 1934, and an application for license was not filed.

In a 1933 report, the U.S. Geological Survey proposed the construction of a 264-foot-high dam in sec. 12, T. 4 N., R. 37 E., to create an 18,300 acre-foot reservoir, with a 3-mile conduit to a powerhouse which would have a capacity of 5,600 kw. However, a geologic investigation by the survey disclosed that this proposed reservoir site and those proposed in Project No. 873 were subject to considerable leakage. The relatively low power benefits from a reservoir in this area would not justify the high construction costs.

In an alternate plan the Geological Survey proposed use of the subject lands for conduit location in connection with a 6.5 mile diversion which would produce 5,100 kw. However, such development does not appear economical in the light of present criteria. In any event the location of the conduit would be flexible.

The Geological Survey has recommended that the withdrawal for Project No. 873 be vacated in its entirety and that Power Site Reserve No. 108 and Power Site Classification No. 284 be revoked insofar as they overlap the project withdrawal.

The lands in sec. 12 and the N½NW¼ of sec. 13 were the subject of a previous determination by the Commission (DA-371-Oregon, issued February 24, 1950) and were restored to location, entry, or selection under the public land laws, subject to the provisions of section 24 of the Federal Power Act, by Restoration Order No. 1293, dated June 2, 1950.

The Commission finds:

(A) It has no objection to the revocation of Power Site Reserve No. 108 and Power Site Classification No. 284 insofar as they pertain to the subject lands.

(B) The withdrawal for Project No. 873 should be vacated in its entirety.

The Commission orders:

The withdrawal for Project No. 873 is hereby vacated in its entirety.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

LAND LIST

WILLAMETTE MERIDIAN, OREGON

1. Lands withdrawn for Project No. 873:

T. 4 N., R. 37 E.,
Sec. 10, lot 1, NE¼SE¼;
Sec. 11, lots 4, 5, 7;
Sec. 12, lots 1, 2, 3, 4, SE¼NE¼, NE¼SW¼, N½SE¼;
Sec. 13, N½NW¼;
Sec. 14, lots 1, 2, W½NE¼, NW¼;
Sec. 15, NE¼NE¼.

T. 4 N., R. 38 E.,
Sec. 7, lot 4, NE¼NE¼, S½NE¼, SE¼SW¼, N½SE¼;
Sec. 8, N½NW¼, SW¼NW¼.
Approximately 1,366.53 acres.

2. Subject lands in Power Site Reserve No. 108:

T. 4 N., R. 37 E.,
Sec. 9, NE¼SE¼;
Sec. 10, lots 1, 4, SE¼NW¼;
Sec. 11, lot 7;
Sec. 12, lots 1, 2, 3, 4, SE¼NE¼, NE¼SW¼, N½SE¼;
Sec. 13, N½NW¼, SW¼NW¼;
Sec. 14, lots 1, 2, W½NE¼, NW¼;
Sec. 15, N½NE¼.
Approximately 1,045.56 acres.

3. Subject lands in Power Site Classification No. 284:

T. 4 N., R. 38 E.,
Sec. 7, lot 4, NE¼NE¼, S½NE¼, NW¼SE¼;
Sec. 8, N½NW¼, SW¼NW¼.
Approximately 318.36 acres.

[FR Doc.72-11706 Filed 7-27-72;8:47 am]

[Project No. 1549]

LANDS WITHDRAWN IN WILLAMETTE MERIDIAN, OREGON

Order Vacating Withdrawal Under Section 24 of the Federal Power Act

JULY 20, 1972.

The Forest Service, U.S. Department of Agriculture, has requested that the land withdrawal for Project No. 1549 be vacated in its entirety thereby requiring Commission consideration under section 24 of the Federal Power Act.

The following described lands are withdrawn pursuant to the filing on February 13, 1939, of an application for license for Project No. 1549 for which the Commission gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letter dated October 25, 1939:

WILLAMETTE MERIDIAN, OREGON

All portions of the following described subdivisions lying within 25 feet of the centerline of the proposed dam, flume, ditch, pipeline, powerhouse, and transmission line locations as shown upon a revised map designated Exhibit "F" and entitled "Power Project of Larry Lucas, Agness, Oreg.," and filed in the office of the Federal Power Commission on May 24, 1939:

T. 35 S., R. 12 W.,
Sec. 13, lots 4, 6, SE¼SE¼.
Approximately 3.46 acres.

The lands lie within the Siskiyou National Forest and are located along Smith Creek, a small tributary of the Rogue River, near the town of Agness, Curry County, Oreg.

Project No. 1549 was a small diversion-type development with a capacity of about 4 horsepower. The last of three 10-year licenses for the project expired on May 19, 1970, and the project has been dismantled as commercial power is now available in the area. By letter dated November 24, 1971, the Forest Service reported that the project lands have been restored to a satisfactory condition.

The Commission finds:

The withdrawal for Project No. 1549 serves no useful purpose and should be vacated in its entirety.

The Commission orders:

The withdrawal of the subject lands pursuant to the application for Project No. 1549 is hereby vacated.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-11734 Filed 7-27-72;8:49 am]

[Docket No. CP73-10]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

JULY 24, 1972.

Take notice that on July 14, 1972, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP73-10 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a deferred exchange of gas between Applicant and Trunkline Gas Co. (Trunkline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by letter agreement dated June 16, 1972, Trunkline has agreed to deliver, on a best efforts

basis, up to 70,000 Mcf per day to Applicant on those days during the period June 16, 1972 to October 31, 1972, that Applicant has deliveries curtailed from its offshore and onshore system because of maintenance and testing. Applicant further states that such volumes, which are estimated not to exceed a total of 2,800,000 Mcf, will be returned by Applicant on a best efforts basis during November and December 1972, with the remainder being delivered on a firm basis at a uniform daily rate during the period January 1, 1973 to March 31, 1973, inclusive. Deliveries by Trunkline will be made at an existing point of common connection to a gas processing plant operated by Superior Oil Co. at Lowry, Cameron Parish, La. Deliveries by Applicant will be made at either or both the Lowry point or an existing point of interconnection at the discharge of Applicant's Patterson, La., compressor station. No new facilities are proposed to be constructed.

Applicant states that to the extent that Trunkline can deliver gas when Applicant's ability to receive gas from offshore is restricted, the proposed exchange will give it additional gas available for transportation through its main line transmission system for delivery directly to market or for storage.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11709 Filed 7-27-72;8:47 am]

[Docket No. CP67-16]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Proposed Changes in Curtailment Procedure and Modification of Order

JULY 24, 1972.

Take notice that on June 29, 1972, Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), pursuant to the Natural Gas Act and Regulations thereunder, filed an Eleventh Revised Sheet No. 12 to its FPC Gas Tariff, Second Revised Volume No. 1. The proposed sheet provides for an optional curtailment plan for the winter period. The option, contained therein, which is exercised on the part of the Buyer, allows daily volume interruptions equal to 80 percent of the maximum daily quantity during 21 consecutive days in the last half of February and the first half of March with a 20 percent interruption for the 42 days immediately prior to the 21-day period. Michigan Wisconsin states that at all other times the present 40 percent maximum daily quantity curtailment would apply. Concurrently, Michigan Wisconsin has filed a motion for modification of the Commission's order in Docket No. CP67-16, dated December 28, 1966, requesting authorization for the optional curtailment procedure. The proposed effective date for the revised sheet is asked to be the date of the Commission's order on the above motion.

In support of its filing, Michigan Wisconsin states that the change would provide greater operational flexibility to the purchasers and allow Michigan Wisconsin to reduce delivery obligations when storage balances are low.

The complete proposal is on file with the Commission and is available for public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 16, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11710 Filed 7-27-72;8:47 am]

[Docket No. CP73-15]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application

JULY 24, 1972.

Take notice that on July 17, 1972, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP73-15 an application pursuant to section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing Applicant to transport up to 10,000 Mcf per day of natural gas for Texaco, Inc. and to operate the facilities necessary for such transportation, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport through its transmission lines up to 10,000 Mcf per day of natural gas from Block 88 Field, High Island Area, Offshore Texas, to existing points of delivery in nothern Illinois to Northern Illinois Gas Co. for the account of Texaco, Inc. Applicant and Texaco have entered into an agreement, dated February 29, 1972, providing for the proposed transportation service. The application indicates that Texaco will pay a two-part demand-commodity rate based on Applicant's FPC Gas Rate Schedule DMQ-1 rates in effect from time to time.

Applicant states that current transmission facilities are more than adequate to transport this additional volume and that no new construction or additional expenses will be generated by the increased transmission volume.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11711 Filed 7-27-72;8:47 am]

[Dockets Nos. CP73-1, CP73-2]

NATURAL GAS PIPELINE CO. OF AMERICA AND FLORIDA GAS TRANSMISSION CO.

Notice of Applications

JULY 24, 1972.

Take notice that on July 3, 1972, Natural Gas Pipeline Co. of America (Natural), 122 South Michigan Avenue, Chicago, IL 60603, and Florida Gas Transmission Co. (Florida Gas), Post Office Box 44, Winter Park, FL 32789, filed in Docket Nos. CP73-1 and CP73-2, respectively, applications pursuant to section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing the exchange of natural gas and the retention in place and operation of certain natural gas facilities previously installed pursuant to § 157.22 of the regulations under the Natural Gas Act (18 CFR 157.22), all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicants seek authorization to exchange natural gas pursuant to an agreement between them dated May 5, 1972. The agreement calls for natural gas to be delivered by Coastal Production Co., Applicant in Docket No. CI73-7, to Natural from the Agua Dulce Field, Nueces County, Tex., in daily quantities of up to 2,000 Mcf. Natural will redeliver to Florida Gas an equivalent volume of gas at an interconnection between their respective pipeline systems near the South Driscoll Field, Nueces County, Tex. Applicants indicate that the exchange will be on a gas-for-gas basis with no monetary compensation.

Applicants state that they commenced an emergency exchange of gas on June 1, 1972, pursuant to said agreement and § 157.22 of the regulations under the Natural Gas Act. Consequently, the facilities required for the proposed exchange of gas have been constructed in order to effectuate the emergency exchange. Applicants request authorization to retain in place and to continue operation of these facilities. Florida Gas states that it constructed approximately 1,800 feet of 3½-inch pipeline and a meter station at the point of receipt of the gas by Natural in Nueces County, Tex., and a side valve assembly and 100 feet of 3½-inch pipeline at the point of redelivery from Natural also in Nueces County. Natural indicates that it constructed a hot tap at the point of its receipt of the gas and a hot tap, meter station, and flow controller at the point of redelivery to Florida Gas.

The total cost of the facilities installed by Florida Gas and Natural was $19,000 and $13,000, respectively. Florida Gas indicates that it has agreed to reimburse Natural for the cost of facilities constructed by it.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 15, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, hearings will be held without further notice before the Commission on these applications if no petitions to intervene are filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearings are required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearings.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11708 Filed 7-27-72;8:47 am]

[Project 175]

PACIFIC GAS AND ELECTRIC CO.

Notice of Issuance of Annual License

JULY 24, 1972.

On June 29, 1970, Pacific Gas and Electric Co., Licensee for Balch Project No. 175 located in Fresno County, near the city of Fresno in Sequoia and Sierra National Forests filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6).

The license for Project No. 175 was issued effective July 28, 1922, for a period ending July 27, 1972. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of Licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Pacific Gas and Electric Co. for continued operation and maintenance of Project No. 175.

Take notice than an annual license is issued to Pacific Gas and Electric Co. (Licensee) under section 15 of the Federal Power Act for the period July 28, 1972 to July 27, 1973, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Balch Project No. 175 subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11712 Filed 7-27-72;8:47 am]

[Docket No. CP73-13]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

JULY 24, 1972.

Take notice that on July 14, 1972, Transcontinental Gas Pipe Line Corp. (Applicant), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP73-13 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, installation and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authority to construct, install and operate approximately 10.60 miles of 20-inch gathering lateral and a gathering meter and regulating station to be located offshore Texas and approximately 12.48 miles of 30-inch pipeline loop on the North Markham Gathering Lateral located onshore Texas. Applicant states that the proposed offshore pipeline will connect with the terminus of Applicant's 20-inch pipeline in Brazos Block 541 and will extend eastward to Brazos Block A-1. These proposed facilities will be utilized to gather and transport gas purchased in the Block A-1 Field, Brazos Area. Applicant states that the proposed onshore facilities will provide the capacity to enable the gas to reach Applicant's main line.

Applicant states that the estimated cost of the proposed facilities is $6,039,000, which will be financed initially from short-term loans and available cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11713 Filed 7-27-72;8:47 am]

[Dockets Nos. RP72-78, RP73-3]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Proposed Changes in Rates and Charges

JULY 21, 1972.

Take notice that on July 11, 1972, Transcontinental Gas Pipe Line Corp. (Transco) tendered for filing Second Revised Sheet No. 5, to its FPC Gas Tariff, First Revised Volume No. 1, which is stated to reflect a purchased gas "tracking" rate increase of 0.8 cent per Mcf in the commodity component of Transco's Rate Schedules CD, G, OG, E, PS, and ACQ and a like amount in the delivery charge under Rate Schedule S-2, to be effective as of August 11, 1972. The resultant increase in revenues is stated to approximate $7.3 million.

Concurrently, Transco tendered for filing Original Sheets Nos. 6, 117, 162, 163, and 164 to its FPC Gas Tariff, First Revised Volume No. 1. Said tender, designated as Docket No. RP73-3, constitutes Transco's proposed Purchased Gas Adjustment Clause and Supplier Refunds (PGA Clause). The Company also proposes an August 11, 1972, effective date for said sheets.

Copies of both tenders have been served upon its customers and interested State commissions.

Any person desiring to be heard or to make protest with respect to said filing should on or before August 4, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The tender is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11733 Filed 7-27-72;8:51 am]

[Docket No. CP73-11]

TRUNKLINE GAS CO.

Notice of Application

JULY 21, 1972.

Take notice that on July 14, 1972, Trunkline Gas Co. (Applicant), Post Office Box 1642, Houston, TX 77001, filed in Docket No. CP73-11 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delayed exchange of gas with Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by letter agreement dated June 16, 1972, it has agreed to deliver, on a best efforts basis, up to 70,000 Mcf per day to Michigan Wisconsin on those days during the period June 16, 1972, to October 31, 1972, that Michigan Wisconsin has deliveries curtailed from its offshore and onshore system because of maintenance and testing. Applicant further states that such volumes, which are estimated not to exceed a total of 2,800,000 Mcf, will be returned by Michigan Wisconsin on a best efforts basis during November and December 1972, with the remainder being delivered on a firm basis at a uniform daily rate during the period January 1, 1973, to March 31, 1973, inclusive. Deliveries by Applicant will be made at an existing point of common connection to a gas processing plant operated by Superior Oil Co. at Lowry, Cameron Parish, La. Deliveries by Michigan Wisconsin will be made at either or both the Lowry point or an existing point of interconnection at the discharge of Michigan Wisconsin's Patterson, La., compressor station. No new facilities are proposed to be constructed.

Applicant states that the proposed exchange will give it an additional firm supply of gas in the coming winter season with little, if any, effect upon its current curtailed deliveries during the summer and fall periods.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11714 Filed 7-27-72;8:47 am]

FEDERAL RESERVE SYSTEM

FINANCIAL INSTITUTIONS, INC.

Acquisition of Bank

Financial Institutions, Inc., Warsaw, N.Y., has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Geneva Shareholders, Inc., Warsaw, N.Y. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 17, 1972.

Board of Governors of the Federal Reserve System, July 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-11736 Filed 7-27-72;8:49 am]

FIRST AT ORLANDO CORP.

Acquisition of Bank

First at Orlando Corp., Orlando, Fla., has applied in two separate applications, as set forth below, for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)):

(1) To acquire 90 percent or more of the voting shares of Second National Bank of Delray Beach, Delray Beach, Fla.; and

(2) To acquire 90 percent or more of the voting shares of First National Bank of Delray Beach, Delray Beach, Fla. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 17, 1972.

Board of Governors of the Federal Reserve System, July 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-11737 Filed 7-27-72;8:49 am]

FIRST NATIONAL STATE CORP.

Acquisition of Bank

First National State Bancorporation, Newark, N.J., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of First National State Bank of Ocean County, Lakewood, N.J., the successor by merger to Trust Company of Ocean County, Lakewood, N.J. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 17, 1972.

Board of Governors of the Federal Reserve System, July 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-11738 Filed 7-27-72;8:50 am]

HAMILTON BANCSHARES, INC.

Acquisition of Bank

Hamilton Bancshares, Inc., Chattanooga, Tenn., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire about 50 percent of the voting shares of The Farmers National Bank of Winchester, Winchester, Tenn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 17, 1972.

Board of Governors of the Federal Reserve System, July 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-11739 Filed 7-27-72;8:50 am]

NORTH AMERICAN MORTGAGE CORP.

Order Approving Acquisition of a Bank

In the FEDERAL REGISTER of July 20, 1972 (37 F.R. 14442), the Board of Governors published its Order effective July 13, 1972, approving the application of North American Mortgage Corp., St. Petersburg, Fla., to acquire 23.9 percent of the voting shares of The American Bank, St. Petersburg, Fla. On July 17, 1972, Governor Robertson issued a concurring statement relating to this matter, copies of which are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, July 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-11740 Filed 7-27-72;8:50 am]

SOUTHEAST BANKING CORP.

Acquisition of Bank

Southeast Banking Corp., Miami, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of American National Bank and Trust Company of South Pasadena, South Pasadena, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 17, 1972.

Board of Governors of the Federal Reserve System, July 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-11741 Filed 7-27-72;8:50 am]

U.N. BANCSHARES, INC.

Acquisition of Bank

U.N. Bancshares, Inc., Springfield, Mo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Pulaski County Bank, Richland, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 17, 1972.

Board of Governors of the Federal Reserve System, July 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-11742 Filed 7-27-72;8:50 am]

GENERAL SERVICES ADMINISTRATION

Organizational Changes

Correction

In F.R. Doc. 72-11360, appearing at page 14837 of the issue for Tuesday, July 25, 1972, the following changes should be made:

In the first line of paragraph 3b and in the first and 12th lines of paragraph 3e, "Automated Data Processing and Telecommunications Service" should read "Automated Data and Telecommunications Service".

SECURITIES AND EXCHANGE COMMISSION

NATIONAL ASSOCIATION OF SMALL BUSINESS INVESTMENT COS.

Order Making Effective a Limited Exemption

JULY 20, 1972.

In the matter of the National Association of Small Business Investment Companies, 537 Washington Building, Washington, D.C. 20005, Investment Company Act of 1940.

By order of May 14, 1971 (Investment Company Act Release No. 6523), the Commission, among other things, granted an exemption pursuant to section 6(c) of the Investment Company Act of 1940 (the Act) from sections 18, 19, and 23 of the Act, to permit the issuance by registered Small Business Investment Companies of stock options to officers and employees subject to the condition that the exemption be limited to such options as qualify under section 422 of the Internal Revenue Code, as amended, and to the further condition that such exemption not be effective until notice is given of the adoption by the Small Business Administration of regulations satisfactory to this Commission with respect to the issuance of qualified options by Small Business Investment Companies.

On July 7, 1972, the Small Business Administration advised the Commission that it would adopt an amendment to Part 107 of Chapter 1 of Title 13 of the Code of Federal Regulations (revised as of January 1, 1972), as amended in 37 F.R. 3950 and 37 F.R. 8865, effective August 1, 1972.

The text of the amendment to be adopted by the Small Business Administration (see F.R. Doc. 72-11676, Title 13, Chapter I, Part 107 at p. 15145 in the rules and regulations section of this issue) is as follows:

Section 107.805 *Postlicensing issuance of securities*—(a) *General.* A licensee may issue any of its securities, including stock options to management and employees, for (1) cash, (2) direct obligations of, or obligations guaranteed as to principal and interest by, the United States, (3) securities of which it is the issuer, in connection with a reclassification approved by SBA, (4) services previously rendered to the licensee not to exceed the fair value thereof, (5) physical assets to be currently employed in the operation of the licensee at the fair market value thereof, (6) as a dividend, and (7) in connection with a merger, consolidation, or reorganization approved by SBA: *Provided, however,* That any shares of stock issued as part of licensee's minimum capital pursuant to § 107.101(d) must be paid for in cash or securities permitted by the last sentence of section 308(b) of the Act: *And provided, further,* That any licensee may also issue stock options for services to be rendered on the terms and within the limits set forth in paragraph (b)(1) of this section.

(b) *Stock options*—(1) *Authorized for 1940 Act companies; terms and conditions.*[1] A licensee which is registered as an investment company under the Investment Company Act of 1940 may issue stock options, provided each such option is a "qualified stock option" as defined in section 422 of the Internal Revenue Code and is granted pursuant to a plan which provides that—

(i) The option by its terms shall provide that it is exercisable by the individual to whom it is granted only if, at all times during the period beginning with the date of the granting of the option and ending 3 months before the date of such exercise, such individual was an employee or officer of either the licensee which granted such option or a wholly owned subsidiary thereof, or a successor licensee or a wholly owned subsidiary thereof;

(ii) The aggregate number of shares of any class of stock which may be issued under options pursuant to the terms of the plan shall not exceed 7½ percent of the total number of outstanding shares of such class (less shares reacquired and held in the treasury) at the time the plan is adopted;

(iii) The individuals who are officers or employees of the licensee or of a wholly owned subsidiary thereof at the time the plan is adopted may not receive options to acquire more than an aggregate of 66⅔ percent of the total number of shares of each class of stock which may be issued under options pursuant to the terms of the plan; and

(iv) No individual may receive an option or options to purchase more than 35 percent of the aggregate number of shares of each class which may be issued under options pursuant to the terms of the plan.

(2) *Stock options not deemed compensation.* Stock options issued by any licensee, including a 1940 Act Company, which comply with the requirements of foregoing paragraph (b)(1) shall be deemed not to constitute "compensation" for purposes of any requirement of prior written consent of SBA with respect to increases of salaries or other compensation beyond the amounts approved by SBA.

Effective date. In view of the determination made that it is in the public interest that this amendment be applied promptly to the Small Business Investment Company program, it shall become effective on August 1, 1972.

The Commission has considered the matter and finds that the above regulations, insofar as they relate to the issuance by registered Small Business Investment Companies of stock options to officers and employees, proposed to be adopted by the Small Business Administration are satisfactory to the Commission.

It is ordered, That the exemption from sections 18, 19, and 23 of the Act granted by the Commission's order of May 14, 1971, limited to permit the issuance by registered Small Business Investment Companies of such options as qualify under section 422 of the Internal Revenue Code, as amended, and which conform to § 107.805(b) of Chapter 1 of Title 13 of the Code of Federal Regulations (revised as of January 1, 1972), as amended, in 37 F.R. 3950 and 37 F.R. 8865, as proposed to be adopted by the Small Business Administration is effective August 1, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-11543 Filed 7-27-72;8:45 am]

[1] By order of May 14, 1971 (Investment Company Act Release No. 6523), the Securities and Exchange Commission (SEC) granted a limited exemption to permit registered small business investment companies to issue qualified stock options to officers and employees, subject to the condition that such exemption not be effective until SBA notifies SEC of the adoption of relevant regulations satisfactory to SEC. On July 7, 1972, SBA notified SEC that it would adopt these regulations to be effective August 1, 1972. By order of July 20, 1972 (Investment Company Act Release No. 7284) (published in the FEDERAL REGISTER of July 28, 1972), SEC found that such regulations, insofar as they relate to registered small business investment companies, are satisfactory to SEC and ordered the exemption granted by its order of May 14, 1971, further limited to permit the issuance of only such options as comply with paragraph (b)(1) of this section, effective Aug. 1, 1972.

TARIFF COMMISSION

[337-L-50]

COMBINATION MEASURING TOOLS

Notice of Amendment to Complaint Received and Extension of Time for Filing Written Views

The U.S. Tariff Commission hereby gives notice of the receipt on June 16, 1972, of an amendment to the complaint under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) filed by The Stanley Works, New Britain, Conn., alleging unfair methods of competition and unfair acts in the unauthorized importation and sale of combination measuring tools, featuring a combination level and square, a protractor, nail and screw gauges, dowel gauge, and beam compass said to be embraced within the claims of U.S. Patent No. 3,488,868 and U.S. Patent No. Des. 213,643, both of which patents are owned by complainant. The complainant alleges further unfair methods

or acts in the form of respondents' trading upon the secondary meaning allegedly achieved by the design of complainant's tool.

The amended complaint names Waverly Screw & Hardware Co., Inc., Richmond and Norris Streets, Philadelphia, Pa., as an additional importer of the article and Awane Seisakusho, 7, 1-Chome, Hanayashiki, Kawanishi, Japan, as the manufacturer of the article.

On June 1, 1972, the U.S. Tariff Commission published notice of the receipt of the complaint (37 F.R. 11003). Interested parties were given until July 14, 1972, to file written views pertinent to the subject matter of a preliminary inquiry into the allegations of the complaint. The Commission has extended the time for filing written views until the close of business August 14, 1972.

Issued: July 25, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-11759 Filed 7-27-72;8:51 am]

INTERSTATE COMMERCE COMMISSION

[Notice 40]

ASSIGNMENT OF HEARINGS

JULY 25, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 107818 Sub 56, Greenstein Trucking Co., now assigned August 24, 1972, at Chicago, Ill., is postponed indefinitely.

MC 61592 Sub 240, Jenkins Truck Line, Inc., now assigned August 3, 1972, at Buffalo, N.Y., is canceled and application dismissed.

MC 99208 Sub 9, Skyline Transportation, Inc., now assigned August 21, 1972, at Lexington, Ky., hearing is postponed indefinitely.

MC 135497 Sub 1, I-5 Freightline, Inc., hearing continued to July 24, 1972, at the Blue Cross Building, 100 Southwest Market St., Portland, OR.

MC 120657 Sub 4, Dugan Truck Line, Inc., now assigned August 7, 1972, will be held in Room 307, U.S. Post Office and Courthouse, Fifth and Kansas Avenue, Topeka, Kans.

MC 136505, R. O. Barber, Inc., now assigned August 8, 1972, will be held in Room 902, Public Service Commission, 100 North Senate Avenue, Indianapolis, IN.

MC-111812 Sub 461, Midwest Coast Transport, Inc., now assigned July 25, 1972, at Washington, D.C., is canceled and the application dismissed.

MC-127777 Sub 17, Mobile Home Express, Inc., now being assigned August 28, 1972 (1 week), in Room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC-128988 Sub 19, Jo/Kel, Inc., now assigned August 4, 1972, at Minneapolis, Minn., hearing is canceled and transferred to modified procedure.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-11774 Filed 7-27-72;8:51 am]

[Notice 97]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73536. By order of July 17, 1972, the Motor Carrier Board approved the transfer to Viking Way, Inc., Ogden, Utah, of Certifiate No. MC-100892 issued May 21, 1965, to Clarence E. Lindsey, doing business as Lindsey Motor Lines, and subsequently acquired by General Tire Service Co., Salt Lake City, Utah, successor in interest, authorizing the transportation of: Various commodities of a general commodity nature, between points in Utah, Arizona, and Idaho. Philip C. Pugsley, attorney, 400 El Paso Gas Building, Salt Lake City, Utah 84111.

No MC-FC-73720. By order of July 17, 1972, the Motor Carrier Board approved the transfer to James T. Peterson, doing business as Aberdeen Valley Stages, 444 South Johnson, Post Office Box 1482, Pocatello, Idaho 83201, of the operating rights in Certificate No. MC-88461 issued November 8, 1950, to Owen W. Peterson, doing business as Aberdeen Valley Stages, Post Office Box 1014, Blackfoot, Idaho 83221, authorizing the transportation of passengers and their baggage, and express, mail, and newspapers, in the same vehicles with passengers, between Pocatello, Idaho, and American Falls, Idaho, serving the intermediate points of Fort Hall, Gibson, Blackfoot, Riverside, Thomas, Rockford Corner, Pingree, Springfield, Grandview, and Aberdeen, Idaho.

No. MC-FC-73721. By order of July 17, 1972, the Motor Carrier Board approved the transfer to National Horse transfer, Inc., Glen Head, N.Y., of Certificate No. MC 102917 issued October 24, 1966, to Frank Van Wagner Horse Transportation, Inc., Garden City, N.Y., authorizing the transportation of: Flowers and plants, horses (other than ordinary) together with equipment, paraphernalia, incidental to such transportation, personal effects of attendants, etc. between points in New York, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, New Hampshire, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia. Fred Altman, attorney, 200 South Service Road, Roslyn Heights, NY 11577.

No. MC-FC-73721. By order of July 17, 1972, the Motor Carrier Board approved the transfer to National Horse Transfer, Inc., Glen Head, N.Y., of Certificate No. MC 102917 issued October 24, 1966, to Frank Van Wagner Horse Transportation, Inc., Garden City, N.Y., authorizing the transportation of: Flowers and plants, horses (other than ordinary) together with equipment, paraphernalia, incidental to such transportation, personal effects of attendants, etc. between points in New York, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, New Hampshire, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia. Fred Altman, attorney, 200 South Service Road, Roslyn Heights, NY 11577.

No. MC-FC-73732. By order of July 17, 1972, the Motor Carrier Board approved the transfer to Young Transport, Inc., Logansport, Ind., of the operating rights in Permits No. MC-127614, MC-127614 (Sub-No. 1), MC-127614 (Sub-No. 2) and MC-127614 (Sub-No. 3) issued April 24, 1970, May 10, 1967, September 28, 1967, and October 20, 1967 respectively to Tanners Transportation, Inc., New York, N.Y., authorizing the transportation of various commodities from specified points in Delaware, Illinois, Maryland, Massachusetts, New Jersey, New York, Ohio, and Pennylvania to specified points in Illinois, Michigan, Missouri, New York, Ohio, and Wisconsin. Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind., 46204, attorney for applicants.

No. MC-FC-73774. By order of July 17, 1972, the Motor Carrier Board approved the change in control involving the acquisition by an individual, Thomas Girolamo, Queens Village, N.Y., of 50 percent of the stock of Skibee, Inc., brokerage license No. MC-12713 (Sub-No. 1), issued June 20, 1968, authorizing the holder to engage in operation as a broker in arranging for the transportation of passengers and their baggage, in seasonal ski tours, beginning and ending at New York, N.Y., and points in specified counties in New York, New Jersey,

and Connecticut, and extending to points in Maine, New Hampshire, Vermont, Massachusetts, New Jersey, Connecticut, Pennsylvania, and New York. Marvin A. Holland, attorney, 12 Bank Avenue, Smithtown, Long Island, NY 11787.

No. MC-FC-73844. By order entered July 17, 1972, the Motor Carrier Board approved the transfer to Anthony J. Romano III, doing business as James Cusick Co., Bound Brook, N.J., of the operating rights set forth in Certificates Nos. MC-1073 and MC-1073 (Sub-No. 1), issued March 2, 1942, and May 16, 1949, to Frank T. Cusick, doing business as James Cusick Co., Bound Brook, N.J., authorizing the transportation of household goods, between Bound Brook, N.J., and points and places in New Jersey within 10 miles of Bound Brook, on the one hand, and, on the other, points and places in Connecticut, Maryland, New York, Pennsylvania, and the District of Columbia; and between Bound Brook, N.J., and points and places within 10 miles thereof, on the one hand, and, on the other, points and places in Illinois, Indiana, Massachusetts, Michigan, Ohio, Rhode Island, and West Virginia; and advertising displays and exhibits, between Atlantic City, N.J., Boston, Mass., Charleston, W. Va., Chicago, Ill., Cleveland, Ohio, Detroit, Mich., Indianapolis, Ind., New York, N.Y., Ottawa, Ill., Philadelphia, Pa., Pittsburgh, Pa., and Washington, D.C. Conrad J. Strudler, 451 South Washington Avenue, Piscataway, NJ 08854, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-11775 Filed 7-27-72;8:51 am]

[Notice 97-A]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by Division 3 of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73111. By order of July 18, 1972, Division 3, acting as an Appellate Division, approved the transfer to Richmond Transfer, Inc., Excelsior Springs, Mo., of the operating rights in Certificate No. MC-15473 (Sub-No. 23) issued October 4, 1971, to Best Truck Lines, Inc., Kansas City, Mo., authorizing the transportation of general commodities, with usual exceptions (but not household goods) over regular routes (1) between St. Louis, Mo., and Harrisonville, Mo., serving the intermediate and off-route points of Green Ridge, Windsor, Calhoun, Clinton, Deepwater, La Due, Montrose, Ulrich, Creighton, and Garden City, Mo., and (2) between Kansas City, Mo., and Green Ridge, Mo., serving the intermediate points and off-route points of Creighton, Ulrich, La Due, Clinton, Calhoun, Windsor, and Whiteman Air Force Base, Mo., subject to a restriction that the service authorized is limited to points wholly within Missouri, with no service authorized between points in the Kansas City, Mo.-Kansas City, Kans., comercial zone as defined by the Commission, on the one hand, and, on the other, points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission. Tom B. Kretsinger, 450 Professional Building, 1103 Grand Avenue, Kansas City, MO 64106, and Charles W. Hess, Sr., Columbia Union Bank Building, 900 Walnut Street, Kansas City, MO 64152, attorneys for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-11776 Filed 7-27-72;8:51 am]

[Notice 100]

Office of Proceedings

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 20, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2900 (Sub-No. 229 TA), filed July 7, 1972. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Mailing: Post Office Box 2408, Jacksonville, FL 32203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plantsite and warehouse of the Marathon Le Tourneau Co., near Vicksburg, Miss., as an off-route point in connection with applicant's authorized regular routes, for 180 days. NOTE: Applicant states it does intend to tack the authority with MC-2900 and Subs thereto. Supporting shipper: Marathon Le Tourneau Co., Vicksburg, Miss. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 65697 (Sub-No. 48 TA), filed July 6, 1972. Applicant: THEATRES SERVICE COMPANY, Post Office Box 1695, 830 Willoughby Way NE. 30301, Atlanta, GA 30312. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree Street NW., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, having an immediately prior or an immediately subsequent movement by air, between the Atlanta Municipal Airport at or near Atlanta, Ga., and the Memphis Municipal Airport at or near Memphis, Tenn., for 180 days. Supporting shipper: Airborne Freight Corp., Atlanta, Ga. 30301. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 107002 (Sub-No. 418 TA), filed July 7, 1972. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80 West, Jackson, MS 39205. Applicant's representative: John J. Borth (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline*, in bulk, in tank vehicles, from Mobile, Ala., to Milford Proving Grounds, Milford, Mich., for 180 days. Supporting Shipper: Chevron Oil Co., Post Office Box 1446, Louisville, KY 40201. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, MS 39201.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 107295 (Sub-No. 621 TA), filed July 7, 1972. Applicant: PRE-FAB TRANSIT COMPANY, 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, hardboard, particle board, and accessories* used in the installation thereof, from the plantsite and warehouse facilities of American Wood Finishing Systems, Inc., at Camden, N.J., to points in Ohio, for 180 days. Supporting shipper: Thomas F. Dillon, Traffic Manager, American Wood Finishing Systems, Inc., 11 Hancock Street, Trenton, NJ 08604. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, 527 East Capitol Avenue, Room 518, Springfield, IL 62701.

No. MC 111729 (Sub-No. 351 TA), filed July 7, 1972. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, and audit and accounting media of all kinds, and advertising material moving therewith*, (1) between Milwaukee, Wis., on the one hand, and, on the other, Appleton, Beaver Dam, Beloit, Burlington, Eau Claire, Fond du Lac, Green Bay, Janesville, La Crosse, Madison, Manitowac, Marinette, Marshfield, Oshkosh, Sheboygan, Watertown, and Wausau, Wis., on traffic having an immediately prior or subsequent movement by air; and (2) between Houston and Beaumont, Tex., on the one hand, and, on the other, points in Louisiana, for 90 days. Supporting shippers: Sears, Roebuck & Co., Post Office Box 5208, Chicago, IL 60680; United Gas, Inc., 1200 Milam, Post Office Box 2628, Houston, TX 77001. Send protests to: Thomas W. Hopp, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111729 (Sub-No. 352 TA), filed July 11, 1972. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *External and implantable cardiac pacemakers and related accessories; and business papers, records, and audit and accounting media, of all kinds, and advertising material moving therewith;* (a) between Beachwood, Ohio, on the one hand, and, on the other, points in Indiana, Kentucky, Michigan, New York, Pennsylvania, Tennessee, and West Virginia; (b) between Pittsburgh, Pa., on the one hand, and, on the other, points in Indiana, Kentucky, Michigan, New York, Ohio, Tennessee, and West Virginia; (c) between Buffalo, N.Y., on the one hand, and, on the other, points in Indiana, Kentucky, Michigan, New York, Ohio, Tennessee, and West Virginia; (2) *business papers, records, and audit and accounting media, of all kinds, and advertising material moving therewith*, between Muskegon, Mich., on the one hand, and, on the other, points in Indiana and Ohio; (3) *small replacement and repair parts for tractors, farm machinery, and industrial and material handling equipment*, restricted to articles or packages weighing in the aggregate less than 100 pounds, from one consignor to one consignee, on any day, between Muskegon, Mich., on the one hand, and, on the other, points in Indiana and Ohio; (4) *exposed and film and prints, complimentary replacement film, incidental dealer handling supplies and advertising material moving therewith, and cameras, projectors, electronic flash units, lightmeters and other electronic components*, between St. Louis, Mo., on the one hand, and, on the other, points in Illinois and Indiana; and (5) *automotive parts and supplies*, restricted against the transportation of packages weighing in the aggregate more than 95 pounds from one consignor to one consignee on any one day, between Memphis, Tenn., on the one hand, and, on the other, points in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee, for 180 days. Supporting shippers: Medtronic Sales, Inc. (Dann-Coburn Division), 24500 High Point Road, Beachwood, OH 44122; Quality Farm & Fleet, Inc., 1460 Whitehall Road, North Muskegon, MI 49445; First-Foto, Inc., 8622 St. Charles Rock Road, St. Louis, MO 63114; American Motors Sales Corp., 1101 Research Boulevard, St. Louis, MO 63132. Send protests to: Thomas W. Hopp, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 114533 (Sub-No. 256 TA), filed July 7, 1972. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, (A) between Milwaukee, Wis., on the one hand, and, on the other, points in Indiana, Ohio, Illinois, Iowa, Missouri, Minnesota, Wisconsin, and Michigan; (B) between Elk Grove Village, Ill., on the on hand, and, on the other, points in Indiana; and (C) between Goshen, Ill., on the one hand, and, on the other, Milwaukee and Watertown, Wis., for 180 days. Supporting shippers: Construction Computer, Central Corp., 615 East Michigan Street, Milwaukee, WI; Mortgage Associates, Inc., 125 East Wells Street, Milwaukee, WI 53201; Joy Manufacturing Co., 2300 Devon Avenue, Elk Grove Village, IL 60007; The Conrath Co., 2400 Greenleaf, Elk Grove Village, IL 60007; Penn Controls, 2221 Camden Court, Oakbrook, IL 60521. Send protests to: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 114533 (Sub-No. 257 TA), filed July 7, 1972. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, between Cherry Hill, N.J., on the one hand, and, on the other, points in the counties of Northampton, Lehigh, Berks, Bucks, Philadelphia, and Montgomery, Pa., for 180 days. Supporting shipper: Central Information Processing Corp., The Quadrangle—Village of Cross Keys, Baltimore, Md. 21210. Send protests to: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirkson Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 115379 (Sub-No. 40 TA), filed July 6, 1972. Applicant: JOHN D. BOHR, INC., Post Office Box 217, Annville, PA 17003. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal and hulls* from Fostoria, Delphos, Bellevue, and Marion, Ohio, to points in Lancaster, York, Cumberland, Perry, Juniata, Snyder, Union, Northumberland, Dauphin, Lebanon, and Berks Counties, Pa., for 180 days. Supporting shipper: Cargill, Inc., Post Office Box 38, Marietta, PA 17547. Send protests to: Robert W. Ritenour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 116538 (Sub-No. 8 TA), filed July 10, 1972. Applicant: DeFOREST L. REED, 950 West Street, Post Office Box 168, Carthage, NY 13619. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, NY 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Lumber and window glass*, (1) from Owego, Holland, Cortland, and Averill, Park, N.Y., to Dover, Englewood, Hoboken, Jersey City, Kenilworth, Newark, Paterson, Washington, Old Bridge, and Bayonne, N.J.; Gardner, Templeton, Boston, and Lawrence, Mass.; Branford, Ivoryton, and Stanford, Conn.; Hellam, Herndon, Kreamer, Lancaster, Union City, Lewisburg, Montrose, Philadelphia, Scranton, Simpson, Wilkes-Barre, Endeavor, Troy, Youngsville, Mifflinburg, and Port Alleghany, Pa.; Bagerstown and Baltimore, Md.; and ports of entry on the international boundary line between the United States and Canada in New York; (2) from Smyrna, Waterloo, Hannibal, Deer River, Wolcott, Heuvelton, Croghan, Apalachin, Boonville, Bleecker, North Creek, Little Falls, Central Square, Cato,

Cassadaga, Delhi, E. Branch, Ellington, Herkimer, Hartwick, Lyons, Locke, Marion, Margaretville, Medina, Poland, Stratford, Stamford, Wellesville, West Leyden, Warrensburg, Chohcton, Pine Plains, Kingston, Owego, Holland, Cortland, and Averill Park, N.Y., to New York City commercial zone, as defined by the Commission, (3) between points in New York and Pennsylvania; and (b) *window glass*, from Port facilities in New York and New Jersey within the New York, N.Y., harbor area, as defined by the Commission in Ex Part No. 140, *Determination of the Limits of New York Harbor and Harbors Contiguous Thereto* and Philadelphia, Pa., to Lacona, N.Y., for 180 days. Supporting shippers: Farney Lumber Corp., Rural Delivery No. 3 Lowville, N.Y. 13367; Baillie Lumber Co., Inc., Post Office Box 6, Hamburg, NY 14075; J & C Lumber Co., West Leyden, N.Y.; Dwyer Fitzpatrick, Inc., 120 Delaware Avenue, Buffalo, NY 14202; Liberty Industrial Sales Co., 1796 Pleasant Valley Road, Girard, Ohio; Blount Lumber Co., Lacona, N.Y. 13083; The Atlantic Lumber Co., 234 Congress Street, Boston, MA 02110; Sabbeth-Mathews Hardwood Corp., 1 Hanson Place, Brooklyn, NY 11217; AMF Inc., Trinity Avenue, Lowville, N.Y. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 104, O'Donnell Building, 301 Erie Boulevard W., Syracuse, NY 13202.

No. MC 119567 (Sub-No. 12 TA), filed July 7, 1972. Applicant: F. H. McCLURE AND R. V. ESTELL, doing business as EMPIRE TRANSPORT, 2007 Overland, Boise, ID 83705. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pollolan* from points in Washington County, Idaho to points in Idaho and Wyoming and (2) *Cement* from Lime, Oreg., to points in Idaho south of the northern boundary of Idaho County, for 180 days. Supporting shippers: Oregon Portland Cement Co., 111 Southeast Madison, Portland, OR 97214, Acme Concrete Co. & Central, Pre-Mix Concrete Co., T. A. Box 3366, Spokane, WA 99220. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 550 West Fort Street, Box 07, Boise, ID 83702.

No. MC 124505 (Sub-No. 12 TA), filed July 6, 1972. Applicant: EUGENE TRIPP, 4624 South Avenue, Missoula, MT 59801. Applicant's representative: Jeremy G. Thane, Savings Center Building, Missoula, MT 59801. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Empty bottles and cans* for recycling, from points in Montana to Azusa, San Francisco, and Los Angeles, Calif., with a return movement and of (2) *Malt beverages*, from Azusa, San Francisco, and Los Angeles, Calif., to points in Montana, for 180 days. Supporting shippers: Tucker Distributing Co., GN Industrial Site, Helena, Mont. 59601, Giannini & Son, 115, One SW., Great Falls, MT 59401, Fred Briggs Distributing Co., Inc., Post Office Box 1514, Billings, MT 59103, Kenny's Distributing Co., 1015 South Montana Street, Butte, MT 59701. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 135760 (Sub-No. 6 TA), filed July 10, 1972. Applicant: COAST REFRIGERATED CO., INC., Post Office Box 188, Holly Ridge, NC 28445. Applicant's representatives: Herbert Alan Dubin, Todd, Dillon & Sullivan, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pork products*, in vehicles equipped with mechanical refrigeration, from Council Bluffs, Sioux City, Waterloo, Des Moines, and Dubuque, Iowa; Chicago, Rochelle, and Peoria, Ill., and Muncie and Logansport, Ind., to Castle Hayne and Holly Ridge, N.C., for 180 days. Supporting shipper: Carolina Meat Processors, Inc., Post Office Box 294, Wilmington, NC 28401. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 26896, Raleigh, NC 27611.

No. MC 136386 (Sub-No. 2 TA), filed July 10, 1972. Applicant: GO LINES, INC., 13920 Mount McClellan, Reno, NV 89506. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber products, plywood, particle board, and fiberboard* from Missoula, Mont., to points in Colorado, Illinois, Indiana, Iowa, Minnesota, Missouri, Michigan, Nebraska, and Wisconsin, for 180 days. Supporting shipper: Evans Products Co., 1211 Southwest Salmon Street, Portland, OR 97205. Send protests to: District Supervisor, Robert G. Harrison, Bureau of Operations, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 136794 (Sub-No. 1 TA), filed July 6, 1972. Applicant: E. E. McCREARY, Rural Route 1, Centerville, Iowa 52544. Applicant's representative: Marvin V. Colton, 421 North 10th Street, Centerville, IA 52544. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured homes*, from Rothschild, Wis., to points in Iowa and Missouri, for 180 days. Supporting shipper: Ozark Homes, Inc., Bloomfield, Iowa 52537. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 136845 (Sub-No. 1 TA), filed July 6, 1972. Applicant: DEEPWELL SERVICE, INC., Post Office Box 12, Columbia, MS 39429. Applicant's representative: Bobby Greer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water* used in oil and gas production, from oil well drilling sites to other drilling sites or disposal facilities and transportation of liquid mud, oil spillage, oil emulsion, and basic sediment in connection with oil and gas production, in vacuum pump equipment only, between points within the Alabama counties of Mobile, Baldwin, Escambia, Covington, Geneva, Coffee, Crenshaw, Butler, Conecuh, Monroe, Clark, Washington, and Wilcox and within the Florida counties of Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington and that part of Bay West of Florida State Road 77 (all of said counties being within a radius of 100 miles of Jay, Fla.), over irregular routes and schedules, for 180 days. Supporting shippers: Texaco, Inc., Post Office Box 7, Harvey, LA; Amerada Hess, Mississippi & Florida Corp., Box 291, Jay, Fla.; Louisiana Land And Exploration Co., Post Office Box 296, Century, Fla.; Chevron Oil Co., Inc., 3445 North Causeway Boulevard, Metairie, LA. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 136856 (Sub-No. 1 TA), filed July 10, 1972. Applicant: LEON ARNDT TRUCK LEASING, INC., Eden, Wis. 53019. Applicant's representative: John J. Keller, 145 West Wisconsin Avenue, Neenah, WI 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vehicles*, snow or ice, with skis or runners detached, without windshields detached; cycles, multiwheeled, both manual and powered; including necessary supplies, parts, and advertising matter used in the manufacture and distribution thereof, including *return of rejected shipments;* with vehicles equipped with mechanical hoist devices to augment loading and unloading, from Denver, Colo., and points in Denver and Adams County, Colo., to Chilton, Wis., and points in Illinois, Iowa, Michigan, Minnesota, Nebraska, and Wisconsin; from Chilton, Wis., and Calumet County, Wis., to destination points in Illinois and Michigan, all for Horst Distributors, Inc., Chilton, Wis., for 180 days. Supporting shipper: Horst Distributing, Inc., and/or Horst Engineering & Equipment Sales, Inc., 444 North Madison Street, Chilton, WI 53014 (Arthur J. Horst, President). Send protests to: District Supervisor J. J. Werner, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 136862 TA, filed July 5, 1972. Applicant: APPAREL TRANSPORT COMPANY, 135 Pine Street, Warren, OH 44482. Applicant's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Garments, clothing, and wearing apparel* (except on hangers), *and materials, equipment, and supplies* used in the manufacture, sale or distribution thereof; (1) from Los Angeles, Calif., to St.

Louis, Mo., Columbus, Ohio, and New York, N.Y.; and (2) from New York, N.Y., to Los Angeles, Calif., under continuing contract or contracts with Cole of California, of Los Angeles and Catalina, a division of Kayser-Roth Corp., of Los Angeles, Calif., for 180 days. Supporting shippers: Catalina, Division of Kayser-Roth Corp., 6040 Bandini Boulevard, Los Angeles, CA 90040; Cole of California, 2615 Fruitland Avenue, Los Angeles, CA 90058. Send protests to: Franklin B. Bail, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Building, Cleveland, Ohio 44199.

No. MC 136863 TA, filed July 7, 1972. Applicant: J. C. P. ENTERPRISES, INC., 110 Rector Street, Staten Island, NY 10310. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Door frames, doors, and elevator cabs*, from Brooklyn, N.Y., to Bridgeport, Bristol, Farmington, Groton, Hartford, Torrington, Wallingford, and Waterbury, Conn.; Washington, D.C.; Columbus and Zanesville, Ohio; Action, Attleboro, Boston, Brookline, Cambridge, Framingham, Haverhill, Lowell, New Bedford, North Adams, Northfield, and Pittsfield, Mass.; Salem and Trenton, N.J.; Cortland, Dickinson, Genesee, Ithaca, Plattsburg, Pulaski, Rochester, Rome, Saranac Lake, Schaghticoke, Syracuse, Vestal, Albany, Albion, and Binghamton, N.Y.; Aberdeen, Baltimore, Chevy Chase, Essex, Frostburg, Rockville, and Scaggsville, Md., for 180 days. Supporting shipper: Williamsburg Steel Products Co., Paidge Avenue, Brooklyn, NY 11222. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 136864 TA, filed July 7, 1972. Applicant: LA ISLA SHIPPING CO., 399 Hooper Street, Brooklyn, NY 11211. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, NY 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in New York City, in the counties of Nassau, Ulster, Suffolk, Westchester, Dutchess, Putnam, Rockland, and Orange, N.Y.; Essex, Bergen, Hudson, Passaic, Union, Middlesex, Monmouth, Morris, Sussex, Ocean, Mercer, Somerset, Hunterdon, and Burlington Counties, N.J.; and Fairfield, Litchfield, New Haven, Hartford, and Middlesex Counties, Conn., for 180 days. Supporting shippers: Rafael Quinones Cruz, Member of Consumer Service Commission, Legal Affairs Commission and Treasury Commission, Camara de Representantes, San Juan, PR 00901; Telesforo Figueroa Rodriguez, Claims Department, Consumer's Service Administration, Consumer Services Administration, Post Office Box 13934, Santruce, PR 00908; Rico Shipping Co., 1997 Third Avenue, New York, NY 10029. Send protests to: Marvin Kampel, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-11777 Filed 7-27-72;8:51 am]

[Notice 101]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 21, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service CFR Part 1131), published in the FED- has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30844 (Sub-No. 416 TA), filed July 12, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Post Office Box 5000 (50702), Waterloo, IA 50704. Applicant's representative: John P. Rhodes (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such materials, supplies, and ingredients* as are used in the food processing industry (except commodities in bulk, bananas, frozen and canned citrus products, and glass containers), from points in Colorado, Connecticut, Delaware, Illinois (except Chicago and commercial zone), Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Oklahoma, Ohio, Pennsylvania, Rhode Island, Tennessee (except Memphis), Vermont, Virginia, West Virginia, and Wisconsin to Des Moines, Waterloo, Cedar Rapids, Iowa City, Mason City, Fort Dodge, and New Hampton, Iowa, restricted to shipments originating in the above-named States and destined to the warehouses and facilities utilized by Kitchens of Sara Lee at the above-named destination points, for 180 days. Supporting shipper: Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, IL 60015. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 45736 (Sub-No. 42 TA), filed July 7, 1972. Applicant: GUIGNARD FREIGHT LINES, INC., Post Office Box 26067, Highway 21, Charlotte, NC 28213. Applicant's representative: Edward G. Vallalon, Suite 1032, Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products, vehicle body sealer, and sound-deadening compounds*, in packages or containers, from points in Hancock County, W. Va., to points in North Carolina, South Carolina, Georgia, and Florida, for 180 days. Supporting shipper: Quaker State Oil Refining Corp., Oil City, Pa. Send protests to: Frank H. Wait, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Building), Charlotte, NC 28202.

No. MC 95084 (Sub-No. 89 TA), filed July 6, 1972. Applicant: HOVE TRUCK LINE, Stanhope, Iowa 50246. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel*, from Johnstown, Pa., to Perry, Iowa, for 180 days. Supporting shipper: Osmundson Manufacturing Co., Inc., Perry, Iowa 50220. Send protests to: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 99961 (Sub-No. 2 TA), filed July 12, 1972. Applicant: BIG CHIEF TRUCK LINES, INC., Post Office Box 284, 2441 Peters Road, Harvey, LA 70058. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the picking up or stringing of pipe in connection with main pipelines, between points in Alabama, Florida, Louisiana, and Mississippi, for 180 days. Supporting shippers: Penrod Drilling Co., Inc., Post Office Box 1530, Houma, LA 70360; Delta Mud & Chemical Co., Inc., Post Office Box 1431, Houma, LA 70360; Great Southern Oil Tool Co., Inc., Post Office Box 1451, Houma, LA 70360; Canal Rental Tools, Inc., Post Office Box 23,

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

Harvey, LA 70058; Kajan Specialty Co., Inc., Post Office Box 1430, Houma, LA 70360; Rental Tools, Inc., Post Office Box 766, Harvey, LA 70058; Chandler Welding Corp., Post Office Box 403, Harvey, LA 70058. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 107295 (Sub-No. 620 TA), filed July 6, 1972. Applicant: PRE-FAB TRANSIT COMPANY, 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, hardboard, particle board, and accessories* used in the installation thereof, from the plantsite and warehouse facilities of American Wood Finishing Systems at Camden, N.J., to points in Pennsylvania, for 180 days. Supporting shipper: Thomas F. Dillon, Traffic Manager, American Wood Finishing Systems, Inc., 11 Hancock Street, Trenton, NJ 08604. Send protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Leland Office Building, 527 East Capitol Avenue, Room 518, Springfield, IL 62701.

No. MC 107496 (Sub-No. 854 TA), filed July 6, 1972. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third Street, Post Office Box 855 (50304), Des Moines, IA 50309. Applicant's representative: E. Check (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and feed supplements*, in bulk, in tank vehicles, from Cameron, Ill., to Rewey, Wis., for 150 days. Supporting shipper: Pro-Flo, Inc., Rural Route 2, Cameron, Ill. 61423. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 110098 (Sub-No. 129 TA), filed July 10, 1972. Applicant: ZERO REFRIGERATED LINES, Post Office Box 20380, 1400 Ackerman Road, San Antonio, TX 78220. Applicant's representative: T. W. Cothren (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal food*, in containers, from Vernon, Calif., to points in Oregon and Washington, for 180 days. Supporting shippers: Kal Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058; Rudie Wilhelm Warehouse Co., 2500 Mailwell Drive, Milwaukie, OR 97222; Russell-Harrell Co., 8532 Southeast 17th Avenue, Portland, OR 97202; United Warehouse Co., 1750 Occidental Avenue, South Seattle, WA 98134; L. B. Yount Co., Inc., 270 South Hanford, Seattle, WA 98134. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 301 Broadway, Room 206, San Antonio, TX 78205.

No. MC 112989 (Sub-No. 24 TA), filed July 6, 1972. Applicant: WEST COAST TRUCK LINES, INC., Post Office Box 668, Coos Bay, OR 97420. Applicant's representative: Jerry R. Woods, 100 Southwest Market Street, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles consisting of cable and tendons* (concrete reinforcements), from Panorama City, Calif., to points in Arizona and Nevada, for 180 days. Supporting shipper: Atlas Prestressing Corp., 14649 Lanark Street, Panorama City, CA 91402. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 116492 (Sub-No. 4 TA), filed July 10, 1972. Applicant: JOHN T. HARRIGER AND RUTH B. HARRINGER, a partnership, doing business as T. C. HARRIGER TRUCKING, 66 Main Street, Falls Creek, PA 15840. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from the facilities of the Pittsburgh Brewing Co., Pittsburgh, Pa., to Niagara Falls, Rochester, Salamanca, and Norwich, N.Y., and Euclid, Youngstown, Canton, and Akron, Ohio; and the *return of empty containers*, for 180 days. Supporting shipper: DuBois Brewing Co., DuBois, Pa. Send protests to: James C. Donaldson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 120430 (Sub-No. 7 TA), filed July 10, 1972. Applicant: COASTAL TRANSPORT CO., INC., Post Office Box 22592, 3009 South Post Oak Road, Houston, TX 77027. Applicant's representative: Archie H. Hutto (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard*, from Diboll, Tex., to points in Illinois, Indiana, Kansas, Kentucky, Missouri, and Nebraska, for 180 days. Supporting shipper: A. C. Collins, Jr., traffic manager, Temple Industries, Diboll, Tex. Send protests to: District Supervisor John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, TX 77061.

No. MC 125049 (Sub-No. 2 TA), filed July 11, 1972. Applicant: TROINA TRUCKING COMPANY, INC., 24 Etwistle Avenue, Nutley, NJ 07110. Applicant's representative: Thomas F. X. Foley, 744 Broad Street, Newark, NJ. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts*, and *tools* used in the installation of automobile parts, crated and uncrated, and *display materials* used in connection with the sale of automobile parts, from Dayton, N.J., to New York, N.Y., points in Nassau, Suffolk, Rockland, and Westchester Counties, N.Y.; Philadelphia and King of Prussia, Pa., and points in Connecticut, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Goerlich's Inc., Division of Questor Corp. of Toledo, Ohio, and Dayton, N.J., for 180 days. NOTE: Applicant presently provides transportation service to the points involved from Clifton, N.J., this proposed authority seeks only to continue such service upon a transfer of warehousing facilities from Clifton, to Dayton, N.J., upon completion of such transfer of facilities applicant will cease operations from Clifton, N.J. Supporting shipper: Goerlich Inc., Division of Questor Corp. Send protests to: District Supervisor Robert S. H. Vance, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, NJ 07102.

No. MC 129171 (Sub-No. 9 TA), filed July 10, 1972. Applicant: ARTHUR SHELLEY, Rural Delivery No. 2, Dallas, PA 18612. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical equipment*, from Bristol, Pa., to Butte, Mont., San Diego, Los Angeles and San Francisco, Calif., Portland, Oreg., Seattle and Spokane, Wash., Boise, Idaho, Phoenix, Ariz., Denver, Colo., Salt Lake City, Utah, and Albuquerque, N. Mex., for 180 days. Supporting shipper: Keystone Lighting Corp., Route 13 and Beaver Street, Bristol, Pa. 19007. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 133002 (Sub-No. 3 TA), filed July 5, 1972. Applicant: ROBERT W. GROH, 2610 South Lakeport, Sioux City, IA 51102. Applicant's representative: Patrick E. Quinn, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Edible bakery supplies*, from the plantsite of Globe Products Co., Inc., at or near Clifton, N.J., to points in Colorado, Utah, Nevada, Arizona, California, Washington, and Oregon, for 180 days. Supporting shipper: Globe Products Co., Inc., Clifton, N.J. Send protests to: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 711 Federal Office Building, 106 South 15th Street, Omaha, NE 68102.

No. MC 133085 (Sub-No. 3 TA), filed July 10, 1972. Applicant: TRENCO, INC., 2109 Marydale Avenue (Post Office Box 697), Williamsport, PA 17701. Applicant's representative: S. Berne Smith, Post Office Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *com-*

mon carrier, by motor vehicle, over irregular routes, transporting: (1) *Textiles*, from the plantsite of Milton Yarn Corp., at Milton, Pa., to Thurmont, Md.; and (2) *Yarn*, from Seaford, Del., to the plantsite of Virginia Elastic Corp., at Tappahannock, Va., for 180 days. Supporting shipper: H. Warshow & Sons, Inc., Milton, Pa. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 133977 (Sub-No. 13 TA), filed June 22, 1972. Applicant: CENE'S, INC., 10115 Brookville Salem Road, Clayton, OH 45315. Applicant's representative: Gene Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicle equipped with mechanical refrigeration (except commodities in bulk), from the plantsite of Avoset Food Corp. at Washington Court House, Ohio, to Oklahoma City, Okla.; Garland and Dallas, Tex.; Salt Lake City, Utah; and Little Rock, Ark., for 180 days. Supporting shipper: Avoset Food Corp., 80 Grand Avenue, Oakland, CA 94612. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 134264 (Sub-No. 11 TA), filed July 6, 1972. Applicant: OCKENFEL'S TRANSFER, INC., Post Office Box 3, 732 Rundell Street, Iowa City, IA 52240. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Collapsible tubes, caps, and necks and materials, equipment and supplies*, used in the manufacture, processing, sale, and distribution of collapsible tubes, caps, and necks, between Iowa City, Iowa, on the one hand, and, on the other, points in Illinois, Kentucky, Minnesota, New Jersey, Ohio, and Oklahoma, for 180 days. Supporting shipper: Victor Metals Products Corp., Iowa City, Iowa 52240. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 134534 (Sub-No. 6 TA), filed July 10, 1972. Applicant: LUIS BASTERRECHEA, doing business as BASTERRECHEA DISTRIBUTING, 341 Colorado, Gooding, ID 83330. Applicant's representative: Jay L. Depew, Post Office Box 23, Twin Falls, ID 83301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meat and packing house products*, from points in Gooding County, Idaho, to points in Lewis and Clark County, Mont., and to points in Cascade County, Mont., for 180 days. NOTE: Applicant states it intends to tack the authority here applied for to other authority held by it. MC–134534 (Sub-No. 2) Spokane, Wash. Supporting shipper: Magic Valley Packing Co., Gooding, Idaho. Send protests to: C. W. Campbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 550 West Fort Street, Box 07, Boise, ID 83702.

No. MC 135424 (Sub-No. 3 TA), filed July 11, 1972. Applicant: CONNOLLY CARTAGE CORP., 1088 North Snelling Avenue, St. Paul, MN 55101. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Minneapolis, Minn., to points in Wisconsin on and west of a line beginning at Ashland, Wis., and proceeding south on Wisconsin State Highway 13 to the intersection of U.S. Highway 8 east to intersection with U.S. Highway 51, south to the intersection with Wisconsin State Highway 54, west to the intersection with Wisconsin State Highway 13 to intersection with U.S. Highway 12 then south on U.S. Highway 12 to intersection with Wisconsin State Highway 78 to the intersection of U.S. Highway 18 then west on U.S. Highway 18 to Wisconsin-Iowa State line at or near Prairie du Chien, Wis., for 180 days. Supporting shipper: Downing Box Co., Minneapolis, Minn. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 136426 (Sub-No. 2 TA), filed July 11, 1972. Applicant: LESCO, INC., 3900 Dahlman Avenue, Omaha, NE 68107. Applicant's representative: Patrick E. Quinn, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Food processing machinery*, from Omaha, Nebr., to points in the United States (except Alaska and Hawaii), *and materials, supplies, and equipment* (except commodities in bulk) used in the manufacture, sale and distribution of food processing machinery, on return; and (2) *partially fabricated iron and steel*, between Omaha, Nebr., and Kansas City, Mo., operations in Part (1) and (2) above to be conducted under a contract with Omaha Manufacturing & Engineering Co., of Omaha, Nebr., for 180 days. Supporting shipper: Omaha Manufacturing & Engineering Co., 3900 Dahlman Avenue, Omaha, NE 68107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 136866 TA, filed July 10, 1972. Applicant: WARREN D. FLETCHER, Box 209, Midland, VA 22728. Applicant's representative: Daniel B. Johnson, 716 Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed stone*, from points in Fauquier County, Va., to points in Montgomery and Prince Georges Counties, Md., and the District of Columbia, for 180 days. Supporting shipper: Sanders Quarry, Inc., 335 Waterloo Street, Warrenton, VA 22186. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue, NW., Washington, DC 20423.

No. MC 136867 (Sub-No. 1 TA), filed July 10, 1972. Applicant: C. H. SIMPSON, Route 4, Waycross, Ga. 31501. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tin plate and tin mill supplies*, from Carlstadt, N.J., to points in Florida, Alabama, Virginia, North Carolina, South Carolina, and Tennessee, under contract with Elmont Steel Co., Carlstadt, N.J., for 180 days. Supporting shipper: Elmont Steel Co., 10 Industrial Road, Post Office Box 115, Carlstadt, NJ 07072. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 136879 TA, filed July 11, 1972. Applicant: PAUL R. GARNSEY AND PAUL Z. GARNSEY, doing business as PAUL GARNSEY & SON, Post Office Box 55, Rural Delivery No. 1, Schuylerville, NY 12871. Applicant's representative: Julius Braun, Room 21 Albany Port Administration Building, Albany, N.Y. 12202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured shipping containers, fabricated steel units, shipping rigs, pulp and paper manufacturing machinery and parts thereof*, and *rough and finished machine castings*, between Hudson Falls, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennslylvania, Rhode Island, Vermont, and Wisconsin, for the account of Sandy Hill Corp., 27 Allen Street, Hudson Falls, N.Y. 12839, for 180 days. Supporting shipper: Sandy Hill Corp., 27 Allen Street, Hudson Falls, N.Y. 12839. Send protests to: Joseph M. Barnini, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 New Federal Building, Albany, N.Y. 12207.

MOTOR CARRIERS OF PASSENGERS

No. MC 136855 (Sub-No. 1 TA), filed July 12, 1972. Applicant: JAY-MAC TOURS, INCORPORATED, 304 Cherry Street, Arkadelphia, AR 71923. Applicant's representative: Dwayne Needham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Small groups of not more than 10 persons and their luggage* in the same vehicle on round trip operations, from points in Clark, Dallas, Hot Springs, Nevada, Hempstead, and Garland Counties, Ark., to various places throughout the Continental United States, applicant will be operating a Charter Tour Service and specific routes

and destinations will vary, for 180 days. Supported by: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-11778 Filed 7-27-72;8:52 am]

[No. 35596]

WYOMING INTRASTATE FREIGHT RATES AND CHARGES 1972

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 17th day of July 1972.

It appearing, that by order dated May 17, 1972, served May 26, 1972, and published in the FEDERAL REGISTER on June 1, 1972 (37 F.R. 11011–11012), responsive to a petition filed April 3, 1972, by the Wyoming railroads, an investigation was instituted under section 13 of the Interstate Commerce Act to determine whether the rates and charges of carriers by railroad operating in the State of Wyoming for the transportation of property made or imposed by authority of the State of Wyoming cause or will cause, by reason of the failure of such rates and charges to include increases corresponding to those authorized on interstate traffic by this Commission (1) in Ex Parte No. 262, Increased Freight Rates, 1969, 337 I.C.C. 436, (2) in Ex Parte No. 265, Increased Freight Rates, 1970, 339 I.C.C. 125 on sugar beets, (3) in Ex Parte No. 267, Increased Freight Rates, 1971, 399 I.C.C. 125; and (4) in Ex Parte No. 281. Increased Freight Rates, 1972, as authorized by order dated February 1, 1972, and the suspended selective increases as proposed by the respondents to become effective May 1, 1972, cause any undue or unreasonable advantage, preference or prejudice, as between persons or localities in intrastate commerce, on the one hand, and those in interstate or foreign commerce, on the other, or any undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce, and to determine what rates and charges, if any, or what maximum or minimum, or maximum and minimum, rates and charges should be prescribed to remove the unlawful advantage, preference, discrimination, or undue burden, if any, that may be found to exist;

It further appearing, that by amended petition filed June 12, 1972, the petitioners seek to broaden the investigation to include the Wyoming intrastate rates on coal from Rock Springs and Kemmerer to Cokeville and intermediate points, because the Public Service Commission of Wyoming has not permitted these rates to be increased to reflect the increases on coal moving in interstate commerce, authorized by this Commission in Ex Parte No. 265, Increased Freight Rates, 1970, supra;

It further appearing, that the amended petition sets forth matters sufficient to institute an investigation into intrastate freight rates and charges on coal as hereinabove described made or imposed by the State of Wyoming;

And it further appearing, that the prior order entered herein on May 17, 1972, contain certain inadvertent errors regarding procedures;

Wherefore, and good cause appearing therefor:

It is ordered, That the petition filed June 12, 1972, to amend the prior petition as indicated therein, be, and it is hereby granted, and that the investigation instituted by the order of May 17, 1972, be, and it is hereby broadened so as to include an investigation of whether the rates and charges of the carriers by railroad operating in the State of Wyoming for the intrastate transportation of property made or imposed by the State of Wyoming as indicated in the petition filed April 3, 1972, as amended by the petition filed June 12, 1972, cause or will cause, by reason of the failure of such rates, and charges to include increases corresponding to those authorized on interstate traffic by the Commission in Ex Parte No. 262, Increased Freight Rates, 1969, supra, Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970, and 1971, supra, and in Ex Parte No. 281 Increased Freight Rates, 1972, and the selective increases proposed by the respondents, effective May 1, 1972, in Ex Parte No. 281 Increased Freight Rates, 1972, supra, and suspended by order dated April 24, 1972, for undue or unreasonable advantage, preference, or prejudice, as between persons or localities in intrastate commerce on the one hand, and those in interstate or foreign commerce, on the other, or any undue, unreasonable, or unjust discrimination against, or undue burden on interstate or foreign commerce, and to determine what rates and charges, if any, or what maximum or minimum, or maximum and minimum, rates and charges should be prescribed to remove the unlawful advantage, preference, discrimination, or undue burden, if any, that may be found to exist.

It is further ordered, That the statements submitted, as provided for in the order of May 17, 1972, in the above-entitled proceeding, shall be considered in connection with the proceeding as broadened herein; and that otherwise, with respect to procedural matters, all parties should be guided by the terms of this order.

It is further ordered, That all persons who wish actively to participate in this proceeding, and to file and to receive copies of pleadings, shall make known that fact by notifying this Commission in writing within 30 days from the date of publication hereof in the FEDERAL REGISTER. Although individual participation is not precluded, to conserve time and avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentation to the greatest extent possible. The Commission desires participation only of those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date for indicating a desire to participate has passed, the Commission's Office of Proceedings will serve a list of the names and addresses of all persons upon whom service of all pleadings must be made.

It is further ordered, That a copy of this order be served upon each of the said petitioners, and that the State of Wyoming be notified by sending copies of this order and the said amended petition by certified mail to the Governor of Wyoming, Cheyenne, Wyo., and to the Public Service Commission of Wyoming, Cheyenne, Wyo.

It is further ordered, That notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication therein. Interested persons shall be afforded the opportunity to inspect pleadings at the Office of the Secretary of the Commission in Washington, D.C.

And it is further ordered, That this proceeding be assigned for hearing as hereafter designated.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-11779 Filed 7-27-72;8:51 am]

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PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions, Modifications and Supersedeas Decisions

New determinations. There are set forth below general Area Wage Determination Decisions Nos. AP–301, AP–302, AP–303, AP–404, AP–405, AP–406, and AP–407 of the Secretary of Labor. These decisions specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein. These decisions are applicable to Federal and federally assisted construction in the described localities in the States of Louisiana, Pennsylvania, Texas, Virginia, and West Virginia.

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 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations 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, and of Secretary of Labor's Orders 12–71 and 15–71 (36 F.R. 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 determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

These wage determinations are effective for a period of 120 days from the date of publication in the FEDERAL REGISTER and are to be used in accordance with the provisions of 29 CFR Part 5. Accordingly, the applicable determination together with any modifications issued subsequent to this date during this 120-day period, 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 contract by contractors and subcontractors on the work.

The area wage determination decisions for localities within the above States are set forth below.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO AREA WAGE DETERMINATION DECISIONS

Modifications and/or supersedeas decisions to area wage determination decisions for specified localities in Arizona, Idaho, Missouri, New Mexico, Pennsylvania, Rhode Island, Texas, and Virginia.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM–1,603; AM–1,604; AM–1,605.	Aug. 6, 1971.
AM–1,852(AP–408); AM–1,873.	Aug. 20, 1971.
AM–3,617	Aug. 25, 1971.
AM–2,531(AP–207)	Sept. 3, 1971.
AM–9,681	Feb. 25, 1972.
AM–11,407	Mar. 31, 1972.
AM–11,418	May 5, 1972.
AM–11,421	May 19, 1972.
AM–6,730(AP–205); AM–6,731 (AP–206); AM–6,732 (AP–204); AM–9,323; AM–11,425.	June 2, 1972. June 16, 1972.

Are hereby modified and/or superseded as set forth below. Supersedeas decision numbers are in parentheses following the number of the decision being superseded.

These modifications and/or supersedeas decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications and/or 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 F.R. 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, and of Secretary of Labor's Orders 13–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area 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.

The modifications and/or supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified and/or superseded were issued and are to be used in accordance with the provisions of 29 CFR Part 5. The modifications and/or supersedeas decisions to the area wage determination decisions listed above are set forth below.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule making procedures prescribed in 5 U.S.C. section 553 is set forth in the document being modified.

Signed at Washington, D.C., this 21st day of July 1972.

HORACE E. MENASCO,
Administrator,
Wage and Hour Division.

STATE: Louisiana PARISH: Calcasieu
DECISION NO.: AP-302 DATE: July 28, 1972
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

(1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$7.125	.325	.10			
BOILERMAKERS	6.50	.30	.40		.01	
BRICKLAYERS	6.89	.25	.20			
CARPENTERS:						
Carpenters	6.04	.25	.05		.02	
Millwrights	6.56	.25	.05		.02	
Piledrivermen	6.31				.02	
CEMENT MASONS	5.75					
ELECTRICIANS:						
Electricians	7.55	.25	1%+.10			
Cable splicers	7.80	.25	1%+.10			
GLAZIERS	4.65					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	7.00	.15	.15		.025	
LABORERS:						
Laborers	4.45	.15	.10			
Air tool operator (jackhammer, vibrator)	4.55	.15	.10			
Mason tenders	4.45	.15	.10			
Mortar mixers	4.60	.15	.10			
Pipelayers (concrete & clay)	4.695	.15	.10			
Plasterers' tenders	4.45	.15	.10			
LATHERS	6.00	.125			.01	
MARBLE SETTERS	6.89	.25	.20			
PAINTERS:						
Brush	5.40					
Brush on steel	5.525					
Paperhanging, taping	5.595					
Spray-wood & wall rollers	5.73					
PLASTERERS	6.15					
PLUMBERS & PIPEFITTERS	7.00	.42	.32		.06	
ROOFERS	5.90		.10			
ROOFERS' HELPERS	4.60		.10			
SHEET METAL WORKERS	7.025		.15		.025	
SOFT FLOOR LAYERS	6.04	.25	.05		.02	
TERRAZZO WORKERS	6.89	.25	.20			
TILE SETTERS	5.25		.20			
TRUCK DRIVERS:						
Pick-ups	4.65					
Stake bodies (all sizes)	5.05					
Trucks trailer & dumps over 8 yds.	5.26					
Mixers on trucks up to and including 3 yds.	5.07					

(2 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS (CONT'D):						
Mixers on trucks over 3 yds.	$5.26					
Winch trucks	5.17					
Mississippi wagons, Koehring dumpsters and similar dirt moving equipment up to and including 8 yds.	5.26					
Trucks - dump	5.09					
Mississippi wagons, Koehring dumpsters and similar dirt moving equipment over 8 yds.	5.46					
Warehousemen	5.26					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

La. 4 - PEO - 1 m (1 - 2)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
HEAVY DUTY OPERATORS						
Asphalt spreader; Backhoes (all types); Bulldozers; Cableways; Cherry pickers (all types); Concrete mixers (over 1 sack); Cranes; Deck winch (2 drum or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork lifts (other than farm type) outside warehouses; Foundation drill; Front end loaders (except farm type); Grease serviceman; Hoist (1 drum, 4 stories, or 40 feet) on structures other than buildings; Hoist (2 drum or over); Locomotives (all types); Mechanic; Mixer plant operator - central mix; Motor patrols; Piledrivers; Pull cat; Pump crete - 6" and over discharge; Push cat; Road pavers; Rollers (plant mix asphalt); Scrapers; Shovels; Sidebooms; Unit operator; Welder, journeyman; Well point system; Whirleys; Winch cats (Cat D-4 and over); Winch truck with A-Frame (5 ton and over); Work boats requiring licensed operator	$6.70	.10	.15			
MEDIUM DUTY OPERATORS						
Asphalt plant operator; Boom trucks; Bullfloats; Concrete spreader; Farm type front end loaders; Finishing machines; Rollers (other than plant mix asphalt); Straddle buggies; Winch truck with A-Frame (under 5 tons); Work boat not requiring a licensed operator	5.925	.10	.15			

La. 4 - PEO - 1 m (2 - 2)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LIGHT DUTY OPERATORS						
Bush hog; Compressors; Concrete pumps - under 6" discharge; Concrete saw; Deck winch (1 drum); Distributors; Dowd bar machines; Farm type tractors (when used to pull discs, grasscutter, etc); Hoist (1 drum under 4 stories); Kolum buff machines; Mixers (1 sack and under); Motorized street sweepers - self-propelled; Pumps (3" and over); Test pumps - internal combustion engine powered; Ditching or trenching machines (non-riding type); Water blast pumps	$5.52	.10	.15			
Combination oiler-fireman; Combination oiler-compressor operator	6.70	.10	.15			
Batch plant operator; Oiler-driver on motor crane; Scale operator	5.10	.10	.15			
Fireman	5.30	.10	.15			
Mechanic helpers; Pumps under 3" suction	4.95	.10	.15			
Oiler	4.80	.10	.15			

STATE: Louisiana PARISH: Calcasieu
DECISION NO.: AP-303 DATE: July 28, 1972
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

(1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$7.125	.325	.10			
BOILERMAKERS	6.50	.30	.40		.01	
BRICKLAYERS	6.89	.25	.20			
CARPENTERS:						
Carpenters	6.04	.25	.05		.02	
Millwrights	6.56	.25	.05		.02	
Piledrivermen	6.31				.02	
CEMENT MASONS	5.75					
ELECTRICIANS:						
Electricians	7.55	.25	1%+.10			
Cable splicers	7.80	.25	1%+.10			
GLAZIERS	4.65					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	7.00	.15	.15		.025	
LABORERS:						
Laborers	4.45	.15	.10			
Air tool operator (jackhammer, vibrator)	4.55	.15	.10			
Mason tenders	4.45	.15	.10			
Morter mixers	4.60	.15	.10			
Pipelayers (concrete & clay)	4.695	.15	.10			
Plasterers' tenders	4.45	.15	.10			
LATHERS	6.00	.125			.01	
MARBLE SETTERS	6.89	.25	.20			
PAINTERS:						
Brush	5.40					
Brush on steel	5.525					
Paperhanging, taping	5.595					
Spray-wood & wall rollers	5.73					
PLASTERERS	6.15					
PLUMBERS & PIPEFITTERS	7.00	.42	.32		.06	
ROOFERS	5.90		.10			
ROOFERS' HELPERS	4.60		.10			
SHEET METAL WORKERS	7.025		.15		.025	
SOFT FLOOR LAYERS	6.04	.25	.05		.02	
TERRAZZO WORKERS	6.89	.25	.20			
TILE SETTERS	5.25		.20			
TRUCK DRIVERS:						
Pick-ups	4.65					
Stake bodies (all sizes)	5.05					
Trucks trailer & dumps over 8 yds.	5.26					
Mixers on trucks up to and including 3 yds.	5.07					

(2 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS (CONT'D):						
Mixers on trucks over 3 yds.	$5.26					
Winch trucks	5.17					
Mississippi wagons, Koehring dumpsters and similar dirt moving equipment up to and including 8 yds.	5.26					
Trucks - dump	5.09					
Mississippi wagons, Koehring dumpsters and similar dirt moving equipment over 8 yds.	5.46					
Warehousemen	5.26					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
HEAVY DUTY OPERATORS						
Asphalt spreader; Backhoes (all types); Bulldozers; Cableways; Cherry pickers (all types); Concrete mixers (over 1 sack); Cranes; Deck winch (2 drum or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork lifts (other than farm type) outside warehouses; Foundation drill; Front end loaders (except farm type); Grease serviceman; Hoist (1 drum, 4 stories, or 40 feet) on structures other than buildings; Hoist (2 drum or over); Locomotives (all types); Mechanics; Mixer plant operator - central mix; Motor patrols; Piledrivers; Pull cat; Pump crete - 6" and over discharge; Push cat; Road pavers; Rollers (plant mix asphalt); Scrapers; Shovels; Sidebooms; Unit operator; Welder, journeyman; Well point system; Whirleys; Winch cats (Cat D-4 and over); Winch truck with A-Frame (5 ton and over); Work boats requiring licensed operator	$6.70	.10	.15			
MEDIUM DUTY OPERATORS						
Asphalt plant operator; Boom trucks; Bullfloats; Concrete spreader; Farm type front end loaders; Finishing machines; Rollers (other than plant mix asphalt); Straddle buggies; Winch truck with A-Frame (under 5 tons); Work boat not requiring a licensed operator	5.925	.10	.15			

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LIGHT DUTY OPERATORS						
Bush hog; Compressors; Concrete pumps - under 6" discharge; Concrete saw; Deck winch (1 drum); Distributors; Dowd bar machines; Farm type tractors (when used to pull dics, grasscutter, etc); Hoist (1 drum under 4 stories); Kolum buff machines; Mixers (1 sack and under); Motorized street sweepers - self-propelled; Pumps (3" and over); Test pumps - internal combustion engine powered; Ditching or trenching machines (non-riding type); Water blast pumps	$5.52	.10	.15			
Combination oiler-fireman; Combination oiler-compressor operator	6.70	.10	.15			
Batch plant operator; Oiler-driver on motor crane; Scale operator	5.10	.10	.15			
Fireman	5.30	.10	.15			
Mechanic helpers; Pumps under 3" suction	4.95	.10	.15			
Oiler	4.80	.10	.15			

NEW DECISION

STATE: Pennsylvania

COUNTIES: Bucks, Chester, Delaware, Montgomery and Philadelphia

DECISION NO.: AP-404

DATE: July 28, 1972

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

51-PA-1 H

1 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.90	.35	.40			
Boilermakers	8.50	.40	.90		.01	
Bricklayers	8.69	.57	.35		1%	
Carpenters	8.57	1.08	.40		.07	
Cement masons	7.50	.89	.27			
Electricians	9.20	4%	3%		1½%	
Elevator constructors	9.15	.195	.20	1½%+a+b	.005	
Elevator constructors' helpers	6.405	.195	.20	1½%+a+b	.005	
Elevator constructors' helpers (Prob.)	4.575					
Glaziers	8.13	.245	.15			
Glaziers working 30' above ground	8.43	.245	.15			
Ironworkers, structural	8.69	e			.04	
Ironworkers, ornamental	8.69	e			.04	
Ironworkers, reinforcing	7.97	e			.01	
Lathers	6.06	.275	.15			
Lead burners	7.80	.30		c	.01	
Line Construction:						
Linemen	9.73	.15	1%		1%	
Groundmen	5.84	.15	1%		1%	
Winch truck operator	6.81	.15	1%		1%	
Marble setters	5.925	.25				
Millwrights	9.07	1.08	.40		.07	
Painters:						
Brush	7.365	.275	.25	.30	.02	
Spray, steel & swing	7.545	.275	.25	.30	.02	
Roller	7.365	.275	.25	.30	.02	
Piledrivermen	9.22	1.08	.40		.07	
Plasterers	8.525	.53			.01	
Plumbers	9.00	.35	.45		.04	
Roofers:						
Composition, damp & waterproofers	8.425	.80	.55	d		
Composition helpers	4.70	.80	.55	d		
Slate, tile and asbestos	6.875	.50	.50			
Slate, tile and asbestos helpers	4.575	.50	.50			
Asphalt shingle	6.325	.50	.50			
Asphalt shingle helpers	4.575	.50	.50			
Sheet metal workers	9.40	.30	.25		.01	
Soft floor layers	6.73	.35	.35			
Sprinkler fitters	9.165	.25	.40		.02	
Steam fitters	8.99	.35	.45		.05	
Stone setters	6.375	.47	.45			
Terrazzo workers	6.25					
Tile setters	6.825	.40	.20			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others

Paid Holidays (Where Applicable):
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. Paid Holidays: A through F.

c. Paid holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the day preceding and following the holiday.

d. Election Day - paid holiday.

e. Employer contributes $1.20 to a Combined Health and Welfare and Pension Fund.

PA-51-LAB-1-U

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Laborers:						
Stripping & dismantling concrete form work, loading, unloading, carrying & handling of all reinforced steel & steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers & all other pneumatic tools, building scaffolds, raking, shoveling & tamping of asphalt, spading & concrete pit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non-metallic pipe & caulking, all other types of Laborers	" $5.91	.44	.20			
Mason tender, power buggies, burners on demolition	6.01	.44	.20			
Wagon drill operator (single)	6.06	.44	.20			
Powdermen, wagon drill operator (multiple)	6.21	.44	.20			
Circular Caissons Excavation:						
Caisson groundmen	6.21	.44	.20			
Caisson bottom man	6.31	.44	.20			
Underpinning Excavation:						
Laborers, working at depth of 8 feet or under	6.21	.44	.20			
Yard workers	5.85	.44	.20			

POWER EQUIPMENT OPERATORS

PA-51-PEO-1-2 - D 1 of 2

	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS				
		H & W	Pensions	Vacation	App. Tr.	Other
WAGE GROUP I						
Handling Steel and stone in connection with erection; Cranes doing hook work; Any machines handling machinery; Cable Spinning machine; Helicopters; Machines similar to the above	$9.54	4.6%	6.5%	a	.7%	
WAGE GROUP II						
Engineers working with Dock Builders and Pile Drivers All types of cranes All types of backhoes; Cableways; Draglines; Keystones; All types of shovels; Derricks; Trench shovels; Trenching machines; Pippin type backhoes; Hoist with two towers; Pavers 21E and over; All types overhead cranes; Building Hoists - double drum (unless used as single drum); Mucking Machines in tunnel; Gradalls; Front-end loaders over 3 cu. yd., Boat Captain; Tandem scrapers; Tower type crane operation, erecting, dismantling, jumping or jacking; Drills self-contained (Drillmaster type); Fork Lift (20 ft. and over), Motor Patrols (Fine Grade), Batch Plant with Mixer; Machines similar to the above	9.28	4.6%	6.5%	a	.7%	
WAGE GROUP III						
Conveyors (Except Building Conveyors), Building Hoists (single drum), Scrapers and Tournapulls, Asphalt plant engineers, Roller (High Grade finishing); Caterpillar-type tractors with front-end overhead loaders and Rubber-tired loaders 2 c.y. up to & including 3 c.y. Maintenance Engineers with tools; Spreaders, High or low pressure boilers, Concrete pumps, Well drillers, Forklift trucks of all types; Bulldozers D-7 or equivalent and over; Ditch witch type trencher, Motor patrol; Machines similar to the above	8.43	4.6%	6.5%	a	.7%	

BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
WAGE GROUP IV					
Concrete breaking machines Rollers Machines similar to the above	$ 8.22	4.6%	6.5%	a	.7%
WAGE GROUP V					
All Bulldozers under D-7 Tractors including rubber-tired type with front and overhead loaders under 2 c.y. Seaman pulverizing mixer Welders and Maintenance Engineers Fireman on Power Equipment Maintenance Engineer (Power Boat) Machines similar to the above	7.93	4.6%	6.5%	a	.7%
WAGE GROUP VI					
Conveyors (Building) Welding Machines Heaters Wellpoints Compressors Farm Tractors Form line graders Road finishing machines Pumps Power Broom (Self contained) Seed Spreader Machines similar to the above	7.75	4.6%	6.5%	a	.7%
WAGE GROUP VII					
Fireman	7.24	4.6%	6.5%	a	.7%
WAGE GROUP VIII					
Oilers and Deck Hand (Personnel Boats)	6.51	4.6%	6.5%	a	.7%

FOOTNOTE:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day, providing the employee works the day before and after the holiday.

51-TD-1-2-3- B

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Truck Drivers:					
Class I					
Helpers, Stake Body Truck (single axle, Dumpster	$5.52	.3175	.30	a&b	
Class II					
Dump Trucks, Tandem & Batch Trucks, Semi-Trailers, Agitator Mixer Trucks, and Dumpcrete Type Vehicles, Asphalt Distributors, Farm Tractor when used for Transportation, Stake Body Truck (Tandem)	5.62	.3175	.30	a&b	
Class III					
Euclid Type, Off-Highway Equipment Back or Belly Dump Trucks and Double Hitched Equipment, Staddle (Ross) Carrier, Low-Bed Trailers	5.82	.3175	.30	a&b	

FOOTNOTES:

a. Employee who have been on the employer's senority list for a period of one (1) year from date of hire and who shall have worked a minimum of one-hundred thirty (130) days in the year previous to his anniversary date, shall be eligible for one (1) week's vacation.

b. Paid Holidays: Memorial Day; Independence Day & Labor Day for employee who have worked a minimum of thirty days and are on the employer's senority list, provided he works the scheduled work days before and after the said holidays.

NEW DECISION

(1 - 2)

STATE: Texas

COUNTIES: Hood, Johnson, Palo Pinto, Parker & Wise

DECISION NO.: AP-301

DATE: July 28, 1972

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
BRICKLAYERS	$4.96					
CARPENTERS	3.50					
CEMENT MASONS	4.00					
ELECTRICIANS	3.50					
LABORERS:						
Laborers	2.00					
PAINTERS, BRUSH	3.50					
PLUMBERS	4.50					
ROOFERS	2.95					
SHEET METAL WORKERS	3.00					
TILE SETTERS	4.75					
TRUCK DRIVERS	2.25					

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.55					
Asphalt Heaterman	2.65					
Asphalt Raker	3.25					
Asphalt Shoveler	2.50					
Batching Plant Scaleman	2.95					
Carpenter	3.25					
Carpenter Helper	3.00					
Concrete Finisher (Paving)	3.50					
Concrete Finisher Helper (Paving)	3.00					
Concrete Finisher (Structures)	3.25					
Concrete Finisher Helper (Structures)	2.95					
Concrete Rubber	2.75					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	2.50					
Form Liner (Paving and Curb)	3.50					
Form Setter (Paving and Curb)	3.25					
Form Setter Helper (Paving and Curb)	2.50					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.25					
Mechanic	3.50					
Mechanic Helper	2.85					
Oiler	2.75					
Pipelayer	3.25					
Pipelayer Helper	2.50					
Powderman	3.00					
Reinforcing Steel Setter (Structures)	3.25					
Reinforcing Steel Setter Helper	2.50					
Sign Erector	3.00					
Sign Erector Helper	2.50					
Spreader Box Man	2.50					
Swamper	2.00					
Power Equipment Operators:						
Asphalt Distributor	3.25					
Asphalt Paving Machine	3.25					
Bulldozer, 150 H.P. and Less	3.15					
Bulldozer, over 150 H.P.	3.25					
Concrete Paving Curing Machine	3.00					
Concrete Paving Finishing Machine	3.50					
Concrete Paving Saw	2.75					
Concrete Paving Spreader	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ C.Y.)	3.25					

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd):						
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ C.Y. and Over)	$3.50					
Foundation Drill Operator (Truck Mounted)	4.20					
Foundation Drill Operator Helper	3.65					
Front End Loader (2½ C.Y. and Less)	3.25					
Front End Loader (Over 2½ C.Y.)	3.50					
Motor Grader Operator, Fine Grade	3.50					
Motor Grader Operator	3.25					
Roller, Steel Wheel (Plant-Mix Pavements)	3.25					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.60					
Roller, Pneumatic (Self-Propelled)	2.25					
Scrapers (17 C.Y. and Less)	3.15					
Scrapers (Over 17 C.Y.)	3.25					
Tractor (Crawler Type) 150 H.P. and Less	2.75					
Tractor (Crawler Type) over 150 H.P.	3.00					
Tractor (Pneumatic) 80 H.P. and Less	2.20					
Tractor (Pneumatic) over 80 H.P.	2.85					
Traveling Mixer	2.70					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.80					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.55					
Tandem Axle or Semitrailer	2.50					
Lowboy-Float	3.25					
Transit-Mix	3.25					
Welder	3.55					

NEW DECISION

STATE: Virginia

COUNTY: Clarke, Frederick, Rockingham, Shenandoah and Warren

DECISION NO.: AP-406

DATE: July 28, 1972

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

86-R-Va. a

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Yr.	Others
Bricklayers	$5.00					
Carpenters	2.50					
Cement masons	3.125					
Drywall hangers	3.00					
Electricians	2.50					
Laborers	2.00					
Mason tenders	2.25					
Painters	2.77					
Plumbers	3.01					
Plumbers' helpers	2.14					
Roofers	3.50					
Sheet Metal Workers	3.50					
Soft floor layers	3.25					
Tile Setters	3.50					
Truck Drivers	2.15					
PEO:						
Cranes, blade graders & shovels	4.00					
Crawler tractor, loader, trench mach.	3.00					
Farm tractor, rollers	2.60					
Air compressors	2.45					

NEW DECISION

STATE: Virginia COUNTY: James City and York
DECISION NO.: AP-407 DATE: July 28, 1972
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

183-R-Va. a

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Bricklayers	$6.10					
Carpenters	4.42					
Carpenters' Helpers	2.50					
Cement Masons	3.52					
Electricians	3.50					
Laborers:						
Laborers	2.42					
Mason tenders	2.75					
Painters, Brush	3.76					
Plasterers	4.75					
Plumbers & Pipefitters	5.60					
Scaffold Builders	3.60					
Plumbers' Helpers	3.50					
Roofers	3.50					
Roofers' Helpers	2.75					
Sheet Metal Workers	5.00					
Sheet Metal Workers' Helpers	3.25					
Soft Floor Layers	3.90					
Tile Setters	5.00					
Tile Setters' Helpers	3.00					
Truck Drivers	2.25					
Power Equipment Operators:						
Cranes	4.50					
Backhoes	3.75					
Motor Graders	3.90					
Loaders	2.50					
Bulldozers	3.75					

NEW DECISION

AP-405 P. 2

STATE: West Virginia
DECISION NO: AP-405
COUNTY: Kanawha
DATE: July 28, 1972
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

20-W-VA 1 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$7.85	.26	.25		.05	
Boilermakers	6.80	.30	.50		.01	
Boilermakers' helpers	6.55	.30	.50		.01	
Bricklayers	7.85	.35	.25		e	
Carpenters	8.85	.25	.25		.02	
Cement masons	7.70					
Electricians	7.85	.30	1%+.07	.27	.04	
Cable splicers	8.635	.30	1%+.07	.27	.04	
Elevator constructors	7.29	.17	.185	½%+a+b	.005	
Elevator constructors' helpers	5.10	.17	.185	½%+a+b	.005	
Elevator constructors' helpers (prob.)	3.645					
Glaziers	7.50					
Ironworkers, structural ornamental	8.10	.50	.75		.05	
Ironworkers, reinforcing	8.10	.50	.75		.05	
Lathers	7.00					
Line construction:						
Linemen	7.35	.20	1%+.17	1.02	.02	
Groundmen	5.87	.20	1%+.17	1.02	.02	
Mechanized equipment operators	7.35	.20	1%+.17	1.02	.02	
Painters:						
Brush	5.775					
Structural steel	6.75					
Spray	6.025					
Piledrivermen	9.10	.25	.25		.02	
Plasterers	7.75					
Plumbers	7.92	.30	.30		.03	
Roofers	7.28	.20	.10		.02+f	
Sheet metal workers	8.18	.20	.25		.02	
Sprinkler fitters	8.00	.25	.40		.05	
Steamfitters	7.59	.20	.15	.20	.03	
Stone masons	7.85	.35	.25		e	
Truck drivers:						
Pick-up, stationwagons, panel trucks, flatbody material truck (straight job), dump trucks (up to 5 cu. yds. greasers, washers, tiremen, gas pump attendants.	4.50	c	d			
Mechanic helpers, material checkers and receivers.	4.85	c	d			
Tank trucks (straight)	4.60	c	d			

20-W-VA 2 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Truck drivers: (cont'd)						
Dump trucks (5 cu. yds. & over), semi dump trucks, semi-trailers (whether flat, rack or pole and hauled or pushed by tractors), agitators or mixer trucks (up to 5 cu. yds.), farm type tractor, tank truck (semi).	$4.75	c	d			
Low boy trailers, winch trucks, fork truck, distributor trucks (front and back end), truck crane, monorail truck.	4.80	c	d			
Euclids, dumpsters, turnarockers, ross carriers, Athey wagons or semilar equipment, A-frame, hydrolift, dual purpose trucks	5.15	c	d			
Welders - receive rates prescribed for craft performing operation to which welding is incidental.						

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. 6 paid holidays: A through F.
c. $20.15 per month for employees employed over 30 days.
d. $26.00 per month.
e. Employer contribution of $20.00 per year.
f. Employer contribution of $150.00 per year to the joint apprentice committee.

J-LAB-N.VA-1-A

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Common laborers, flagmen, demolition worker boy, fire watch, landscape laborer	$5.42	.25	.25		.03	
Mason tenders, plasterers' tender, cement finisher tenders, lathers tenders, tile setters tenders, mortar mixers, jackhammer, vibrator, tamper, pavement buster, air siphon & air pump, concrete saw, power saw, chain saw, motorized buggy ops., pipelayers' helpers, drill op. helpers, asphalt rakers, ride or walk roller tampers, signalmen, powderman helper, grade checker	5.72	.25	.25		.03	
Burner & powdermen, air track op., pipelayer	6.07	.25	.25		.03	

4-W.Va-PEO-1-F 1 of 1

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators						
Class I						
Cranes, derricks, tower cranes, and similar equipment having a reach from the top of its boom to the ground of 175 feet or a lifting capacity of 70 tons. All shovels, draglines, clamshells, back hoes, endloaders, and concrete mixing plants of 4 cubic yard capacity or over. Hoist with 18,000 pound line pull or over.	$8.15	.20	.25		.04	
Class II						
All mechanics, cranes, derricks and similar equipment. Hydraulic cranes in excess of 15 tons capacity. All shovels, draglines clamshells, gradalls, tug or tow boats. Concrete mixing plants of 3 cubic yards capacity. Endloaders in excess of 2½ cubic yards capacity. Hoist in excess of 5,000 pound line pull. Side boom cat, standard gauge locomotive. Backhoe (over ½ cubic yard.)	7.65	.20	.25		.04	
Class III						
Hydraulic cranes up to and including 15 tons capacity. Endloaders up to and including 2½ cu. yd. capacity. Two drum hoist. Well point system, concrete mixing plants, elevators, core drills, fork lift, ross carrier, air compressor (600 CFM or over), high compression equipment, concrete pumps double. Backhoe (½ cu. yd. & under)	7.25	.20	.25		.04	
Class IV						
Trencher, air tugger, concrete mixer, (2 bag) material hoist, (single cage) brick tote machine, concrete pump (single), "A" frame truck, rubber tired scraper, power grader, dozer, tractor and pan, push cat, all tractors, oiler's standard gauge locomotive, locomotive crane, truck cranes; over 15 tons, grease truck operator and greaser, fireman, deckhand, asphalt and concrete paving equipment operator	6.85	.20	.25		.04	
Class V						
Roller and compactor, concrete mixer, (1 bag) Barber Greene loader, mechanic helper, oiler, air compressor, welding machine, (gasoline powered) light plant, generator, conveyor, mechanical heater, and pump operator	6.35	.20	.25		.04	

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AM-3,617 - Mod. #3						
(36 FR 16869 - August 25, 1971)						
City & County of St. Louis & St. Charles County, Missouri						
Change:						
Building, Heavy & Highway-St. Louis City & County. Building-St. Charles County:						
Carpenters:						
Carpenters; Millwrights; Pile-drivermen	$8.21	.25	.30			
Sandblasters and Building Cleaners	7.38	.20	.30			
Heavy & Highway Construction: (St. Charles County Only)						
Carpenters, millwrights, pile-drivermen	7.71	.25	.30		.03	
DECISION #AM-1,873 - Mod. #1						
(36 FR 16341 - August 20, 1971)						
Caroline, Essex, Gloucester, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, Spotsylvania, Stafford and Westmoreland Counties, Virginia						
Omit:						
Power Tool Operator	$3.00					
All Truck Driver Classifications and rates						
Add:						
Truck Drivers:						
7 c.y. & under	2.14					
Over 7 c.y.	2.25					

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-9,323 - Mod. #1						
(37 FR 12023 - June 16, 1972)						
Philadelphia County, Pennsylvania						
Change:						
Building Construction:						
Ironworkers:						
Structural and ornamental	$8.69	a			.04	
Reinforcing	7.79	a			.01	
Rigger, machinery mover	8.12	a				
Lead burners	7.80	.30		c	.01	
Painters:						
Brush	7.365	.275	.25	.30	.02	
Roller	7.365	.275	.25	.30	.02	
Spray, steel & swing	7.545	.275	.25	.30	.02	
Roofers helpers	4.70	.80	.55	d		
Carpenters, heavy and highway	9.02	1.08	.40	e	.07	
Footnote:						
a. Employer contributes $1.20 to a combined Health and Welfare and Pension Fund.						
DECISION #AM-9,681 - Mod. #4						
(37 FR 4030 - February 25, 1972)						
Montgomery County, Pennsylvania						
Change:						
Building Construction:						
Ironworkers:						
Structural & ornamental	8.69	h			.04	
Reinforcing	7.79	h			.01	
Lead burners	7.80	.30		d	.01	
Roofers:						
Composition	8.425	.80	.55	e		
Helpers	4.70	.80	.55	e		
Painters:						
Cheltenham, Abington, Upper and Lower Moreland, Springfield, Whitemarsh, Plymouth, Upper Dubling, Horsham, Whitpain, Upper and Lower Gwynodd, Lower Marion, Upper Southampton, Lower Southampton						
Brush	7.365	.275	.25	.30	.02	
Roller	7.365	.275	.25	.30	.02	
Spray, steel and swing	7.545	.275	.25	.30	.02	
Carpenters, heavy and highway	9.02	1.08	.40	a	.07	
Footnote:						
d. Employer contributes $1.20 to a combined Health and Welfare and Pension Fund.						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-1,603 - Mod. #8						
(36 FR 14600 - August 6, 1971)						
Bristol, Kent & Providence Counties, Rhode Island						
Change:						
Building Construction:						
Bricklayers, cement masons, plasterers, stone masons, marble, tile and terrazzo workers:						
Woonsocket, N. Smithfield, Burrillville & Cumberland Hill	$8.67	.25	.30		.01	
Leadburners	7.80	.30		c	.01	
Steamfitters, pipefitters	8.82	.35	.80		.03	
Omit:						
Sprinkler Fitters:						
Providence	7.90	.25	.40		.01	
Remainder of County	5.53	.15	.25		.04	
Add:						
Sprinkler fitter	8.60	.25	.40		.01	
DECISION #AM-1,604 - Mod. #8						
(36 FR 14605 - August 6, 1971)						
Newport County, Rhode Island						
Change:						
Building Construction:						
Bricklayers, stonemasons	8.62	.25	.30		.01	
Leadburners	7.80	.30		c	.01	
Sprinkler fitters	8.60	.25	.40		.01	
Steamfitters	8.82	.35	.80		.03	
DECISION #AM-1,605 - Mod. #9						
(36 FR 14610 - August 6, 1971)						
Washington County, Rhode Island						
Change:						
Building Construction:						
Leadburners	7.80	.30		c	.01	
Sprinkler fitters	8.60	.25	.40		.01	
Steamfitters	8.82	.35	.80		.03	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-11,407 - Mod. #3						
(37 FR 6615 - March 31, 1972)						
Bexar County, Texas						
Change:						
Building Construction:						
Ironworkers:						
Structural; Ornamental; Reinforcing	$6.25	.25	.45		.05	
DECISION #AM-11,418 - Mod. #2						
(37 FR 9163 - May 5, 1972)						
Cameron, Hidalgo, Starr & Willacy Counties, Texas						
Change:						
Building Construction:						
Asbestos workers	6.555	.30	.295			
DECISION #AM-11,425 - Mod. #3						
(37 FR 12014 - June 16, 1972)						
Nueces County, Texas						
Change:						
Building Construction:						
Asbestos workers	6.555	.30	.295			
DECISION #AM-11,421 - Mod. #5						
(37 FR 10318 - May 19, 1972)						
Bernalillo County, New Mexico						
Change:						
Mod. #3 in 37 FR 13938 dated July 14, 1972 to read Mod. #4.						

SUPERSEDEAS DECISION

STATE: Arizona COUNTIES: Statewide*

DECISION NUMBER: AP-207 DATE: July 28, 1972

Supersedes Decision No. AM-2,531 dated September 3, 1971 36 FR 17695

DESCRIPTION OF WORK: Heavy and Highway Construction

*Establish a point 35 miles due north from the city hall of the City of Flagstaff and establish another point 35 miles due north from the city hall of the City of Kingman, then draw a straight line from the first point to the second point and extend that same line to the intersection of the Arizona-Nevada State Line. Establish a third point 35 miles due north of the city hall of the City of Holbrook and draw a straight line from the first point to the third point and from the third point extend a line due east to the intersection of the Arizona-New Mexico State Line.

ARIZ-LINE-CONSTRUCTION (1-1)

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ZONE 1. Phoenix-Tucson + 30 miles radius:						
Linemen	$7.40	.23	5%		½%	
Cable splicers	7.66	.23	5%		½%	
Equipment operators; Hole digger; Ditching	6.96	.23	5%		½%	
Groundmen	6.04	.23	5%		½%	
ZONE 1A. Douglas-Flagstaff-Globe-Kingman-Prescott-Yuma & 10 mile radius:						
Linemen	7.98	.23	5%		½%	
Cable splicer	8.25	.23	5%		½%	
Equipment operator; Hole digger; Ditching	7.54	.23	5%		½%	
Groundmen	6.63	.23	5%		½%	
ZONE 2. Other Areas:						
Linemen	8.55	.23	5%		½%	
Cable splicers	8.81	.23	5%		½%	
Equipment operators; Hole digger; Ditching	8.11	.23	5%		½%	
Groundmen	7.21	.23	5%		½%	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
BRICKLAYERS: (Phoenix Area)						
Bricklayers; Manhole Builders						
Zone A (0-25 miles from the City Hall of Phoenix); Flagstaff & Yuma	$8.35	.35	.30		.03	
Zone B (25-40 miles from the City Hall of Phoenix; & Williams AFB)	9.10	.35	.30		.03	
Zone C (40-70 miles from the City Hall of Phoenix)	9.44	.35	.30		.03	
Zone D (70-100 miles from the City Hall of Phoenix)	9.77	.35	.30		.03	
Zone E (100-200 miles & over from the city Hall of Phoenix)	10.10	.35	.30		.03	
Zone F (200 miles and over from the City Hall of Phoenix	10.44	.35	.30		.03	
BRICKLAYERS: (Tucson Area)						
Bricklayers						
Zone A (Shall be from the closest Tucson City limits through 10 miles)	7.175	.40	.30	.25	.02	
Zone B (Shall be from the closest Tucson City limits to over 10 miles & no further than 25 miles)	7.55	.40	.30	.25	.02	
Zone C (Shall be from the closest Tucson City limits to over 25 miles & no further than 40 miles)	7.925	.40	.30	.25	.02	
Zone D (Shall be all locations over 40 miles from the closest Tucson city limits)	8.675	.40	.30	.25	.02	
Manhole Builders						
Zone A	7.425	.40	.30	.25	.02	
Zone B	7.80	.40	.30	.25	.02	
Zone C	8.175	.40	.30	.25	.02	
Zone D	8.925	.40	.30	.25	.02	
CARPENTERS:						
(Central & Southern Areas):						
Carpenters	7.45	.30	.45		.025	
Power Tools	7.95	.30	.45		.025	
(Northern Area):						
Carpenters	8.95	.30	.45		.025	
Power Tool Opr.	9.45	.30	.45		.025	
CEMENT MASONS (Central & Southern Areas)	7.285	.30	.50		.025	
CEMENT MASONS (Northern Area)	8.835	.30	.50		.025	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
ELECTRICIANS: (Flagstaff Area)						
Electricians						
Zone A (In Flagstaff, which shall cover that area lying in a square extending 20 miles North-South, East & West of the Post Office.) (Williams, Winslow, & Sedona covering a square extending 5 miles North-South, East & West of the Post Offices of each town)	8.60		1%		1/2%	
Zone B (All territorial jurisdiction allotted outside of Zone A.)	10.10		1%		1/2%	
Cable Splicers						
Zone A	8.80		1%		1/2%	
Zone B	10.30		1%		1/2%	
ELECTRICIANS: (Gallup Area - Northern Apache County)						
Electricians	7.35		1%		1/2%	
Cable Splicers	8.09		1%		1/2%	
ELECTRICIANS: (Globe-Miami Area)						
Electricians						
Zone A (Shall be the area within 16 road miles beginning where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing)	7.25	.30	1%		1/2%	
Zone B (Shall be from the 16th road mile and extend up to and including the 32nd road mile)	7.75	.30	1%		1/2%	
Zone C (Shall be from the 32nd road mile and extend up to and including the 48th road mile)	8.25	.30	1%		1/2%	
Zone D (Shall be from the 48th road mile and extend to the outside limits of the union's jurisdiction.)	8.80	.30	1%		1/2%	
Cable Splicers						
Zone A	7.50	.30	1%		1/2%	
Zone B	8.00	.30	1%		1/2%	
Zone C	8.50	.30	1%		1/2%	
Zone D	9.00	.30	1%		1/2%	
ELECTRICIANS: (Phoenix-Kingman-Prescott Area)						
Electricians						
Zone A (Phoenix & other areas - Powers Road on the east, from Hunt Highway on the south to one mile south of Pinnacle Peak Road on the North. One mile south of Pinnacle Peak Road to Cotton Lane on the West. Cotton Lane to Pecos Road on the South. Pecos Road to Price Road and from Price Road to Hunt Highway on the South. Hunt Highway to Powers Road on the East. (Kingman & other cities - Zone "A" shall be the area within 16 road miles from the City Hall or central location. Exception to the above shall be Prescott where Zone A shall be 20 road miles from the City Hall.)	8.25	.30	1% +.60		1/2%	
Zone B (Phoenix & other areas - shall be from the outside edge of Zone A up to & including 16 road miles from the outside edge of Zone A. (Kingman & other Cities - shall be from the 16th road mile and extend up to & including the 32nd road mile.)	9.90	.30	1% +.60		1/2%	
Zone C (Phoenix & other areas - shall commence at 16 road miles from the outside edge of Zone "A" and extends to the outside limits of the Union's jurisdiction.) (Kingman & other Cities - shall be from the 32nd road mile and extend to the outside limits of the Union's jurisdiction.)	10.73	.30	1% +.60		1/2%	
Cable Splicers						
Zone A	8.66	.30	1% +.60		1/2%	
Zone B	10.40	.30	1% +.60		1/2%	
Zone C	11.27	.30	1% +.60		1/2%	
ELECTRICIANS: (Tucson Area)						
Electricians						
Zone A (Shall be the area within 16 road miles from City Hall of Tucson & Douglas)	7.25	.30	1%		1/2%	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
ELECTRICIANS: (Tucson Area) (CONT'D)						
Electricians (Cont'd)						
Zone B (Shall be from the 16th road mile and extend up to and including the 32nd road mile from Tucson only).	7.75	.30	1%		1/2%	
Zone C (Shall be from the 32nd road mile and extend up to and including the 48th road mile from Tucson only.	8.25	.30	1%		1/2%	
Zone D (Shall be from the 48th road mile and extend to the outside limits of the units jurisdiction) and- (Douglas - Zone D shall be from the 16th road mile and extend to the outside limits of the units jurisdiction).	8.75	.30	1%		1/2%	
Cable Splicers						
Zone A	7.50	.30	1%		1/2%	
Zone B	8.00	.30	1%		1/2%	
Zone C	8.50	.30	1%		1/2%	
Zone D	9.00	.30	1%		1/2%	
ELECTRICIANS: (Yuma Area)						
Electricians						
Zone A (Yuma north to Colorado River, east to County Avenue 5E, south to County 16, west to County Avenue E; Cities of Somerton and & Parker)	7.75	.40	1%		1/2%	
Zone B (1-16 miles from Zone A)	8.25	.40	1%		1/2%	
Zone C (16-mi. from Zone A - 42 mi. from Zone A)	8.85	.40	1%		1/2%	
Zone D (42 miles from Zone A & out)	9.40	.40	1%		1/2%	
Cable Splicers						
Zone A	8.50	.40	1%		1/2%	
Zone B	9.00	.40	1%		1/2%	
Zone C	9.60	.40	1%		1/2%	
Zone D	10.15	.40	1%		1/2%	
IRONWORKERS: (Central & Southern Areas)						
Structural	8.58	.43	.425		.04	
Reinforcing	8.58	.43	.425		.04	
IRONWORKERS: (Northern Area)						
Structural	10.21	.43	.425		.04	
Reinforcing	10.21	.43	.425		.04	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
PAINTERS: (Flagstaff Area)						
Brush						
Zone A (From Flagstaff Court House to 20 miles)	5.90					
Zone B (20-35 miles from Flagstaff Court House	6.40					
Zone C (35-100 mi. & over from Flagstaff Court House)	7.15					
Zone D (100 miles & over from Flagstaff Court House)	7.40					
Brush, steel & bridge						
Zone A	6.15					
Zone B	6.55					
Zone C	7.30					
Zone D	7.55					
Spray, Steel & bridge						
Zone A	6.65					
Zone B	7.15					
Zone C	7.80					
Zone D	8.05					
PAINTERS: (Phoenix Area)						
Brush						
Zone A (0-40 miles from Phoenix Court House; Mesa; & incl. Williams & Luke Fields)	6.25	.275	.20	.15	.02	
Zone B (41-60-miles from Phoenix Court House)	7.25	.275	.20	.15	.02	
Zone C (61 miles & over from Phoenix Court House)	7.75	.275	.20	.15	.02	
Brush, steel & bridge						
Zone A	6.60	.275	.20	.15	.02	
Zone B	7.60	.275	.20	.15	.02	
Zone C	8.10	.275	.20	.15	.02	
Spray, steel & bridge						
Zone A	6.80	.275	.20	.15	.02	
Zone B	7.80	.275	.20	.15	.02	
Zone C	8.30	.275	.20	.15	.02	
PAINTERS: (Tucson Area)						
Brush						
Zone A (1-30 miles from Tucson Post Office	4.93	.24				
Zone B (31-40 miles from Tucson Post Office	5.43	.24				
Zone C (41-50 miles from Tucson Post Office)	5.68	.24				
Zone D (51-miles & over from Tucson Post Office)	5.93	.24				

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	O
PAINTERS: (Tucson Area) (CONT'D)						
Brush, steel & bridge						
Zone A	6.13	.24				
Zone B	6.63	.24				
Zone C	6.88	.24				
Zone D	7.13	.24				
Spray, steel & bridge						
Zone A	6.63	.24				
Zone B	7.13	.24				
Zone C	7.38	.24				
Zone D	7.63	.24				
PAINTERS: (Yuma Area)						
Brush						
Zone I (Radius of 30 miles from the Courthouse of Yuma)	5.85					
Zone II (From outside edge of Yuma Zone I, 31 miles up to & incl. 50 miles from the Courthouse of Yuma)	6.16					
Zone III (From outside edge of Yuma Zone II, 51 miles & over from Courthouse of Yuma)	6.66					
Brush, steel & bridge						
Zone I	6.10					
Zone II	6.41					
Zone III	6.91					
Spray, steel & bridge						
Zone I	6.50					
Zone II	6.81					
Zone III	7.31					

Northern area of Arizona

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
LABORERS:						
GROUP I						
ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool Diggers and Installers; Chat Box Man; Checker, Tool Dispatcher; Concrete Dump Man-belt, Pipe and/or Hoseman; Dumpman and/or Spotter; Fence Builder, Guard Rail Builder Hwy.; Form Strippers; Labor, General or Construction; Landscape Gardener & Nurseryman; Packing Rod Steel and Pans; Rip Rap Stone man	$6.605	.30	.45		.05	
GROUP II						
CEMENT FINISHER TENDER; Concrete curer (Impervious membrane); Cutting Torch Operator; Fine Grader (Highway, Engineering and Sewer Work only); Kettleman - Tarman; Power Type Concrete Buggy	6.715	.30	.45		.05	
GROUP III						
BANDER; CHUCKTENDER (except Tunnel); Creosote Tieman; Guinea Chaser; Powderman Helper; Rip-Rap Stone Paver; Sandblaster (Pot Tender); Spikers & Wrenchers	6.825	.30	.45		.05	
GROUP IV						
CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain Saw Machines (on clearing and grubbing); Concrete Vibrating Machines; Cribber and Shorer (except Tunnel); Floor Sanders - Concrete; Hydraulic Jacks, and similar mechanical tools not separately herein classified; Operators and Tenders of Pneumatic and electric tools; Pipe Caulker and/or Backup Man (pipeline); Pipe Wrapper; Pneumatic Gopher; Rigger/signalman (pipeline)	6.905	.30	.45		.05	

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Northern area of Arizona

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
LABORERS (CONT'D)						
GROUP V						
AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt Rakers and Ironers; Driller; Grade Setter (pipeline); Hand Guided Trencher and Similar Operated Equipment; Jackhammer and/or Pavement Breakers; Pipe Layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock Slinger; Scaler (using Bos'ns Chair of Safety Belt); Tampers (mechanical - all types)	$ 7.045	.30	.45		.05	
GROUP VI						
CONCRETE CUTTING TORCH; CONCRETE SAW (Hand guided); Driller (Core, Diamond, Wagon or Air Track); Drill Doctor and/or Air Tool Repairman; Gunman and Mixerman (Gunite); Sandblaster (Nozzleman)	7.35	.30	.45		.05	
GROUP VII						
CONCRETE ROAD FORM SETTER; Gunite Nozzleman or Rodman; Drillers, Joy Mustang, PR 143,2200 Gardner-Denver, Hydrasonic; Powder Man; Scaler (Drillers); Welders and/or Pipe Layers installing process piping	7.86	.30	.45		.05	
MASON TENDERS	7.21	.30	.45		.05	
PLASTERERS' TENDERS	7.525	.30	.45		.05	
Employees working underground shall receive twenty cents (20¢) per hour additional above the regular rate, except where herein specifically covered						
Laborers employed where they may have a free fall over thirty (30) feet or on construction scaffolds above thirty (30) feet or Bos'n Chair above thirty (30) feet, or where gas masks are necessary, shall receive fifty cents (50¢) per hour in addition to their regular rate, except where inherent in classifications.						

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LABORERS: CONT'D	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
TUNNEL AND SHAFT WORKERS						
GROUP I						
BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete Crew (includes Rodders and Spreaders); Grout Crew; Swamper (Brakeman and Switchmen on Tunnel Work)	$6.80	.30	.45		.05	
GROUP II						
NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic Tools (except Driller)	6.935	.30	.45		.05	
GROUP III						
GROUT GUNMAN	7.035	.30	.45		.05	
GROUP IV						
TIMBERMAN, RETIMBERMAN - wood or steel Blaster, Driller Powderman; Cherry Pickerman; Powderman - Primer House; Steel Form Raiser and Setter; Kemper and other Pneumatic Concrete Placer Operator; Miner - Finisher	7.135	.30	.45		.05	
GROUP IV - A						
MINERS - Tunnel (Hand or Machine)	7.335	.30	.45		.05	
GROUP V						
DIAMOND DRILL	7.47	.30	.45		.05	
GROUP V - A						
SHAFT AND RAISE MINER WELDER	7.67	.30	.45		.05	

Northern area of Arizona

POWER EQUIPMENT OPERATORS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP I						
Air Compressor Operator; Field Equip-Servicemen Helper; Heavy Duty Repair Helper; Heavy Duty Welder Helper; Oiler; Pump Operator	$ 7.36	.40	.50		.02	
GROUP II						
Conveyor Operator; Generator Operator-Portable; Power Grizzly Operator; Self-Propelled Chip Spreading Machine-Conveyor Operator; Watch Fireman; Welding Machine Operator-Gasoline and Diesel Power	7.66	.40	.50		.02	
GROUP III						
Concrete Mixer Operator-Skip Type; Dinky Operator-(under 20 tons wt.); Driver-moto Paver, Slurry Seal Machine, and similar type equipment; Motor Crane Driver; Power Sweeper Operator-Self-propelled; Ross Carrier or Fork Lift Operator; Skip Loader Operator-all types with rated capacity 1½ cu. yds. or less; Wheel type tractor Operator (Ford, Ferguson, or similar type) with attachments such as fresno, push blade, post hole auger, mower, etc., excluding compacting equipment	8.04	.40	.50		.02	
GROUP IV						
A-Frame Boom Truck or Winch Truck Operator; Asphalt Plant Firemen; Elevator Hoist Operator (including Tuskey Hoist or similar types); Grade Checker (excluding Civil Engineer); Multiple Power Concrete Saw Operator; Pavement Breaker, Mechanical Compactor Operator, power propelled; Roller Operator-all types except as otherwise classified; Screed Operator; Self-propelled Chip Spreading Machine Operator (including Slurry Seal Machine Operator) Stationary Pipewrapping and Cleaning Machine Operator; Tugger Operator	8.50	.40	.50		.02	

POWER EQUIPMENT OPERATORS: (Cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP V						
Aggregate Plant Operator (including crushing screening and sand plants, etc.); Asphalt Laydown Machine Operator, Asphalt Plant Mixer Operator; Beltcrete Machine; Boring Machine Operator; Concrete Mechanical Tamping, spreading or finishing Machine (incl. Clary, Johnson or similar types); Concrete Pump Operator; Concrete Batch Plant Operator, all types & sizes Conductor, Brakeman, or Handler; Elevating Grader Operator-all types and sizes (except as otherwise classified); Field Equipment Serviceman; Highline Cableway Signalman; Kolman Belt Loader op. or similar type, w/belt width 48" or over; Locomotive Engineer (including Dinky-20 tons weight and over); Moto-paver and similar type equipment Operator; Operating Engineer Rigger; Pneumatic-tired Scraper Op. (Turnapull, Euclid, Cat, D-W, Hancock & similar equipment) up to & incl. 12 cu. yds.; Power Jumbo Form Setter Operator; Pressure Grout Machine Op. (as used in heavy engineering construction); Road Oil Mixing Machine Operator; Roller Operator-on all types asphalt pavement; Self-propelled Compactor, with blade; Skip Loader Operator-all types with rated capacity over 1½, but less than 4 cu. yds.; Slip Form Operator (Power driven lifting device for concrete forms); Soil Cement Road Mixing Machine Operator-single pass type; Stationary Central Generating Plant Operator-rated 300 k.w. or more; surface Heater and Planer Operator; Traveling Pipewrapping Machine Operator	8.94	.40	.50		.02	

POWER EQUIPMENT OPERATORS: (Cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP V-A						
Heavy Duty Mechanic and/or Welder; Pneumatic tired scraper, all sizes & types over 12 cu. yds. up to & incl. 45 cu. yds. MRC (Turnapull, Euclid, Cat D-W Hancock, and similar equipment); Tractor Operator (Pusher, Bulldozer, Scraper) up to 400 net horsepower rating; Trenching Machine Op.	9.18	.40	.50		.02	
GROUP VI						
Auto-Grade Machine (CMI and similar equipment); Boring Machine Operator (including Mole, Badger and similar type); Concrete Mixer Operator-Paving type, and Mobile Mixer; Concrete Pump Operator with boom attachment (Truck Mounted); Crane Operator-Crawler and Pneumatic type, under 100 ton capacity MRC; Crawler type tractor Operator-with boom attachment; Derrick Operator; Forklift Op. for hoisting personnel; Grade-all operator; Helicopter Hoist; Highline Cableway Op. (less than 20 tons rated capacity); Mass Excavator Op. (150 Bucyrus Erie & similar types); Mechanical Hoist Operator (two or more drums); Motor Grade Operator-any type power blade; Motor Grader Operator with elevating Grader Attachment; Mucking Machine Operator; Overhead Crane Operator; Piledriver Engineer (portable, stationary or skid rig); Pneumatic-tired Scraper Op. - all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment over 45 cu. yds. MRC); Power Driven Ditch Lining or Ditch Trimming Machine Operator; Skip Loader Operator-all types with rated capacity 4 cu. yds. but less than 8 cu. yds.; Slip Form Paving Machine Op. (including Gunnert, Zimmerman & similar types); Specialized Power Digger Op.-attached to wheel-type tractor; Tower Crane (or similar type) Op.; Tractor Op. (pusher, Bulldozer,, Scraper) 400 net horsepower and over; Tugger Op. (two or more);						

POWER EQUIPMENT OPERATORS: (Cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP VI (Cont'd)						
Universal Equipment Op.-Shovel, Backhoe, Dragline, Clam-shell, etc., up to 8 cu. yds.	9.48	.40	.50		.02	
GROUP VII						
Crane Operator - Pneumatic or Crawler (100 ton hoisting capacity and over MRC rating); Helicopter Pilot - FAA qualified when used in construction work; Highline Cableway Op., over 20 ton rated capacity and using traveling head and tail tower; Remote - Control Earth Moving Equipment Operator; Skip Loader Operator - all types with rated capacity of 8 cu. yds or more; Universal Equipment - Shovel, Backhoe, Dragline, Clamshell, etc., 8 cu. yds. and over	9.98	.40	.50		.02	
MULTIPLE-UNIT EARTH MOVING EQUIPMENT:						
Tractor Operator-Pneumatic-tired or track type, two units-fifty cents (50¢) per hour more than the base single-unit rate established in Group V, Group V-A, or Group VI, and one dollar ($1.00) per hour for each additional unit.						
All Operators, Oiler, & Motor Crane Drivers on equipment with booms of 80 & over, incl. jib shall receive .0075 (3/4 of a cent) per foot per hour premium pay additional to the regular rate of pay.						
Oiler shall be required on all track or crawler-type cranes, backhoes, shovels, clamshells, draglines, gradalls, etc.						
Oiler drivers shall be required on all truck mounted or self-propelled excavating and/or hoisting equipment having the configuration for two men.						

Northern area of Arizona

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
TRUCK DRIVERS:						
GROUP I						
PICKUP; STATION WAGON; TEAMSTERS	$6.745	.30	.45		.02	
GROUP II						
BUGGYMOBILE, 1 C.Y. OR LESS; Bulk Cement Spreader (2 or 3 Axle); Bus Driver; Dump (2 or 3 Axle); Flatrack (2 or 3 Axle); Water (under 2500 gal.)	6.855	.30	.45		.02	
GROUP III						
BULK CEMENT SPREADER (4 AXLE); Dump (4 Axle); Dumptor or Dumpster, less than 7 c.y.; Flatrack (4 Axle); Water (2500 gal. but less than 4000 gal.)	7.015	.30	.45		.02	
GROUP IV						
BULK CEMENT SPREADER (5 AXLE); Dump (5 Axle); Dumptor or Dumpster, 7 c.y. but less than 16 c.y.; Flaherty Spreader or similar type equipment or Leverman; Flatrack (5 Axle); Slurry-Type Equipment or Leverman; Transit Mix, 8 c.y. or less mixer capacity	7.305	.30	.45		.02	
GROUP V						
BULK CEMENT SPREADER (6 Axle); Dump (6 Axle); Flatrack (6 Axle); Rock Truck (Dart, Euclid and other similar type end dumps, single unit) less than 16 c.y.	7.435	.30	.45		.02	
GROUP V - A						
OIL TANKER OR SPREADER TRUCK DRIVER and/or Bootman, Retortman or Leverman	7.575	.30	.45		.02	
GROUP VI						
BULK CEMENT SPREADER (7 Axle); Concrete Pump Truck Driver, (when integral part of transit mix truck); Dump (7 Axle); Flatrack (7 Axle);						

TRUCK DRIVERS: (CONT'D)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP VI (CONT'D)						
Hydro Lift, Swedish Crane, Iowa 300 and similar types; Ross Carrier Fork Lift or Lift Truck; Transit Mix, over 10.5 c.y. but less than 14 c.y. mixer capacity	$7.685	.30	.45		.02	
GROUP VII						
BULK CEMENT SPREADER (8 AXLE); Dump (8 Axle); Flatrack (8 Axle)	8.025	.30	.45		.02	
GROUP VIII						
OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat DW series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tanks, or other Teamsters classifications; Bulk Cement Spreader (9 Axle); Dump (9 Axle); Dumptor or Dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 Axle); Rock Truck (Dart, Euclid, or other similar end dump types) 16 c.y. and over	8.44	.30	.45		.02	
HEAVY DUTY MECHANIC/WELDER	9.30	.30	.45		.02	
HEAVY DUTY MECHANIC/WELDER HELPER	7.48	.30	.45		.02	
FIELD EQUIPMENT SERVICEMAN or Fuel Truck Driver	9.06	.30	.45		.02	
Combination Man - 30¢ over the highest rated work						
Multiple-unit equipment driver - two units 50¢ per hour more than the base single unit rate established in Group 8 above; and $1.00 per hour for each additional unit						

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(1-3)

Central & Southern areas of Arizona

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
LABORERS:						
GROUP I						
ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool Diggers and Installers; Chat Box Man; Checker, Tool Dispatcher; Concrete Dump Man-belt, Pipe and/or Hoseman; Dumpman and/or Spotter; Fence Builder, Guard Rail Builder Hwy.; Form Strippers; Labor, General or Construction; Landscape Gardener & Nurseryman; Packing Rod Steel and Pans; Rip Rap Stone man	$5.23	.30	.45		.05	
GROUP II						
CEMENT FINISHER TENDER; Concrete curer (Impervious membrane); Cutting Torch Operator; Fine Grader (Highway, Engineering and Sewer Work only); Kettleman - Tarman; Power Type Concrete Buggy	5.34	.30	.45		.05	
GROUP III						
BANDER; CHUCKTENDER (except Tunnel); Creosote Tieman; Guinea Chaser; Powderman Helper; Rip-Rap Stone Paver; Sandblaster (Pot Tender); Spikers & Wrenchers	5.45	.30	.45		.05	
GROUP IV						
CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain Saw Machines (on clearing and grubbing); Concrete Vibrating Machines; Cribber and Shorer (except Tunnel); Floor Sanders - Concrete; Hydraulic Jacks, and similar mechanical tools not separately herein classified; Operators and Tenders of Pneumatic and electric tools; Pipe Caulker and/or Backup Man (pipeline); Pipe Wrapper; Pneumatic Gopher; Rigger/signalman (pipeline)	5.53	.30	.45		.05	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
GROUP V						
AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt Rakers and Ironers; Driller; Grade Setter (pipeline); Hand Guided Trencher and Similar Operated Equipment; Jack-hammer and/or Pavement Breakers; Pipe Layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock Slinger; Scaler (using Bos'ns Chair of Safety Belt); Tampers (mechanical - all types)	$5.67	.30	.45		.05	
GROUP VI						
CONCRETE CUTTING TORCH; CONCRETE SAW (Hand guided); Driller (Core, Diamond, Wagon or Air Track); Drill Doctor and/or Air Tool Repairman; Gunman and Mixerman (Gunite); Sandblaster (Nozzleman)	5.975	.30	.45		.05	
GROUP VII						
CONCRETE ROAD FORM SETTER; Gunite Nozzleman or Rodman; Drillers, Joy Mustang, PR 143,2200 Gardner-Denver, Hydrasonic; Powder Man; Scaler (Drillers); Welders and/or Pipe Layers installing process piping	6.485	.30	.45		.05	
MASON TENDERS	5.835	.30	.45		.05	
PLASTERERS' TENDERS	6.15	.30	.45		.05	
Employees working underground shall receive twenty cents (20¢) per hour additional above the regular rate, except where herein specifically covered						
Laborers employed where they may have a free fall over thirty (30) feet or on construction scaffolds above thirty (30) feet or Bos'n Chair above thirty (30) feet, or where gas masks are necessary, shall receive fifty cents (50¢) per hour in addition to their regular rate, except where inherent in classifications.						

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
TUNNEL AND SHAFT WORKERS						
GROUP I						
BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete Crew (includes Rodders and Spreaders); Grout Crew; Swamper (Brakeman and Switchmen on Tunnel Work):	$5.425	.30	.45		.05	
GROUP II						
NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic Tools (except Driller)	5.56	.30	.45		.05	
GROUP III						
GROUT GUNMAN	5.66	.30	.45		.05	
GROUP IV						
TIMBERMAN, RETIMBERMAN - wood or steel Blaster, Driller Powderman; Cherry Pickerman; Powderman - Primer House; Steel Form Raiser and Setter; Kemper and other Pneumatic Concrete Placer Operator; Miner - Finisher	5.76	.30	.45		.05	
GROUP IV - A						
MINERS - Tunnel (Hand or Machine)	5.96	.30	.45		.05	
GROUP V						
DIAMOND DRILL	6.095	.30	.45		.05	
GROUP V - A						
SHAFT AND RAISE MINER WELDER	6.295	.30	.45		.05	

Central & Southern areas of Arizona

POWER EQUIPMENT OPERATORS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Group I Air Compressor Operator; Field Equip-Servicemen Helper; Heavy Duty Repair Helper; Heavy Duty Welder Helper; Oiler; Pump Operator	$ 5.98	.40	.50		.02	
GROUP II Conveyor Operator; Generator Operator-Portable; Power Grizzly Operator; Self-Propelled Chip Spreading Machine-Conveyor Operator; Watch Fireman; Welding Machine Operator-Gasoline and Diesel Power	6.28	.40	.50		.02	
GROUP III Concrete Mixer Operator-Skip Type; Dinky Operator-(under 20 tons wt.); Driver-moto Paver, Slurry Seal Machine, and similar type equipment; Motor Crane Driver; Power Sweeper Operator-Self-propelled; Ross Carrier or Fork Lift Operator; Skip Loader Operator-all types with rated capacity 1½ cu. yds. or less; Wheel type tractor Operator (Ford, Ferguson, or similar type) with attachments such as fresno, push blade, post hole auger, mower, etc., excluding compacting equipment	6.68	.40	.50		.02	
GROUP IV A-Frame Boom Truck or Winch Truck Operator; Asphalt Plant Firemen; Elevator Hoist Operator (including Tuskey Hoist or similar types); Grade Checker (excluding Civil Engineer); Multiple Power Concrete Saw Operator; Pavement Breaker, Mechanical Compactor Operator, power propelled; Roller Operator-all types except as otherwise classified; Screed Operator; Self-propelled Chip Spreading Machine Operator (including Slurry Seal Machine Operator) Stationary Pipe-wrapping and Cleaning Machine Operator; Tugger Operator	7.12	.40	.50		.02	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP V						
Aggregate Plant Operator (including crushing screening and sand plants, etc.); Asphalt Laydown Machine Operator; Asphalt Plant Mixer Operator; Beltcrete Machine; Boring Machine Operator; Concrete Mechanical Tamping, spreading or finishing Machine (incl. Clary, Johnson or similar types); Concrete Pump Operator; Concrete Batch Plant Operator, all types & sizes; Conductor, Brakeman, or Handler; Elevating Grader Operator-all types and sizes (except as otherwise classified); Field Equipment Serviceman; Highline Cableway Signalman; Kolman Belt Loader op. or similar type, w/belt width 48" or over; Locomotive Engineer (including Dinky-20 tons weight and over); Moto-paver and similar type equipment Operator; Operating Engineer Rigger; Pneumatic-tired Scraper Op. (Turnapull, Euclid, Cat, D-W, Hancock & similar equipment) up to & incl. 12 cu. yds.; Power Jumbo Form Setter Operator; Pressure Grout Machine Op. (as used in heavy engineering construction); Road Oil Mixing Machine Operator; Roller Operator-on all types asphalt pavement; Self-Propelled Compactor, with blade; Skip Loader Operator-all types with rated capacity over 1½ but less than 4 cu. yds.; Slip Form Operator (Power driven lifting device for concrete forms); Soil Cement Road Mixing Machine Operator-single pass type; Stationary Central Generating Plant Operator-rated 300 k.w. or more; surface Heater and Planer Operator; Traveling Pipewrapping Machine Operator	7.56	.40	.50		.02	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP V-A						
Heavy Duty Mechanic and/or Welder; Pneumatic tired scraper, all sizes & types over 12 cu. yds. up to & incl. 45 cu. yds. MRC (Turnapull, Euclid, Cat D-W Hancock, and similar equipment); Tractor Operator (Pusher, Bulldozer, Scraper) up to 400 net horsepower rating; Trenching Machine Op.	7.82	.40	.50		.02	
GROUP VI						
Auto-Grade Machine (CMI and similar equipment); Boring Machine Operator (including Mole, Badger and similar type); Concrete Mixer Operator-Paving type, and Mobile Mixer; Concrete Pump Operator with boom attachment (Truck Mounted); Crane Operator-Crawler and Pneumatic type, under 100 ton capacity MRC; Crawler type tractor Operator-with boom attachment; Derrick Operator; Forklift op. for hoisting personnel; Grade-all operator; Helicopter Hoist; Highline Cableway Op. (less than 20 tons rated capacity); Mass Excavator Op. (150 Bucyrus Erie & similar types); Mechanical Hoist Operator (two or more drums); Motor Grade Operator-any type power blade; Motor Grader Operator with elevating Grader Attachment; Mucking Machine Operator; Overhead Crane Operator; Piledriver Engineer (portable, stationary or skid rig); Pneumatic-tired Scraper Op.- all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment over 45 cu. yds. MRC); Power Driven Ditch Lining or Ditch Trimming Machine Operator; Skip Loader Operator-all types with rated capacity 4 cu. yds. but less than 8 cu. yds.; Slip Form Paving Machine Op. (including Gunnert, Zimmerman & similar types); Specialized Power Digger Op. - attached to wheel-type tractor; Tower Crane						

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
(or similar type) Op.; Tractor Op. (pusher, Bulldozer, Scraper) 400 net horsepower and over; Tugger Op. (two or more); Universal Equipment Op.-Shovel, Backhoe, Dragline, Clam-shell, etc., up to 8 cu. yds.	8.10	.40	.50		.02	
GROUP VII Crane Operator - Pneumatic or Crawler (100 ton hoisting capacity and over MRC rating); Helicopter Pilot - FAA qualified when used in construction work; Highline Cableway Op., over 20 ton rated capacity and using traveling head and tail tower; Remote Control Earth Moving Equipment Operator; Skip Loader Operator - all types with rated capacity of 8 cu. yds. or more; Universal Equipment - Shovel, Backhoe, Dragline, Clamshell, etc., 8 cu. yds. and over	8.60	.40	.50		.02	
MULTIPLE-UNIT EARTH MOVING EQUIPMENT: Tractor Operator-Pneumatic-tired or track type, two units-fifty cents (50¢) per hour more than the base single-unit rate established in Group V, Group V-A, or Group VI, and one dollar ($1.00) per hour for each additional unit.						
All Operators, Oiler, & Motor Crane Drivers on equipment with booms of 80 & over, incl. jib shall receive .0075 (3/4 of a cent) per foot per hour premium pay additional to the regular rate of pay.						
Oiler shall be required on all track or crawler-type cranes, backhoes, shovels, clamshells, draglines, gradalls, etc.						
Oiler drivers shall be required on all truck mounted or self-propelled excavating and/or hoisting equipment having the configuration for two men.						

Central & Southern areas of Arizona

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
TRUCK DRIVERS:						
GROUP I						
PICKUP; STATION WAGON; TEAMSTERS	$5.37	.30	.45		.02	
GROUP II						
BUGGYMOBILE, 1 C.Y. OR LESS; Bulk Cement Spreader (2 or 3 Axle); Bus Driver; Dump (2 or 3 Axle); Flatrack (2 or 3 Axle); Water (under 2500 gal.)	5.48	.30	.45		.02	
GROUP III						
BULK CEMENT SPREADER (4 AXLE); Dump (4 Axle); Dumptor or Dumpster, less than 7 c.y.; Flatrack (4 Axle); Water (2500 gal. but less than 4000 gal.)	5.64	.30	.45		.02	
GROUP IV						
BULK CEMENT SPREADER (5 AXLE); Dump (5 Axle); Dumptor or Dumpster, 7 c.y. but less than 16 c.y.; Flaherty Spreader or similar type equipment or Leverman; Flatrack (5 Axle); Slurry-Type Equipment or Leverman; Transit Mix, 8 c.y. or less mixer capacity	5.93	.30	.45		.02	
GROUP V						
BULK CEMENT SPREADER (6 Axle); Dump (6 Axle); Flatrack (6 Axle); Rock Truck (Dart, Euclid and other similar type end dumps, single unit) less than 16 c.y.	6.06	.30	.45		.02	
GROUP V - A						
OIL TANKER OR SPREADER TRUCK DRIVER and/or Bootman, Retortman or Leverman	6.20	.30	.45		.02	
GROUP VI						
BULK CEMENT SPREADER (7 Axle); Concrete Pump Truck Driver, (when integral part of transit mix truck); Dump (7 Axle); Flatrack (7 Axle);						

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Hydro Lift, Swedish Crane, Iowa 300 and similar types; Ross Carrier Fork Lift or Lift Truck; Transit Mix, over 10.5 c.y. but less than 14 c.y. mixer capacity	6.31	.30	.45		.02	
GROUP VII						
BULK CEMENT SPREADER (8 AXLE); Dump (8 Axle); Flatrack (8 Axle)	6.65	.30	.45		.02	
GROUP VIII						
OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat DW series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tanks, or other Teamsters classifications; Bulk Cement Spreader (9 Axle); Dump (9 Axle); Dumptor or Dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 Axle); Rock Truck (Dart, Euclid, or other similar end dump types) 16 c.y. and over	7.065	.30	.45		.02	
HEAVY DUTY MECHANIC/WELDER	7.94	.30	.45		.02	
HEAVY DUTY MECHANIC/WELDER HELPER	6.10	.30	.45		.02	
FIELD EQUIPMENT SERVICEMAN or Fuel Truck Driver	7.68	.30	.45		.02	
Combination Man - 30¢ over the highest rated work						
Multiple-unit equipment driver - two units 50¢ per hour more than the base single unit rate established in Group 8 above; and $1.00 per hour for each additional unit						

SUPERSEDEAS DECISION

STATE: Idaho

COUNTIES: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone

DECISION NUMBER: AP-204

DATE: July 28, 1972

Supersedes Decision No. AM-6,732 Dated June 2, 1972 in 37 FR 11131

DESCRIPTION OF WORK: Building Construction(excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS (That portion of Idaho Co. south of the 46th parallel)	7.71	.35	.42			
ASBESTOS WORKERS (Remainder of Counties and that portion of Idaho Co. north of the 46th parallel)	8.15	.25	.37			
BOILERMAKERS	6.70	.30	.70	.45	.02	
BOILERMAKERS' HELPERS	6.40	.30	.70	.45	.02	
BRICKLAYERS; Stonemasons (Idaho, Clearwater, Latah, Lewis and Nez Perce Counties)	6.41	.20				
BRICKLAYERS; Stonemasons (Remainder of counties)	6.46	.15				
CARPENTERS (That portion of Idaho Co. south of the 46th parallel)						
Carpenters; Floor Layer; Shingler; Drywall Applicator and installer of metal studs, metal framing, accoustical material, metal partition, porcelain and enamel and metal panels, marlite and rigid or flexible plastic laminates, weatherstripping and insulation	6.02	.22	.20	.20	.10	
Saw Filer; Stationary Machine; Piledriverman; Bridgeman and Wharf Builder	6.19	.22	.20	.20	.10	
Millwrights; Machine Erector; Piledriverman's Boom Man	6.31	.22	.20	.20	.10	
CARPENTERS (Remainder of Counties and that portion of Idaho County north of the 46th parallel)						
Carpenters	6.54	.40	.35		.025	
Piledriver; Sawfilers; Stationary Power Woodworking Tool Op.; Floor Layer; Floor Finisher; Floor Sander	6.69	.40	.35		.025	
Shingler (wood and composition)	6.74	.40	.35		.025	
Carpenters working burned, charred, creosoted or similarly treated material; Millwrights; Boommen and Machine Erector	6.79	.40	.30		.025	
Piledriver working on creosoted material	6.94	.40	.35		.025	
CEMENT MASONS (That portion of Idaho County south of the 46th parallel)						
Cement Masons	$5.88	.22	.10	.10	.10	
Power Trowel; Power Grinder; Gunnite and composition Floorlayer	6.05	.22	.10	.10	.10	
CEMENT MASONS (Remainder of Counties and that portion of Idaho County north of the 46th parallel)						
Cement Masons	6.60	.20	.20		.01	
Gunnite; Power Machine; Power Tools; Power Troweling Machine; Troweling Magnesite or other material with oxichloride base	6.75	.20	.20			
ELECTRICIANS						
Electricians; Technicians	7.53	.25	1%		.02	
Cable Splicers	7.93	.25	1%		.02	
ELEVATOR CONSTRUCTORS (That portion of Idaho County south of the 46th parallel)						
Elevator Constructors	6.16	.185	.20	2% + a		
Elevator Constructors' Helpers	70%JR	.185	.20	2% + a		
Elevator Constructors' Helpers (Prob.)	50%JR					
ELEVATOR CONSTRUCTORS (Remainder of counties and that portion of Idaho County north of the 46th parallel)						
Elevator Constructors	6.53	.185	.20	2% + a		
Elevator Constructors' Helpers	70%JR	.185	.20	2% + a		
Elevator Constructors' Helpers (Prob.)	50%JR					
GLAZIERS (That portion of Idaho Co. south of the 46th parallel)	5.85	.21	.10	.21		
GLAZIERS (Remainder of Counties and that portion of Idaho County north of the 46th parallel)	5.68	.16	.15	b		
IRONWORKERS						
Reinforcing	6.72	.43	.27		.01	
Fence Erectors-Ornamental-Structural	6.83	.43	.27		.01	
LATHERS (All Counties except Idaho County south of the 46th parallel)	7.04	.20				
MARBLE SETTERS (Idaho, Clearwater, Latah, Lewis, Nez Perce Counties)	6.41	.20				
MARBLE SETTERS (Remainder of counties)						
Inside	6.06	.15				
Outside	6.46	.15				
MARBLE SETTERS' HELPERS	5.35	.15				

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS (That portion of Idaho County south of the 46th parallel)						
Brush; Paperhangers; Preparatory work Spray Gun; Sandblasting; Pot Tender; Toxic Chemicals but not restricted to such material as bitumastic; Rollers, pressure	6.17	.16	.10			
Brush, steel; Bridges; Towers; tanks on legs; Steeples incl. pipes and conduit attached	5.80	.16	.10			
Sign Painters	5.82	.16	.10			
PAINTERS (Remainder of Counties and that portion of Idaho County north of the 46th parallel)						
Brush Spray; Steel; Steam Cleaning; Rollers 9" or 10' handle; Finish Drywall Tapers	6.67	.21	.35		.01	
Swing Stage & over 30' high	6.92	.21	.35		.01	
Bitumastic; Sand Blast.; Bridges; Towers; Stacks; Steeples; Tanks on legs	7.02	.21	.35		.01	
T. V. Radio & Electric Transmission Towers	7.07	.21	.35		.01	
PLASTERERS	7.42	.21	.35		.01	
PLASTERERS' TENDERS	7.04	.20				
PLUMBERS; Steamfitters (That portion of Idaho County south of the 46th parallel)	5.25	.25	.25		.02	
PLUMBERS; Steamfitters (Remainder of Counties and that portion of Idaho County north of the 46th parallel)	6.58	.28	.30		.05	
ROOFERS (That portion of Idaho County south of the 46th parallel)	6.65	.26	.30	.41	.06	
ROOFERS (Benewah, Bonner, Boundary, Kootenai, & Shoshone Counties):	5.85	.13	.15			
Roofers	6.20	.30	.15	.50		
Roofers working with pitch products	7.20	.30	.15	.50		
ROOFERS (Remaining Counties and that portion of Idaho County north of the 46th parallel):						
Kettlemen; Roofers; Waterproofers	6.25		.05			
Roofers working with irritable bituminous materials	6.90		.05			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
SHEET METAL WORKERS (Idaho County)	6.43	.22	.20	.40		
SHEET METAL WORKERS (Remainder of counties)	6.50	.22	.30			
SOFT FLOOR LAYERS (Clearwater, Latah, Lewis and Nez Perce Counties)	4.92	.12		b		
SPRINKLER FITTERS	7.95	.25	.40		.05	
TERRAZZO WORKERS; Tile Setters (Clearwater, Idaho, Latah, Lewis, and Nez Perce Counties)	6.41	.20				
TERRAZZO WORKERS; Tile Setters (Remainder of Counties)	6.33	.15				
TERRAZZO WORKERS' HELPERS	5.35	.15				
TILE SETTERS' HELPERS	5.85					
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.						

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 credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to Vacation Plan. Six Paid Holidays: A through F.

b. Employees who have completed 1800 compensable hours of employment with one employer in a year of employment shall receive 1 week's vacation with full pay; Pro-rate vacation shall accrue in accordance with the ratio of hours worked in one year of employment divided by 1800 hours multiplied by one week's full pay.

1-IDA-SIDA-LAB-1-2-3-J (1-2)

(That portion of Idaho County south of the 46th parallel)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LABORERS						
LABORERS (That portion of Idaho County south of the 46th parallel:)						
Group 1						
GENERAL LABORERS, Sloper, Clearing and Grading, Form Stripper, Concrete Crew, Concrete Curing Crew, Carpenter Tender, Asphalt Laborer, Hopper Tender, Heater Tender, Stake Jumper, Choker Setter, Spreader and Weighman, Power Wheelbarrow, Scouring Concrete, Rip Rap Man (hand placed), Fence Erector and Installer - manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers), Crusher Helper, Cribbing and Shoring (in open ditches), Machinery and Parts Cleaner, Leverman - Manual or Mechanical, Demolition - Salvage, Landsceper, Tool Room Man	4.57	.30	.25		.10	
Group 2						
CHUCK TENDER, Driller Helper, Air Tampers, Gunite Nozzleman Tender, Pipe Wrapper, Tar Pot Tender, Concrete Sawyer, Signalman, Handling Cement, Dumpman, Steam Nozzleman, Air and Water Nozzleman (Green cutter, concrete) Grade Checker, Vibrator (less than 4"), Pumpcrete and Grout Pump Crew, Hydraulic Monitor	4.67	.30	.25		.10	
Group 3						
PIPELAYER including sewer, drainage, sprinkler systems and water lines, Free Air Caisson, Jackhammer, Paving Breaker, Powderman Helper, Asphalt Raker, Gasoline Powered Tamper, Electric Ballast Tamper, Sand Blasting, Form Setter - Airport Paving, Gunman (Gunite), Manhole Setter, Hand Guided Machines, such as Rotor Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc., Form Setter (Highway Curb and Gutter), Vibrator (4" and over), Timber Faller and Bucker, Metal Pan Installer	4.77	.30	.25		.10	

1-IDA-SIDA-LAB-1-2-3-J (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LABORERS (CONT'D)						
Group 4						
HOD CARRIER, Mason Tender Plaster Tender, Mason Tender (Concrete), Terrazzo-Tile Tender	4.87	.30	.25		.10	
Group 5						
HIGHSCALER, Wagon Drill, Gunite Nozzleman, Diamond Drill	4.92	.30	.25		.10	
Group 6						
DRILLERS on Drills with manufacturers rating 3" or over, Powderman	5.17	.30	.25		.10	
Group 7 (Underground)						
REBOUNDMAN, Chucktender, Nipper, Dumpman, Vibrator, Brakeman, Muckers, Bullgang	4.72	.30	.25		.10	
Group 8 (Underground)						
FORM SETTER and Mover	4.87	.30	.25		.10	
Group 9 (Underground)						
MINERS, Machinemen, Timbermen, Steelmen, Drill Doctors, Spaders and Tuggers, Spiling and/or Caisson Workers	5.17	.30	.25		.10	

(Remainder of Counties and that portion of Idaho County north of the 46th parallel)

2-IDA-NIDA-LAB-1-2-3-d (1-3)

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I Carpenters tenders; Concrete crewman, To include: Stripping of forms, hand operating jacks on slip form construction, application of concrete curing compounds, pumpcrete machine, signaling, handling the nozzle of squeezecrete or similar machine - 6 inches and smaller; Concrete signalman; Crusher feeder; Demolition, To include: Clean-up burning, loading, wrecking and salvage of all material; Driller Helper; Dumpman; Fence erector, To include: Guard rails, guide and reference posts, sign posts, and right-of-way markers; General laborer; Grout machine header tender; Nipper; Riprap man; Scalemen; Stake jumper; Structural mover, To include: Separating foundation, preparation, cribbing shoring, jacking, and unloading of structure; Tailhouseman (water nozzle); Track laborer (RR); Truck loader; Timber bucker & faller, by hand; Window cleaner, To include: Prior to complotion of construction	$4.75	.25	.25		.02	
GROUP II Cement finisher tender; Cement handler; Demolition torch; Dope pot fireman, non-mechanical; Form cleaning machine, feeder. stacker; Form setter, paving; Grade checker using level, optional; Nozzleman, water & air or steam; Pipelayer, corrugated metal culvert; Pipewrapper; Pot tender; Powderman Helper; Power tool op: gas, electric, pneumatic; Railroad equipment, power driven; Rodder & spreader; Sandblast tailhose man; Scaffold erector, wood or steel; Vibrator up to 4"; Wellpoint man; Wheelbarrow, power driven.	4.90	.25	.25		.02	

2-IDA-NIDA-LAB-1-2-3-d (2-3)

LABORERS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP III Asphalt raker; Asphalt roller, walking; Chain saw op. with attachments; Concrete saw, walking; Creosote material, To include: Handling creosote material and application of corrosive enamel or similar material; High scaler; Jackhammer op.; Multi-section pipelayer; Nozzleman, To include: Squeeze and flo-crete nozzle over 6 inches; Pavement breaker; Tamper, To include: Operation of Barco, Essex and similar tampers and pavement breakers; Trencher, shawnee; Vibrator, 4" & over; Wagon drills; Water pipe liner.	$5.00	.25	.25		.02	
GROUP IV Pipelayer, To include: Caulker, collarman, jointer, mortarman, rigger, jacker, shorer and lagger but does not include laying corrugated metal culvert pipe	5.05	.25	.25		.02	
GROUP V Concrete stack, To include: Laborers when working on free standing concrete stacks for smoke or fume control above 40 feet high; Hod carriers; Mortar mixers	5.10	.25	.25		.02	
GROUP VI Caisson worker, free air	5.15	.25	.25		.02	
GROUP VII Brush machine, To include: Horizontal construction joint clean-up brush machine, power propelled; Drills, To include: Down-the-hole drills with 3¾ inch piston or larger and out-of-the-hole drills with 4½ inch piston or larger; Gunnite, To include: Operation of machine and nozzle; Monitor op., a air track or similar mounting; Nozzleman, To include: Jet blasting nozzleman over 1200 pounds, jet blast machine power propelled, sandblast nozzle; Powderman	5.20	.25	.25		.02	

LABORERS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP VIII						
Air track drills with dual masts & drills	$5.40	.25	.25		.02	
TUNNEL & SHAFT, FREE AIR						
GROUP IX						
Class A:						
Bull gang, pump crete crewman incl. distributing pipe, assembling & dismantle, & nipper	4.80	.25	.25		.02	
Class B:						
Brakeman, dumpman	4.85	.25	.25		.02	
Class C:						
Miner & nozzleman for concrete	5.25	.25	.25		.02	
Class D:						
Raise & shaft miner	5.30	.25	.25		.02	
GROUP X						
Sand hogs (under compressed air conditions):						
1 lb. thru 14 lbs. -6 hrs. wrk.	50.40	.25	.25		.02	
Over 14 lbs. thru 18 lbs. - 6 hrs. wrk.	53.10	.25	.25		.02	
Over 18 lbs. thru 22 lbs. - 4 hrs. wrk.	53.10	.25	.25		.02	
Over 18 lbs. thru 22 lbs. - 6 hrs. wrk.	73.35	.25	.25		.02	
Over 22 lbs. thru 26 lbs. - 4 hrs. wrk.	57.30	.25	.25		.02	
Over 26 lbs. thru 32 lbs. - 4 hrs. wrk.	59.70	.25	.25		.02	
Over 32 lbs. thru 38 lbs. - 3 hrs. wrk.	62.40	.25	.25		.02	
Over 38 lbs. thru 44 lbs. - 2 hrs. wrk.	63.70	.25	.25		.02	
Outside lock & guage tender (per shift)	40.80	.25	.25		.02	

(That portion of Idaho County south of the 46th parallel)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Group 1						
Brakeman, Crusher, Plant Feeder (Mechanical), Deckhand, Drill Helpers, Grade Checkers, Heater Tender, Land Plane, Oilers, Pumpman	5.50	.35	.30		.10	
Group 2						
Air Compressor, Assistant Refrigeration Plant Operator, Bell Boy, Bit Grinder Operator, Blower Operator (Cement), Bolt Threader Machine Operator-Broom, Cement Hog, Concrete Mixer, Concrete Saw - Multiple Cut, Discing - Harrowing or mulching (Regardless of Motive Power), Distributor Leverman, Drill Steel Threader Machine Operator, Fireman - All, Heavy Duty Mechanic Helper or Welder Helper, Hoist - Single Drum, Hydraulic Monitor Operator - Skid Mounted, Oiler on Cranes and Shovels, Pugmixer - Box or Screed Operator, Spray Curing Machine, Tractor - Rubber Tired Form Type Using Attachments	5.66	.35	.30		.10	
Group 3						
A-Frame Truck (Hydra lift, Swedish Cranes, Ross Carrier, Hyster on Construction jobs), Battery Tunnell Locomotive, belt Finishing Machine, Cable Tenders (Underground), Chip Spreader Machine (Self-propelled), Front End and Overhead Loaders and Similar Machines under 2 Yds. - Rubber-tired, Hoist - 2 or more Drums or Tower Hoist, Hydralift - Fork Lift and Similar (When Hoisting), Oilers (Underground), Power Loader (Bucket Elevator, Conveyors), Road Roller (Regardless of Motive Power), Service Oiler.	5.83	.35	.30		.10	
Group 4						
Boring Machines (Earth or Rock) Quarrymaster - Joy - Tractor Mounted, Drills; Churn - Core - Calyx or Diamond, Front End and Overhead Loaders and Similar Machines - 2 Yds. and including 4 Yds. - Rubber-tired, Grout Pump, Hydra-hammer, Locomotive Engineer, Longitudinal Float Machine, Mixermobile, Spreader Machine, Tractor - Rubber-tired - using						

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1-IDA-SIDA-PEO-1-2-3-o (2-3)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Group 4 (Cont'd)						
Backhoe, Transverse Finishing Machine, Trenching Machines, Waggoner Compactor and Similar, Asphalt Spreaders.	6.14	.35	.30		.10	
Group 5						
Concrete Plant Operator, Concrete Road Paver Dual), Elevating Grader Operator, Euclid Elevating Loader, Generator Plant Operator-Mechanic (Diesel Electric), Post Hole Auger or Punch Operator, Power Shovels and Draglines-under 1 Yd., Pumpcrete, Refrigeration Plant Operator, Road Roller (Finishing High Type Pavement), Skidder - Rubber tired, Sub Grader.	6.31	.35	.30		.10	
Group 6						
Asphalt Pavers - Self-prop., Asphalt Plant Operator, Blade Operator (Motor Patrol), Concrete Slip Form Paver, Cranes - up to and including 50 ton, Crusher Plant Operator, Derrick Operator, Front End and Overhead Loaders and Similar Machines - over 4 yds. to and including 6 Yds., Koehring Scooper, Heavy Duty Mechanic or Welder, Mucking Machine (Underground), Multi-batch Concrete Plant Operator, Piledriver Engineer, Power Shovels and Draglines - 1 Yd. to and including 3-1/2 Yds., Tower Crane Operator, Tractor - Crawler Type - including all attachments, Refrigeration Plant Operator (Over 1,000 Tons), Trimmer Machine Operator, Tournapulls - Euclid and Similar - to and including 40 Yds.	6.49	.35	.30		.10	
Group 7						
Cableway Operator, Cranes - Over 50 Ton, Dredges, Fine Grader - CMI or Equivalent, Front End and Overhead Loaders and Similar Machines - Over 6 Yds., Power Shovels and Draglines over 3-1/2 Yds., Quad Type Tractors with all Attachments, Tournapulls - Euclid and Similar - Over 40 Yds. to and including 50 Yds., Multiple Scraper Units.	6.80	.35	.30		.10	

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1-IDA-SIDA-PEO-1-2-3-o (3-3)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Group 8						
Tournapulls - Euclid and Similar - Over 50 Yds. to and including 75 Yds.	7.03	.35	.30		.10	
Group 9						
Tournapulls - Euclid and Similar - Over 75 Yds. to and including 100 Yds.	7.26	.35	.30		.10	
Group 10						
Tournapulls - Euclid and Similar - Over 100 Yds.	7.50	.35	.30		.10	

(Remainder of counties and that portion of Idaho County north of the 46th parallel)

2-IDA-NIDA-PEO-1-2-3-I (1-4)

POWER EQUIPMENT OPERATORS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP I						
Bit Grinders; Bolt Threading Machine; Brakeman; Compressors, under 2000 cu. ft. per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deck Hand; Drillers Helper; Fireman & Heater Tender; Grade Checker; Helper (Mechanic or Welder, H.D.); Oiler; Oiler & 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; Welding Machines	$6.30	.45	.45		.015	
GROUP II						
A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1000 tons); Assistant Plant Operator, Fireman or Pugmixer (asphalt); Bagley or Stationary Scraper; Batch Plant & Wet Mix Operator, single unit (concrete); Belt Finishing Machine; Bending Machine (pipeline); Blower Operator (cement); Cement Hog; Compressor (2000 cu. ft. or over, 2 or more-gas, diesel or electric power); Concrete Saw (Multiple cut); Distributor Leverman; Dope Pots (power agitated); Equipment Serviceman, Greaser & Oiler; Fork Lift or Lumber Stacker, Hydra-lift & similar; Gin Trucks (pipeline); Hoist, Single drum; Loader (bucket elevator and conveyors); Longitudinal Float; Mixer (portable-concrete); Pavement Breaker, (Hydra-Hammer & similar); Posthold 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 Box (self-propelled); Straddle Buggy (Ross & similar on construction job site); Tractor (farm type R/T with attachments except backhoe); Tugger Operator	6.60	.45	.45		.015	

2-IDA-NIDA-PEO-1-2-3-1 (2-4)

POWER EQUIPMENT OPERATORS (cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP III						
A-Frame Truck, (2 or more drums); Assistant Refrigeration Plant & Chiller Operator (over 1000 tons); Backfillers (Cleveland & similar); Belt-Crete Conveyors with Power Pack or similar; Belt Loader (Kocal or similar); Blade Operator (Motor Patrol and attachments); Boat Operators; Boom Cats (side); Boring Machine (earth); Boring Machine (rock under 8" bit)(Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginau or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning & Doping Machine (pipeline); Concrete Pumps (squeeze-crete, flow-crete, pump-crete, Whitman & similar); Drills (churn, core, calyx or diamond); Elevating Belt-type Loader (Euclid, Barber Greene or similar); Elevating Grader-type Loader (Dumor, Adams, or similar); Generator Plant Engineers (diesel electric); Gunnite Combination Mixer & compressor; Hoist, (2 or more drums or Tower Hoist); Loaders, (overhead & front-end, under 4 yds. R/T) Locomotive engineer; Mixermobile; Mucking Machine; Paver (asphalt and concrete); Pump (Grout or Jet); Rollerman (finishing pavement); Rubber-tired Scrapers (one motor with one scraper, under 40 yds.); Screed Operator; Soil Stabilizer (R&H or similar); Spreader Machine; Tractor (crawler, incl. Dozer, Scraper, Drills, Booms, Rollers, etc.); Traverse Finishing Machine; Trenching Machines (under 7 ft. depth capacity); Turnhead Operator	$6.85	.45	.45		.015	

2-IDA-NIDA-PEO-1-2-3-1 (3-4)

POWER EQUIPMENT OPERATORS (cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP IV						
H.D Mechanic; H.D. Welder; Refrigeration Plant Engineer (under 1000 tons); Semi-automatic Welding Machines	$6.95	.45	.45		.015	
GROUP V						
Asphalt Plant Operator; Crusher & Screening Plant Operator; Rubber-tired Scrapers Multi-Engine Power with one Scraper (Euclid, TS-24 & similar); Rubber-tired Scraper, one motor with one scraper (40 yds. & over); Single Engine with two Scrapers (LeTourneau, Tandem B & similar); Surface Heater & Planer Machine	7.00	.45	.45		.015	
GROUP VI						
Automatic Subgrader (ditches & trimmers)(R.A. Hansen & similar); Backhoes (under 3 yds.); Batch & Wet Mix Operator-Multiple Units (2 and incl. 4); Chipper (with crane); Clamshell Operator (under 3 yds.); Concrete Slip Form Paver; Cranes (under 65 tons); Derricks & Stiffleggs (under 65 tons); Draglines (under 3 yds.); Drilling Equipment (8" bit and over);(Robbins & similar); Hydra-Cranes (Austin, Western, Hydra-Hoe and similar with attachments); Loader Operator (Front End & Overhead, 4 yds. to 8 yds.); Multiple Dozer Unit with Single Blade; Piledriving Engineers; Paver (dual drum); Quad-track or similar Equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired Scrapers, Multiple Engines with two Scrapers; Refrigeration Plant Engineer (1000 tons & over); Shovels (under 3 yds.); Signalmen (Whirleys, Highline, Hammerheads or Similar); Trenching Machines (7 ft. depth and over)	7.15	.45	.45		.015	

2-IDA-NIDA-PEO-1-2-3-1 (4-4)

POWER EQUIPMENT OPERATORS (cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP VII						
Backhoes (3 yds. and over); Batch Plant (over 4 units); Cableway Controller-Dispatcher; Cableway Operators; Clamshell Operator (3 yds. & over); Cranes (65 tons and over); Derricks & Stiffleggs (65 tons and over); Draglines (3 yds. and over); Loader-(360 degrees revolving Koehring Scooper or similar); Loaders (overhead and front end over 8 yds.); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yds. and over); Tower Crane, Whirleys and Hammerheads (all)	$7.40	.45	.45		.015	

Underground Work -- Add 10% to the Classification.

(not to include open pits, cuts, ditches, trenches and such work as paving etc.)

All Cranes Booms: 130' to 200' -- $.15/hr. Additional to Classification
Over 200' -- $.30/hr. Additional to Classification

Yo Yo Dozer: 10% Additional

(That portion of Idaho County south of the 46th parallel)

1-IDA-SIDA-TD-1-2-3-R (1-2)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Group 1 LEVERMAN Loading at Bunkers	5.45	.40	.25		.10	
Group 2 FLAT BED - 2 Axle and Pickup hauling material, Water Tank Truck (1800 gals and under), Fork Lift (3,000 and under)	5.51	.40	.25		.10	
Group 3 FLAT BED - 3 Axle, Fuel Truck (1,000 Gals. and under), Greaser. Fireman, Serviceman, Buggymobile, Man Haul (Shuttle Truck or Bus).	5.57	.40	.25		.10	
Group 4 TRANSIT MIX TRUCK - 3 Yds. and under, Warehouseman, Truck Helpers, Slurry or Concrete Pumping Truck	5.63	.40	.25		.10	
Group 5 FLAT BED with Power Takeoff, Water Tank Truck (over 1,800-4,000 gals.) Semi-Trailer - Low Boy - up to 96,000 lbs. GVW, Bulk Cement Tanker - up to 96,000 lbs GVW, Fork Lift - over 3,000 lbs. (Bull Lift, Hydro Lift), Ross, Hyster and similar Straddle Equipment, "A" Frame Truck (Swedish Crane, Less 5,000, Hydro-Lift).	5.68	.40	.25		.10	
Group 6 TRANSIT MIX TRUCK, over 3 yds. - 6 yds	5.74	.40	.25		.10	
Group 7 WATER TANK TRUCK - over 4,000 gals., Fuel Truck - over 1,000 gals., Distributor or Spreader Truck, Field Fireman - Serviceman	5.80	.40	.25		.10	
Group 8 TRANSIT MIX TRUCK - over 6-8 yds., Dumptors	5.86	.40	.25		.10	
Group 9 TRANSIT MIX TRUCK - over 8 - 10 yds.	5.97	.40	.25		.10	

1-IDA-SIDA-TD-1-2-3-R (2-2)

TRUCK DRIVERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Group 10 LOW BOY - 96,000 lbs. GVW and over, Bulk Cement Tanker - 96,000 lbs. GVW and over	6.03	.40	.25		.10	
Group 11 TRANSIT MIX TRUCK - over 10 yds.	6.09	.40	.25		.10	
Group 12 TURNAROCKER and similar equipment	6.15	.40	.25		.10	
Group 13 TRUCK - side, end and bottom dump (6 yds. and under)	5.63	.40	.25		.10	
TRUCK - side, end and bottom dump (over 6 yds. - including 12 yds.)	5.74	.40	.25		.10	
TRUCK - side, end and bottom dump (over 12 yds. - including 20 yds.)	5.97	.40	.25		.10	
TRUCK - side, end and bottom dump (over 20 yds. including 30 yds.)	6.15	.40	.25		.10	
TRUCK - side, end and bottom dump (over 30 yds. including 40 yds.)	6.26	.40	.25		.10	
TRUCK - side, end and bottom dump (over 40 yds. including 50 yds.)	6.38	.40	.25		.10	
TRUCK - side, end and bottom dump (over 50 yds. including 75 yds.)	6.61	.40	.25		.10	
TRUCK - side, end and bottom dump (over 75 yds. including 100 yds.)	6.84	.40	.25		.10	
TRUCK - side, end and bottom dump (over 100 yds.)	7.07	.40	.25		.10	
Group 14 TRUCK MECHANIC	6.49	.40	.25		.10	

(Remainder of Counties and that portion of Idaho County north of the 46th parallel)

2-IDA-NIDA-TD-1-2-3-c (1-2)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Group I FLAT BED TRUCK, single rear axle; Escort Driver; Fish Truck; Fork Lift, 3,000 lbs. & under; Fuel Truck Driver (steam cleaner & washer); Helper & Swamper; Leverman Loading Trucks at Bunkers; Pickup Hauling Material; Stationary Fuel Op.; Team Driver; Tractor (small rubber tired pulling trailer or sim. equip.); Water Tank Truck 1,800 gallons	$ 6.30	.37	.30			
Group II BUS DRIVER OR MANHAUL DRIVER; Flat Bed Truck, dual rear axle; Tireman No. 1; Warehouseman	6.35	.37	.30			
GROUP III BUGGY MOBILE & SIM.; Bulk Cement Tanker; Oil Tank Driver; Power Operated Sweeper; Semi-Trailer, low bed, truck & Trailer; Straddle Carrier (Ross, Hyster & sim.); Transit Mixers & Trucks Hauling Concrete (3 yds. & under); Trucks, side end and bottom dump (under 6 yds.); Water Tank Truck (1,801 - 4,000 gallons)	6.40	.37	.30			
Group IV AUTO CRANE - 2000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. & under); Flaherty Spreader, box driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.) Oil Distributor Driver (road, bootman; leverman, helper); Rubber tired Tunnel Jumbo; Scissors Truck; Slurry Truck Driver; Transit Mixers & Trucks Hauling Concrete (over 3 yds. to 6 yds.) Trucks, side, end and bottom dump (over 6 yds. to 12 yds.); Water Tank Truck (4,001 - 6,000 gals.); Wrecker & Tow Trucks	6.50	.37	.30			

2-IDA-NIDA-TD-1-2-3-c (2-2)

TRUCK DRIVERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Group V LOW BOY (under 50 tons); Service Greaser; Tireman No. 2	6.55	.37	.30			
Group VI A-FRAME (Swedish Crane, Iowa 3,000, hydrolift); Water Tank Truck (over 6,001 - 8,000 gals.)	6.60	.37	.30			
Group VII DUMPTOR (over 6 yds.); Transit Mixers & Trucks Hauling Concrete (6 yds. to 10 yds.) Trucks, side, end & bottom dump (over 12 yds. incl. 20 yds.)	6.65	.37	.30			
Group VIII LOW BOY (over 50 tons); Water Tank Truck (8,001 - 10,000 gals); 10¢ for each add. 2,000 gals.	6.70	.37	.30			
Group IX TRANSIT MIXERS & TRUCKS Hauling Concrete,(10 yds. to 15 yds.); Trucks, side, end & bottom dump (over 20 yds. incl. 30 yds.)	6.80	.37	.30			
Group X TOURNAROCKER, DW'S & sim. w/2 or 4 wheel power tractor w/trailer or yardage scale whichever is greater	6.85	.37	.30			
Group XI TRANSIT MIXERS & TRUCKS Hauling Concrete (15 yds. to 20 yds.); Trucks, side, end & bottom dump (over 30 yds. to 40 yds.)	6.95	.37	.30			
Group XII TRANSIT MIXERS & TRUCKS Hauling Concrete (over 20 yds.); Trucks, side, end & bottom dump (over 40 yds. to 50 yds.)	7.10	.37	.30			
Group XIII TRUCKS, side, end and bottom dumps, (over 50 yds. to 100 yds.)	7.25	.37	.30			
Group XIV TRUCKS, side, end and bottom dump (over 100 yds.)	7.40	.37	.30			

LINE CONSTRUCTION - NORTHERN IDAHO

LINE CONSTRUCTION (Remainder of Counties and that portion of Idaho Co. north of the 46th parallel)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Cable Splicers Leadman Pole Sprayer	$ 8.60	.25	1%		1/2%	
Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	7.76	.25	1%		1/2%	
Tree Trimmer	7.00	.25	1%		1/2%	
Line Equipment Man	6.67	.25	1%		1/2%	
Head Groundman (Chipper); Head Groundman; Powderman; Jackhammer Man	5.82	.25	1%		1/2%	
Groundman; Tree Trimmer Helper	5.49	.25	1%		1/2%	
Hole Digger	5.25	.25	1%		1/2%	

LINE CONSTRUCTION (That portion of Idaho Co. south of the 46th parallel):	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
All work over 34.5 KV and all work on steel towers and/or multiple wood structures and all substations of 1000 KVA or greater capacity and all communications, underground work except street and highway lighting and motor traffic controls:						
Groundman	$4.74	.15	1%		3/4%	
Equipment Operators	5.73	.15	1%		3/4%	
Lineman	6.28	.15	1%		3/4%	
Cable Splicer	6.91	.15	1%		3/4%	
All work 34.5 KV and under and all work on highway lighting and motor traffic controlling:						
Groundman	4.68	.15	1%		3/4%	
Equipment Operator	5.45	.15	1%		3/4%	
Lineman	6.06	.15	1%		3/4%	

SUPERSEDEAS DECISION

AP-205 P. 2

STATE: Idaho

COUNTIES: Ada, Adams, Blaine, Butte, Camas, Canyon, Cassia, Custer, Elmore, Gem, Gooding, Jerome, Lemhi, Lincoln, Minnidoka, Owyhee, Payette, Twin Falls, Valley and Washington

DECISION NUMBER: AP-205

DATE: July 28, 1972

Supersedes Decision No. AM-6730 Dated June 2, 1972 in 37 FR 11121

DESCRIPTION OF WORK: Building Construction(excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$7.71	.35	.42			
BOILERMAKERS	6.70	.30	.70	.45	.02	
BOILERMAKERS' HELPERS	6.40	.30	.70	.45	.02	
BRICKLAYERS; Stonemasons(Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties)	6.20	.25	.15			
BRICKLAYERS; Stonemasons(Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minnidoka, Twin Falls Counties)	6.15	.25				
BRICKLAYERS; Stonemasons(Butte, Custer, Lemhi Counties)	5.50					
CARPENTERS:						
Carpenters; Floor Layer; Shingler; Drywall Applicator and installer of metal studs, metal framing, accoustical material, metal partition, porcelain and enamel and metal panels, marlite and rigid or flexible plastic laminates, weatherstripping and insulation	6.02	.22	.20	.20	.10	
Saw Filer; Stationary Machine; Piledriverman; Bridgeman and Wharf Builders	6.19	.22	.20	.20	.10	
Millwrights; Machine Erector; Piledriverman's boom Man	6.31	.22	.20	.20	.10	
CEMENT MASONS:						
Cement Masons	5.88	.22	.10	.10	.10	
Gunnite; Composition Floorlayer; Power Grinder; Power Trowel	6.05	.22	.10	.10	.10	
ELECTRICIANS:(Ada, Adams, Boise, Cayon, Elmore, Gem, Owyhee, Payette, Valley and Washington Counties)						
Electricians	7.06	.22	1%		2/10%	
Cable Splicers	7.77	.22	1%		2/10%	
ELECTRICIANS:(Remaining Counties)						
Electricians	7.10	.18	1%		2/10%	
Cable Splicers	7.81	.18	1%		2/10%	
ELEVATOR CONSTRUCTORS	6.16	.185	.20	2% / a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2% / a		
ELEVATOR CONSTRUCTORS' HELPERS(Prob.)	50%JR					
GLAZIERS(Cassia, Custer, Gooding, Jerome, Lemhi, Lincoln, Minnidoka and Twin Falls Counties)	4.94			b		
IRONWORKERS(Adams, Valley and Washington Counties north of the Weiser-Gibbonsville line)						
Reinforcing	6.72	.43	.27		.01	
Fence Erectors; Structural; Ornamental	6.83	.43	.27		.01	
IRONWORKERS(Remaining Counties and south of the Weiser-Gibbonsville line in Adams, Valley and Washington Counties)						
Fence Erectors; Reinforcing; Structural; Ornamental	6.79	.35	.50		.01	
LATHERS(Cassia, Gooding, Jerome, Lincoln, Minnidoka; Twin Falls Cos.)	5.50				.01	
MARBLE MASONS(Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington Counties)	5.15					
PAINTERS(Ada, Adams, Boise, Camas, Elmore, Gem(incl. city of Ola), Gooding(western 1/3 of Co. incl. city of Bliss), Owyhee(incl. cities of Bruneau, Grand View, Riddle and Tindall), Valley and Washington Cos.)						
Brush	5.70	.16	.10			
Steel	5.80	.16	.10			
Sign	5.82,	.16	.10			
Spray	6.17	.16	.10			
PAINTERS(Mountain Home AFB)						
Brush	6.90	.16	.10			
Sandblasting; Spray Gun	7.37	.16	.10			
Steel	7.00	.16	.10			
PAINTERS(Remaining Counties and Remaining portion of Gooding County)						
Brush; Perfatapers	5.25	.21	.10			
Structural Steel; Swing Stage Spray	5.70	.21	.10			
PLASTERERS(Butte, Custer and Lemhi Cos)	5.00	.20	.20		.01	
PLASTERERS(Remaining Counties)	5.73	.22	.10	.10		
PLUMBERS; Steamfitters	6.58	.28	.30		.05	
ROOFERS(Ada, Adams, Boise, Canyon, Custer, Elmore, Gem, Lemhi, Owyhee, Payette, Valley and Washington Cos.)						
Kettlemen; Roofers	5.85	.13	.15			
Roofers working with coal tar and pitch products	7.35	.13	.15			
ROOFERS(Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minnidoka and Twin Falls Counties)	5.98		.15			
ROOFERS(Butte County)	6.55		.20			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
SHEET METAL WORKERS (Butte, Custer & Lemhi Counties)	$7.07	.22			.01	
SHEET METAL WORKERS (Remaining Counties)	6.43	.22	.20	.40		
SPRINKLER FITTERS	7.95	.25	.40		.05	
TERRAZZO WORKERS (Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington Counties)	5.15					
TILE SETTERS (Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties)	5.40	.25	.15			
TILE SETTERS (Butte, Custer and Lemhi Counties)	5.50					

FOOTNOTES:

a. Employer credits 4% of basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to Vacation Plan. Six Paid Holidays; A through F.

b. Any employee who has served continuously for a period of one (1) year or more with an employer, shall receive two (2) weeks vacation with pay.

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

1-IDA-SIDA-LAB-1-2-3-J (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS						
LABORERS (That portion of Idaho County south of the 46th parallel:)						
Group 1						
GENERAL LABORERS, Sloper, Clearing and Grading, Form Stripper, Concrete Crew, Concrete Curing Crew, Carpenter Tender, Asphalt Laborer, Hopper Tender, Heater Tender, Stake Jumper, Choker Setter, Spreader and Weighman, Power Wheelbarrow, Scouring Concrete, Rip Rap Man (hand placed), Fence Erector and Installer - manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers), Crusher Helper, Cribbing and Shoring (in open ditches), Machinery and Parts Cleaner, Leverman - Manual or Mechanical, Demolition - Salvage, Landscaper, Tool Room Man	4.57	.30	.25		.10	
Group 2						
CHUCK TENDER, Driller Helper, Air Tampers, Gunite Nozzleman Tender, Pipe Wrapper, Tar Pot Tender, Concrete Sawyer, Signalman, Handling Cement, Dumpman, Steam Nozzleman, Air and Water Nozzleman (Green cutter, concrete) Grade Checker, Vibrator (less than 4"), Pumpcrete and Grout Pump Crew, Hydraulic Monitor	4.67	.30	.25		.10	
Group 3						
PIPELAYER including sewer, drainage, sprinkler systems and water lines, Free Air Caisson, Jackhammer, Paving Breaker, Powderman Helper, Asphalt Raker, Gasoline Powered Tamper, Electric Ballast Tamper, Sand Blasting, Form Setter - Airport Paving, Gunman (Gunite), Manhole Setter, Hand Guided Machines, such as Rotor Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc., Form Setter (Highway-Curb and Gutter), Vibrator (4" and over), Timber Faller and Bucker, Metal Pan Installer	4.77	.30	.25		.10	

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1-IDA-SIDA-LAB-1-2-3-J (2-2)

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Group 4						
HOD CARRIER, Mason Tender Plaster Tender, Mason Tender (Concrete), Terrazzo-Tile Tender	4.87	.30	.25		.10	
Group 5						
HIGHSCALER, Wagon Drill, Gunite Nozzleman, Diamond Drill	4.92	.30	.25		.10	
Group 6						
DRILLERS on Drills with manufacturers rating 3" or over, Powderman	5.17	.30	.25		.10	
Group 7 (Underground)						
REBOUNDMAN, Chucktender, Nipper, Dumpman, Vibrator, Brakeman, Muckers, Bullgang	4.72	.30	.25		.10	
Group 8 (Underground)						
FORM SETTER and Mover	4.87	.30	.25		.10	
Group 9 (Underground)						
MINERS, Machinemen, Timbermen, Steelmen, Drill Doctors, Spaders and Tuggers, Spiling and/or Caisson Workers	5.17	.30	.25		.10	

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1-IDA-SIDA-PEO-1-2-3-o (1-3)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Group 1						
Brakeman, Crusher, Plant Feeder (Mechanical), Deckhand, Drill Helpers, Grade Checkers, Heater Tender, Land Plane, Oilers, Pumpman	5.50	.35	.30		.10	
Group 2						
Air Compressor, Assistant Refrigeration Plant Operator, Bell Boy, Bit Grinder Operator, Blower Operator (Cement), Bolt Threader Machine Operator-Broom, Cement Hog, Concrete Mixer, Concrete Saw - Multiple Cut, Discing - Harrowing or mulching (Regardless of Motive Power), Distributor Leverman, Drill Steel Threader Machine Operator, Fireman - All, Heavy Duty Mechanic Helper or Welder Helper, Hoist - Single Drum, Hydraulic Monitor Operator - Skid Mounted, Oiler on Cranes and Shovels, Pugmixer - Box or Screed Operator, Spray Curing Machine, Tractor - Rubber Tired Form Type Using Attachments	5.66	.35	.30		.10	
Group 3						
A-Frame Truck (Hydra lift, Swedish Cranes, Ross Carrier, Hyster on Construction jobs), Battery Tunnell Locomotive, Belt Finishing Machine, Cable Tenders (Underground), Chip Spreader Machine (Self-propelled), Front End and Overhead Loaders and Similar Machines under 2 Yds. - Rubber-tired, Hoist - 2 or more Drums or Tower Hoist, Hydralift - Fork Lift and Similar (When Hoisting), Oilers (Underground), Power Loader (Bucket Elevator, Conveyors), Road Roller (Regardless of Motive Power), Service Oiler.	5.83	.35	.30		.10	
Group 4						
Boring Machines (Earth or Rock) Quarrymaster - Joy - Tractor Mounted, Drills; Churn - Core - Calyx or Diamond, Front End and Overhead Loaders and Similar Machines - 2 Yds. and including 4 Yds. - Rubber-tired, Grout Pump, Hydra-hammer, Locomotive Engineer, Longitudinal Float Machine, Mixermobile, Spreader Machine, Tractor - Rubber-tired - using						

1-IDA-SIDA-PEO-1-2-3-o (2-3)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Group 4 (Cont'd)						
Backhoe, Transverse Finishing Machine, Trenching Machines, Waggoner Compactor and Similar, Asphalt Spreaders.	6.14	.35	.30		.10	
Group 5						
Concrete Plant Operator, Concrete Road Paver Dual), Elevating Grader Operator, Euclid Elevating Loader, Generator Plant Operator-Mechanic (Diesel Electric), Post Hole Auger or Punch Operator, Power Shovels and Draglines-under 1 Yd., Pumpcrete, Refrigeration Plant Operator, Road Roller (Finishing High Type Pavement), Skidder - Rubber tired, Sub Grader.	6.31	.35	.30		.10	
Group 6						
Asphalt Pavers - Self-prop., Asphalt Plant Operator, Blade Operator (Motor Patrol), Concrete Slip Form Paver, Cranes - up to and including 50 ton, Crusher Plant Operator, Derrick Operator, Front End and Overhead Loaders and Similar Machines - over 4 yds. to and including 6 Yds., Koehring Scooper, Heavy Duty Mechanic or Welder, Mucking Machine (Underground), Multi-batch Concrete Plant Operator, Piledriver Engineer, Power Shovels and Draglines - 1 Yd. to and including 3-1/2 Yds., Tower Crane Operator, Tractor - Crawler Type - including all attachments, Refrigeration Plant Operator (Over 1,000 Tons), Trimmer Machine Operator, Tournapulls - Euclid and Similar - to and including 40 Yds.	6.49	.35	.30		.10	
Group 7						
Cableway Operator, Cranes - Over 50 Ton, Dredges, Fine Grader - CMI or Equivalent, Front End and Overhead Loaders and Similar Machines - Over 6 Yds., Power Shovels and Draglines over 3-1/2 Yds., Quad Type Tractors with all Attachments, Tournapulls - Euclid and Similar - Over 40 Yds. to and including 50 Yds., Multiple Scraper Units.	6.80	.35	.30		.10	

1-IDA-SIDA-PEO-1-2-3-o (3-3)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Group 8						
Tournapulls - Euclid and Similar - Over 50 Yds. to and including 75 Yds.	7.03	.35	.30		.10	
Group 9						
Tournapulls - Euclid and Similar - Over 75 Yds. to and including 100 Yds.	7.26	.35	.30		.10	
Group 10						
Tournapulls - Euclid and Similar - Over 100 Yds.	7.50	.35	.30		.10	

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1-IDA-SIDA-TD-1-2-3-R (1-2)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Group 1						
LEVERMAN Loading at Bunkers	5.45	.40	.25		.10	
Group 2						
FLAT BED - 2 Axle and Pickup hauling material, Water Tank Truck (1800 gals and under), Fork Lift (3,000 and under)	5.51	.40	.25		.10	
Group 3						
FLAT BED - 3 Axle, Fuel Truck (1,000 Gals. and under), Greaser, Tireman, Serviceman, Buggymobile, Man Haul (Shuttle Truck or Bus).	5.57	.40	.25		.10	
Group 4						
TRANSIT MIX TRUCK - 3 Yds. and under, Warehouseman, Truck Helpers, Slurry or Concrete Pumping Truck	5.63	.40	.25		.10	
Group 5						
FLAT BED using Power Takeoff, Water Tank Truck (over 1,800-4,000 gals.) Semi-Trailer - Low Boy - up to 96,000 lbs. GVW, Bulk Cement Tanker - up to 96,000 lbs GVW, Fork Lift - over 3,000 lbs. (Bull Lift, Hydro Lift), Ross, Hyster and similar Straddle Equipment, "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift).	5.68	.40	.25		.10	
Group 6						
TRANSIT MIX TRUCK, over 3 yds. - 6 yds	5.74	.40	.25		.10	
Group 7						
WATER TANK TRUCK - over 4,000 gals., Fuel Truck - over 1,000 gals., Distributor or Spreader Truck, Field Tireman - Serviceman	5.80	.40	.25		.10	
Group 8						
TRANSIT MIX TRUCK - over 6-8 yds., Dumptors	5.86	.40	.25		.10	
Group 9						
TRANSIT MIX TRUCK - over 8 - 10 yds.	5.97	.40	.25		.10	

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1-IDA-SIDA-TD-1-2-3-R (2-2)

TRUCK DRIVERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Group 10						
LOW BOY - 96,000 lbs. GVW and over, Bulk Cement Tanker - 96,000 lbs. GVW and over	6.03	.40	.25		.10	
Group 11						
TRANSIT MIX TRUCK - over 10 yds.	6.09	.40	.25		.10	
Group 12						
TURNAROCKER and similar equipment	6.15	.40	.25		.10	
Group 13						
TRUCK - side, end and bottom dump (6 yds. and under)	5.63	.40	.25		.10	
TRUCK - side, end and bottom dump (over 6 yds. - including 12 yds.)	5.74	.40	.25		.10	
TRUCK - side, end and bottom dump (over 12 yds. - including 20 yds.)	5.97	.40	.25		.10	
TRUCK - side, end and bottom dump (over 20 yds. including 30 yds.)	6.15	.40	.25		.10	
TRUCK - side, end and bottom dump (over 30 yds. including 40 yds.)	6.26	.40	.25		.10	
TRUCK - side, end and bottom dump (over 40 yds. including 50 yds.)	6.38	.40	.25		.10	
TRUCK - side, end and bottom dump (over 50 yds. including 75 yds.)	6.61	.40	.25		.10	
TRUCK - side, end and bottom dump (over 75 yds. including 100 yds.)	6.84	.40	.25		.10	
TRUCK - side, end and bottom dump (over 100 yds.)	7.07	.40	.25		.10	
Group 14						
TRUCK MECHANIC	6.49	.40	.25		.10	

SOUTHERN IDAHO LINE CONSTRUCTION - I

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
LINE CONSTRUCTION:						
All work over 34.5 KV and all work on steel towers and/or multiple wood structures and all substations of 1000 KVA or greater capacity and all communications, underground work except street and highway lighting and motor traffic controls:						
Groundman	$4.74	.15	1%		3/4%	
Equipment Operators	5.73	.15	1%		3/4%	
Lineman	6.28	.15	1%		3/4%	
Cable Splicer	6.91	.15	1%		3/4%	
All work 34.5 KV and under and all work on highway lighting and motor traffic controlling:						
Groundman	4.68	.15	1%		3/4%	
Equipment Operator	5.45	.15	1%		3/4%	
Lineman	6.06	.15	1%		3/4%	

SUPERSEDEAS DECISION

STATE: Idaho

COUNTIES: Bannock, Bear Lake, Bingham, Bonneville, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power and Teton.

DECISION NUMBER: AP-206

DATE: July 28, 1972

Supersedes Decision No. AM-6731 Dated June 2, 1972 in 37 FR 11126

DESCRIPTION OF WORK: Building Construction(excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$7.71	.35	.42			
BOILERMAKERS	6.70	.30	.70	.45	.02	
BOILERMAKERS' HELPERS	6.40	.30	.70	.45	.02	
BRICKLAYERS; Stonemasons (Bingham No. 1/2 of County), Bonneville, Butte, Clark, Freemont, Jefferson, Madison, and Teton Counties)	5.50					
BRICKLAYERS; Stonemasons (So. 1/2 of Bingham County, Bannock, Bear Lake, Caribou, Franklin, Oneida, and Powers County)	6.20	.25	.15			
CARPENTERS:						
Floor Layers; Carpenters; Drywall Applicators; Shinglers; Installer of metal studs, metal framing, accoustical material, metal partition, porcelain and enamel and metal panels, marlite and rigid or flexible plastic laminates, weatherstripping and insulation	6.02	.22	.20	.20	.10	
Piledrivermen	6.19	.22	.20	.20	.10	
Millwrights; Piledrivermen's Boom Man	6.31	.22	.20	.20	.10	
CEMENT MASONS:						
Cement Masons	5.88	.22	.10	.10	.10	
Gunnite & Composition Floor; Power Grinder Operator; Power Trowel Operator	6.05	.22	.10	.10	.10	
ELECTRICIANS:						
Electricians	7.10	.18	1%	7%	2/10%	
Cable Splicers	7.81	.18	1%	7%	2/10%	
ELEVATOR CONSTRUCTORS	6.16	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	4.94			b		
IRONWORKERS:						
Ornamental-Reinforcing-Structural	6.79	.35	.50		.01	
LATHERS	5.50				.01	
MARBLE SETTERS	5.05	.20				
PAINTERS:						
Brush, Perfatapers	$5.25	.21	.10			
Structural Steel, Swing Stage	5.70	.21	.10			
Spray	5.70	.21	.10			
PLASTERERS	5.00	.20	.20		.01	
PLUMBERS; Steamfitters	6.58	.28	.30		.05	
ROOFERS	6.55		.20			
SHEET METAL WORKERS	7.07	.22			.01	
SOFT FLOOR LAYERS (Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida, Powers Counties)	5.20					
SPRINKLER FITTERS	7.95	.25	.40		.05	
TERRAZZO WORKERS (Bonneville, Clark, Fremont, Jefferson, Madison, Teton Counties and No. 1/2 of Bingham Co.)	5.50					
TERRAZZO WORKERS (Remaining Cos. & So. 1/2 of Bingham Co.)	5.05	.20				
TILE SETTERS (Bonneville, Clark, Fremont, Jefferson, Madison, Teton Counties and No. 1/2 of Bingham Co.)	5.50					
TILE SETTERS (Remaining Cos. & So. 1/2 of Bingham Co.)	5.40	.25	.15			
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.						

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 credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate for 6 months to 5 years' service to Vacation Plan. Six Paid Holidays. A through F.

b. One year or more - two weeks vacation with pay.

c. Employee with 2 to 4 months' service receive 1 day w/pay; 4 to 6 months' service 2 days w/pay; 6 to 8 months' service - 3 days w/pay; 8 to 10 months' service - 4 days w/pay; 10 to 12 months' service - 5 days w/pay.

1-IDA-SIDA-LAB-1-2-3-J (1-2)

LABORERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
LABORERS (That portion of Idaho County south of the 46th parallel:)						
Group 1						
GENERAL LABORERS, Sloper, Clearing and Grading, Form Stripper, Concrete Crew, Concrete Curing Crew, Carpenter Tender, Asphalt Laborer, Hopper Tender, Heater Tender, Stake Jumper, Choker Setter, Spreader and Weighman, Power Wheelbarrow, Scouring Concrete, Rip Rap Man (hand placed), Fence Erector and Installer - manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers), Crusher Helper, Cribbing and Shoring (in open ditches), Machinery and Parts Cleaner, Leverman - Manual or Mechanical, Demolition - Salvage, Landscaper, Tool Room Man	4.57	.30	.25		.10	
Group 2						
CHUCK TENDER, Driller Helper, Air Tampers, Gunite Nozzleman Tender, Pipe Wrapper, Tar Pot Tender, Concrete Sawyer, Signalman, Handling Cement, Dumpman, Steam Nozzleman, Air and Water Nozzleman (Green cutter, concrete) Grade Checker, Vibrator (less than 4"), Pumpcrete and Grout Pump Crew, Hydraulic Monitor	4.67	.30	.25		.10	
Group 3						
PIPELAYER including sewer, drainage, sprinkler systems and water lines, Free Air Caisson, Jackhammer, Paving Breaker, Powderman Helper, Asphalt Raker, Gasoline Powered Tamper, Electric Ballast Tamper, Sand Blasting, Form Setter - Airport Paving, Gunman (Gunite), Manhole Setter, Hand Guided Machines, such as Rotor Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc., Form Setter (Highway-Curb and Gutter), Vibrator (4" and over), Timber Faller and Bucker, Metal Pan Installer	4.77	.30	.25		.10	

1-IDA-SIDA-LAB-1-2-3-J (2-2)

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Group 4						
HOD CARRIER, Mason Tender Plaster Tender, Mason Tender (Concrete), Terrazzo-Tile Tender	4.87	.30	.25		.10	
Group 5						
HIGHSCALER, Wagon Drill, Gunite Nozzleman, Diamond Drill	4.92	.30	.25		.10	
Group 6						
DRILLERS on Drills with manufacturers rating 3" or over, Powderman	5.17	.30	.25		.10	
Group 7 (Underground)						
REBOUNDMAN, Chucktender, Nipper, Dumpman, Vibrator, Brakeman, Muckers, Bullgang	4.72	.30	.25		.10	
Group 8 (Underground)						
FORM SETTER and Mover	4.87	.30	.25		.10	
Group 9 (Underground)						
MINERS, Machinemen, Timbermen, Steelmen, Drill Doctors, Spaders and Tuggers, Spiling and/or Caisson Workers	5.17	.30	.25		.10	

1-IDA-SIDA-PEO-1-2-3-o (1-3)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Group 1						
Brakeman, Crusher, Plant Feeder (Mechanical), Deckhand, Drill Helpers, Grade Checkers, Heater Tender, Land Plane, Oilers, Pumpman	5.50	.35	.30		.10	
Group 2						
Air Compressor, Assistant Refrigeration Plant Operator, Bell.Boy, Bit Grinder Operator, Blower Operator (Cement), Bolt Threader Machine Operator-Broom, Cement Hog, Concrete Mixer, Concrete Saw - Multiple Cut, Discing - Harrowing or mulching (Regardless of Motive Power), Distributor Leverman, Drill Steel Threader Machine Operator, Fireman - All, Heavy Duty Mechanic Helper or Welder Helper, Hoist - Single Drum, Hydraulic Monitor Operator - Skid Mounted, Oiler on Cranes and Shovels, Pugmixer - Box or Screed Operator, Spray Curing Machine, Tractor - Rubber Tired Form Type Using Attachments	5.66	.35	.30		.10	
Group 3						
A-Frame Truck (Hydra lift, Swedish Cranes, Ross Carrier, Hyster on Construction jobs), Battery Tunnell Locomotive, Belt Finishing Machine, Cable Tenders (Underground), Chip Spreader Machine (Self-propelled), Front End and Overhead Loaders and Similar Machines under 2 Yds. - Rubber-tired, Hoist - 2 or more Drums or Tower Hoist, Hydralift - Fork Lift and Similar (When Hoisting), Oilers (Underground), Power Loader (Bucket Elevator, Conveyors), Road Roller (Regardless of Motive Power), Service Oiler.	5.83	.35	.30		.10	
Group 4						
Boring Machines (Earth or Rock) Quarrymaster - Joy - Tractor Mounted, Drills; Churn - Core - Calyx or Diamond, Front End and Overhead Loaders and Similar Machines - 2 Yds. and including 4 Yds. - Rubber-tired, Grout Pump, Hydra-hammer, Locomotive Engineer, Longitudinal Float Machine, Mixermobile, Spreader Machine, Tractor - Rubber-tired - using						

1-IDA-SIDA-PEO-1-2-3-o (2-3)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Group 4 (Cont'd)						
Backhoe, Transverse Finishing Machine, Trenching Machines, Waggoner Compactor and Similar, Asphalt Spreaders.	6.14	.35	.30		.10	
Group 5						
Concrete Plant Operator, Concrete Road Paver Dual), Elevating Grader Operator, Euclid Elevating Loader, Generator Plant Operator-Mechanic (Diesel Electric), Post Hole Auger or Punch Operator, Power Shovels and Draglines-under 1 Yd., Pumperete, Refrigeration Plant Operator, Road Roller (Finishing High Type Pavement), Skidder - Rubber tired, Sub Grader.	6.31	.35	.30		.10	
Group 6						
Asphalt Pavers - Self-prop., Asphalt Plant Operator, Blade Operator (Motor Patrol), Concrete Slip Form Paver, Cranes - up to and including 50 ton, Crusher Plant Operator, Derrick Operator, Front End and Overhead Loaders and Similar Machines - over 4 yds. to and including 6 Yds., Koehring Scooper, Heavy Duty Mechanic or Welder, Mucking Machine (Underground), Multi-batch Concrete Plant Operator, Piledriver Engineer, Power Shovels and Draglines - 1 Yd. to and including 3-1/2 Yds., Tower Crane Operator, Tractor - Crawler Type - including all attachments, Refrigeration Plant Operator (Over 1,000 Tons), Trimmer Machine Operator, Tournapulls - Euclid and Similar - to and including 40 Yds.	6.49	.35	.30		.10	
Group 7						
Cableway Operator, Cranes - Over 50 Ton, Dredges, Fine Grader - CMI or Equivalent, Front End and Overhead Loaders and Similar Machines - Over 6 Yds., Power Shovels and Draglines over 3-1/2 Yds., Quad Type Tractors with all Attachments, Tournapulls - Euclid and Similar - Over 40 Yds. to and including 50 Yds., Multiple Scraper Units.	6.80	.35	.30		.10	

1-IDA-SIDA-PEO-1-2-3-o (3-3)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Group 8 Tournapulls - Euclid and Similar - Over 50 Yds. to and including 75 Yds.	7.03	.35	.30		.10	
Group 9 Tournapulls - Euclid and Similar - Over 75 Yds. to and including 100 Yds.	7.26	.35	.30		.10	
Group 10 Tournapulls - Euclid and Similar - Over 100 Yds.	7.50	.35	.30		.10	

1-IDA-SIDA-TD-1-2-3-R (1-2)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Group 1 LEVERMAN Loading at Bunkers	5.45	.40	.25		.10	
Group 2 FLAT BED - 2 Axle and Pickup hauling material, Water Tank Truck (1800 gals and under), Fork Lift (3,000 and under)	5.51	.40	.25		.10	
Group 3 FLAT BED - 3 Axle, Fuel Truck (1,000 Gals. and under), Greaser, Tireman, Serviceman, Buggymobile, Man Haul (Shuttle Truck or Bus).	5.57	.40	.25		.10	
Group 4 TRANSIT MIX TRUCK - 3 Yds. and under, Warehouseman, Truck Helpers, Slurry or Concrete Pumping Truck	5.63	.40	.25		.10	
Group 5 FLAT BED using Power Takeoff, Water Tank Truck (over 1,800-4,000 gals.) Semi-Trailer - Low Boy - up to 96,000 lbs. GVW, Bulk Cement Tanker - up to 96,000 lbs GVW, Fork Lift - over 3,000 lbs. (Bull Lift, Hydro Lift), Ross, Hyster and similar Straddle Equipment, "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift).	5.68	.40	.25		.10	
Group 6 TRANSIT MIX TRUCK, over 3 yds. - 6 yds	5.74	.40	.25		.10	
Group 7 WATER TANK TRUCK - over 4,000 gals., Fuel Truck - over 1,000 gals., Distributor or Spreader Truck, Field Tireman - Serviceman	5.80	.40	.25		.10	
Group 8 TRANSIT MIX TRUCK - over 6-8 yds., Dumptors	5.86	.40	.25		.10	
Group 9 TRANSIT MIX TRUCK - over 8 - 10 yds.	5.97	.40	.25		.10	

AP-206 P. 9

1-IDA-SIDA-TD-1-2-3-R (2-2)

TRUCK DRIVERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Group 10						
LOW BOY - 96,000 lbs. GVW and over, Bulk Cement Tanker - 96,000 lbs. GVW and over	6.03	.40	.25		.10	
Group 11						
TRANSIT MIX TRUCK - over 10 yds.	6.09	.40	.25		.10	
Group 12						
TURNAROCKER and similar equipment	6.15	.40	.25		.10	
Group 13						
TRUCK - side, end and bottom dump (6 yds. and under)	5.63	.40	.25		.10	
TRUCK - side, end and bottom dump (over 6 yds. - including 12 yds.)	5.74	.40	.25		.10	
TRUCK - side, end and bottom dump (over 12 yds. - including 20 yds.)	5.97	.40	.25		.10	
TRUCK - side, end and bottom dump (over 20 yds. including 30 yds.)	6.15	.40	.25		.10	
TRUCK - side, end and bottom dump (over 30 yds. including 40 yds.)	6.26	.40	.25		.10	
TRUCK - side, end and bottom dump (over 40 yds. including 50 yds.)	6.38	.40	.25		.10	
TRUCK - side, end and bottom dump (over 50 yds. including 75 yds.)	6.61	.40	.25		.10	
TRUCK - side, end and bottom dump (over 75 yds. including 100 yds.)	6.84	.40	.25		.10	
TRUCK - side, end and bottom dump (over 100 yds.)	7.07	.40	.25		.10	
Group 14						
TRUCK MECHANIC	6.49	.40	.25		.10	

AP-206 P. 10

SOUTHERN IDAHO LINE CONSTRUCTION - I

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LINE CONSTRUCTION:						
All work over 34.5 KV and all work on steel towers and/or multiple wood structures and all substations of 1000 KVA or greater capacity and all communications, underground work except street and highway lighting and motor traffic controls:						
Groundman	$4.74	.15	1%		3/4%	
Equipment Operators	5.73	.15	1%		3/4%	
Lineman	6.28	.15	1%		3/4%	
Cable Splicer	6.91	.15	1%		3/4%	
All work 34.5 KV and under and all work on highway lighting and motor traffic controlling:						
Groundman	4.68	.15	1%		3/4%	
Equipment Operator	5.45	.15	1%		3/4%	
Lineman	6.06	.15	1%		3/4%	

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Delaware
DECISION NO.: AP-408 DATE: July 28, 1972
Supersedes Decision No. AM-1,852, dated August 20, 1971, in 36 FR 16226
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

23-PA.1-K

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$8.80	.35	.40			
Boilermakers	8.50	.40	.90		.01	
Bricklayers:						
Radnor and Haverford Twps.	8.69	.57	.35		½%	
Remainder of County	8.20	.47	.25			
Carpenters, Building	8.57	1.08	.40		.07	
Carpenters, heavy & highway	9.02	1.08	.40	e	.07	
Cement masons	7.50	.89	.27			
Electricians	9.475	2.4%	1%		1%	
Elevator constructors	9.15	.195	.20	2%+a+b	.005	
Elevator constructors' helpers	6.405	.195	.20	2%+a+b	.005	
Elevator constructors' helpers (prob.)	4.575					
Glaziers	8.13	.245	.15			
Glaziers - working 30 ft. above ground	8.43	.245	.15			
Ironworkers, structural & ornamental	8.69	f			.04	
Ironworkers, reinforcing	7.97	f			.01	
Lathers	6.06	.275	.15			
Lead burners	7.80	.30		c	.01	
Line Construction:						
Linemen	9.73	.15	1%		1%	
Winch truck operator	6.81	.15	1%		1%	
Groundmen	5.84	.15	1%		1%	
Marble setters	5.925	.25				
Millwrights	9.07	1.08	.40		.07	
Painters:						
Radnor, Haverford, Newton, Marple, Springfield, Upper Darby, Darby, Ridley, Tinicum Yeodon Twps.						
Brush	7.365	.275	.25	.30	.02	
Rollers	7.365	.275	.25	.30	.02	
Spray, steel and swing	7.545	.275	.25	.30	.02	
Remainder of County						
Commercial, brush	7.00	.35	.20			
Commercial, spray	7.25	.35	.20			
Piledrivermen	9.22	1.08	.40		.07	
Plasterers	8.00				.01	
Plumbers	9.00	.35	.45		.04	
Roofers:						
Composition	8.425	.80	.55	d		
Composition helpers	4.70	.80	.55	d		
Slate, tile and asbestos	6.875	.50	.50			
Slate, tile and asbestos' helpers	4.575	.50	.50			
Asphalt shingle	6.325	.50	.50			
Asphalt shingle helper	4.575	.50	.50			
Sheet metal workers	$9.40	.30	.25		.01	
Soft floor layers	6.73	.35	.35			
Sprinkler fitters	8.00	.25	.40		.05	
Steam fitters	8.99	.35	.45		.05	
Stone masons	6.65	.47	.45			
Terrazzo workers	6.25					
Tile setters	6.825	.40	.20			

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Years' Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day;

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six paid holidays: A through F.

c. Paid holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

d. Election Day - paid holiday.

e. Paid holiday: Labor Day.

f. Employer contributes $1.20 to a combined Health and Welfare and Pension Fund.

PA-51-LAB-1-U

Building Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Laborers:						
Stripping & dismantling concrete form work, loading, unloading, carrying & handling of all reinforced steel & steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers & all other pneumatic tools, building scaffolds, raking, shoveling & tamping of asphalt, spading & concrete pit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non-metallic pipe & caulking, all other types of Laborers	$5.91	.44 +	.20			
Mason tender, power buggies, burners on demolition	6.01	.44	.20			
Wagon drill operator (single)	6.06	.44	.20			
Powdermen, wagon drill operator (multiple)	6.21	.44	.20			
Circular Caissons Excavation:						
Caisson groundmen	6.21	.44	.20			
Caisson bottom man	6.31	.44	.20			
Underpinning Excavation:						
Laborers, working at depth of 8 feet or under	6.21	.44	.20			
Yard workers	5.85	.44	.20			

PA-51-LAB-2-3- F

HEAVY & HIGHWAY CONSTRUCTION LABORERS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Powdermen, Multiple wagon drill op.	$5.85	.45	.20			
Finished surface asphalt rakers, ops., pipelayers, caulkers, conduct and duct layers	5.65	.45	.20			
Other pneumatic tool ops., Laborers stripping concrete forms, carrying or handling lumber, steel & steel mesh and other concrete materials, form pinners, tool room men, Mortar mixers, Concrete pitmen & spaders, Grade men, Asphalt shovelers, Men working in sheeting, Men working in shoring, Men working in lagging, Laborers assisting in the setting of cut stone, granite or artificial stone, hod carriers, Scaffold builders	5.55	.45	.20			
Wagon drill operators	5.70	.45	.20			
YARD WORKERS:						
Laborers, Scale mixermen, Burnermen, Dustmen. Feeders	5.45	.45	.20			
FREE AIR TUNNELS:						
Miners, Miners bore driver, Blasters, Drillers, Pneumatic Shield operators, Welders & Burners	6.10	.45	.20			
Miners' helpers, Form setters	6.95	.45	.20			
Trackmen, Trakemen, Groutmen, Bottom shaft men, All others in free air tunnels	5.80	.45	.20			
Circular caisson excavation bottom men	5.95	.45	.20			
Underpinning excavation bottom men	5.85	.45	.20			
All other laborers on construction work, with the exception of workers in compressed air	5.55	.45	.20			

POWER EQUIPMENT OPERATORS
BUILDING and HEAVY CONSTRUCTION

PA-51-PEO-1-2 - D 1 of 2

	Basic Hourly Rate	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
WAGE GROUP I						
Handling Steel and stone in connection with erection; Cranes doing hook work; Any machines handling machinery; Cable Spinning machine; Helicopters; Machines similar to the above	$9.54	4.6%	6.5%	a	.7%	
WAGE GROUP II						
Engineers working with Dock Builders and Pile Drivers All types of cranes All types of backhoes; Cableways; Draglines; Keystones; All types of shovels; Derricks; Trench shovels; Trenching machines; Pippin type backhoes; Hoist with two towers; Pavers 21E and over; All types overhead cranes; Building Hoists - double drum (unless used as single drum); Mucking Machines in tunnel; Gradalls; Front-end loaders over 3 cu. yds., Boat Captain; Tandem scrapers; Tower type crane operation, erecting, dismantling, jumping or jacking; Drills self-contained (Drillmaster type); Fork Lift (20 ft. and over), Motor Patrols (Fine Grade), Batch Plant with Mixer; Machines similar to the above	9.28	4.6%	6.5%	a	.7%	
WAGE GROUP III						
Conveyors (Except Building Conveyors), Building Hoists (single drum), Scrapers and Tournapulls, Asphalt plant engineers, Roller (High Grade finishing); Caterpillar-type tractors with front-end overhead loaders and Rubber-tired loaders 2 c.y. up to & including 3 c.y. Maintenance Engineers with tools; Spreaders, High or low pressure boilers, Concrete pumps, Well drillers, Forklift trucks of all types; Bulldozers D-7 or equivalent and over; Ditch Witch type trencher, Motor patrol; Machines similar to the above	8.43	4.6%	6.5%	a	.7%	

PA-51-PEO-1-2 - D 2 of 2

BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
WAGE GROUP IV					
Concrete breaking machines Rollers Machines similar to the above	$ 8.24	4.6%	6.5%	a	.7%
WAGE GROUP V					
All Bulldozers under D-7 Tractors including rubber-tired type with front and overhead loaders under 2 c.y. Seaman pulverizing mixer Welders and Maintenance Engineers Tireman on Power Equipment Maintenance Engineer (Power Boat) Machines similar to the above	7.93	4.6%	6.5%	a	.7%
WAGE GROUP VI					
Conveyors (Building) Welding Machines Heaters Wellpoints Compressors Farm Tractors Form line graders Road finishing machines Pumps Power Broom (Self contained) Seed Spreader Machines similar to the above	7.75	4.6%	6.5%	a	.7%
WAGE GROUP VII					
Fireman	7.24	4.6%	6.5%	a	.7%
WAGE GROUP VIII					
Oilers and Deck Hand (Personnel Boats)	6.51	4.6%	6.5%	a	.7%

FOOTNOTE:

Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day, providing the employee works the day before and after the holiday.

51-TD-1-2-3-. B

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Truck Drivers:						
Class I						
Helpers, Stake Body Truck (single axle, Dumpster	$5.52	.3175	.30	a&b		
Class II						
Dump Trucks, Tandem & Batch Trucks, Semi-Trailers, Agitator Mixer Trucks, and Dumpcrete Type Vehicles, Asphalt Distributors, Farm Tractor when used for Transportation, Stake Body Truck (Tandem)	5.62	.3175	.30	a&b		
Class III						
Euclid Type, Off-Highway Equipment Back or Belly Dump Trucks and Double Hitched Equipment, Straddle (Ross) Carrier, Low-Bed Trailers	5.82	.3175	.30	a&b		

FOOTNOTES:

a. Employee who have been on the employer's senority list for a period of one (1) year from date of hire and who shall have worked a minimum of one-hundred thirty (130) days in the year previous to his anniversary date, shall be eligible for one (1) week's vacation.

b. Paid Holidays: Memorial Day; Independence Day & Labor Day for employee who have worked a minimum of thirty days and are on the employer's senority list, provided he works the scheduled work days before and after the said holidays.

PA-6-LAB-2-T

TUNNEL COMPRESSED AIR	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Laborers:						
Blasters, Shield Drivers	$48.29	.10	.10			
Miners	46.86	.10	.10			
Brakemen, trackmen, miners' helpers	44.74	.10	.10			
Groutmen, lock tenders' helpers	44.74	.10	.10			
Laborers and other men	44.74	.10	.10			
Mucking machines	52.83	.10	.10			
Laborers (surface) per hour	4.05	.10	.10			
Between Locks						
Lock tenders, motor men	46.86	.10	.10			
All other men	44.75	.10	.10			
Outside of Locks						
Outside lock tenders, gauge tenders	44.75	.10	.10			
Outside lock tenders' helpers	42.64	.10	.10			

AIR PRESSURE*	WORKING HOURS PER DAY	AMOUNT IN ADDITION TO BASE RATE (NOT CUMULATIVE)
15 pounds and up to 26 pounds	6 hours	$1.00
26 " " " " 33 "	4 "	1.50
33 " " " " 38 "	3 "	2.00
38 " " " " 43 "	2 "	2.50
43 " " " " 48 "	1½ "	3.00
48 " " " " 50 "	1 "	3.50

POWER EQUIPMENT OPERATORS
HIGHWAY CONSTRUCTION

51-PEO-3-D 1 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WAGE GROUP I						
Handling steel and stone in connection with erection; Cranes doing hook work; Any machine handling machinery; Helicopters; Machines similar to the above	$9.09	4.6%	6.5%	a	.7%	
WAGE GROUP II						
Engineers working with dock builders and pile drivers; All types of cranes; All types of backhoes; Cableways; Draglines; Keystones; All types of shovels; Pavers 21E and over; Trenching Machines; Gradalls; Front end loaders over 3 cu. yd.; Boat Captain; Pippin type backhoes; Tandem scrapers; Tower type crane operation, erecting, dismantling, jumping or jacking; Drills self contained (Drill-master type); Forklift (20 ft. and over); Motor Patrols (fine grade); Batch Plant with Mixer; Machines similar to the above	9.08	4.6%	6.5%	a	.7%	
WAGE GROUP III						
Carryalls, Scrapers, Tournapulls, Asphalt plant engineers; Roller (high grade finishing); Caterpillar-type tractors with front end overhead loaders and rubber-tired loaders 2 c.y. up to and including 3 c.y.; Spreaders (asphalt); Concrete pumps; Well drillers; Bulldozers D-7 or equivalent and over; Ditch witch (small trencher); Motor Patrols; Maintenance Engineers with tools; Machines similar to the above	8.46	4.6%	6.5%	a	.7%	
WAGE GROUP IV						
Conveyor loader; Bulldozer under D-7 rating; tractors including rubber-tired type and front end, under 2 c.y. overhead loaders; Seaman Pulverizer; Ten-ton roller (grade fill stone base); Welders and Maintenance Engineers; Concrete Breaking Machines; Machines similar to the above	7.95	4.6%	6.5%	a	.7%	
WAGE GROUP V						
Form line grader; Fine grade machines; Farm tractors; Road finishing Concrete spreaders; Compressors; Power Broom, self-contained; Seed Spreader; Pumps; Well point pumps; Welding machines; Fireman, Power Equipment Maintenance engineers (Fever Boats); Machines similar to the above	7.60	4.6%	6.5%	a	.7%	

HIGHWAY CONSTRUCTION

51-PEO-3-C 2 of 2

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Wage Group VI						
Fireman	$7.24	4.6%	6.5%	a	.7%	
Wage Group VII						
Oilers and Deck Hands (Personnel Boats)	6.51	4.6%	6.5%	a	.7%	

FOOTNOTE:

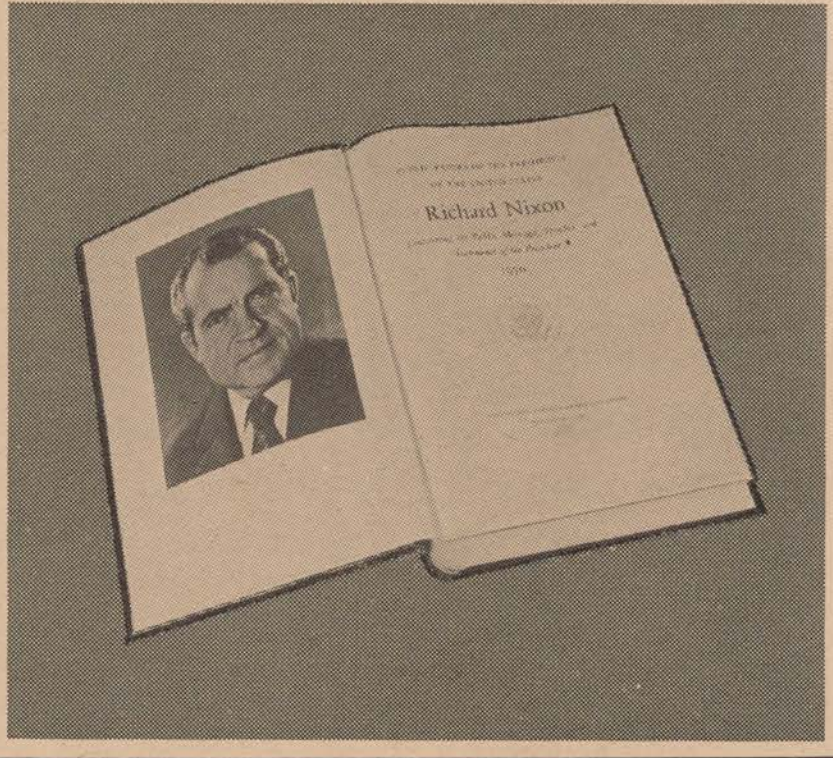
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day, providing the employee works the day before and after the holiday.

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