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(Part II begins on page 23487)

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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FEDERAL REGISTER

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The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended (44 U.S.C. 1510). The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3184 is amended to show that the position of Director, Office of Investigations, Office of the Assistant Secretary for Administration, Audits and Investigations is no longer excepted under Schedule A.

Effective on publication in the FEDERAL REGISTER (11–3–72), paragraph (d) is revoked under § 213.3184.

§ 213.3184 Department of Housing and Urban Development.

* * * * *

(d) [Revoked]

(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.72-18812 Filed 11–2–72;8:48 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. 1]

PART 729—PEANUTS

Subpart—Regulations for Determination of Acreage Allotments and Marketing Quotas for 1972 and Subsequent Crops of Peanuts

MISCELLANEOUS AMENDMENTS

On pages 20333 and 20334 of the FEDERAL REGISTER of September 29, 1972, there was published a notice of proposed rule making to issue an amendment relating to miscellaneous changes for determination of acreage allotments and marketing quotas for 1972 and subsequent crops of peanuts.

Interested persons were given 15 days after publication of such notice in which to submit written data, views, and recommendations with respect to the proposed rule making. The data, views, and recommendations which were submitted pursuant to the notice were duly considered within the limits of the Agricultural Adjustment Act of 1938, as amended. The proposed rule making was adopted with the following additions:

1. Section 729.43(b)(1) establishes the basic penalty rate for the 1972 crop of peanuts.

2. Section 729.47 provides that the date penalty becomes due is the date of marketing.

3. Authority provision has been added.

Since farmers are now marketing their 1972 crop of peanuts it is essential that the basic penalty rate for the 1972 crop be announced immediately. Accordingly, this document is being made effective upon the date of its publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on October 27, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

1. Subparagraph (12) of paragraph (b) of § 729.6 is revised to read as follows:

§ 729.6 Definitions.

* * * * *

(b) *Peanut program terms.* * * *

(12) *Final acreage.* The acreage, including volunteer acreage, on the farm from which peanuts are picked or threshed as determined and adjusted under Part 718 of this chapter.

* * * * *

2. Paragraph (c) of § 729.11 is revised to read as follows:

§ 729.11 Determination of farm peanut history acreage.

* * * * *

(c) *Computation of history acreage.* If, for any year, the full allotment is not preserved as peanut history acreage under paragraph (b) of this section, the farm peanut history acreage for such year shall be the sum of the following but not in excess of the farm allotment for such year:

(1) The final peanut acreage (including failed acreage and acreage prevented from being planted because of a natural disaster) as determined under Part 718 of this chapter;

(2) The acreage regarded as planted under conservation programs and conservation practices, determined under Part 718 of this chapter;

(3) The acreage transferred from the farm by lease or temporary transfer by owner (except increase for type);

(4) The acreage temporarily released to the county committee under provisions of § 729.22; and,

(5) The amount of any reduction in the current year allotment made pursuant to the provisions of § 729.21.

* * * * *

3. Section 729.19 is revised to read as follows:

§ 729.19 Conditions of eligibility for new farm allotment.

A new farm peanut allotment may be established if each of the following conditions is met:

(a) *Written application.* The farm operator must file an application for a new farm allotment at the office of the county committee where the farm is administratively located on or before February 15 of the year for which the new farm allotment is requested.

(b) *Eligibility requirements for operator.* The eligibility requirements for the operator are as follows:

(1) *Owner and operator of the farm.* The operator shall be the sole owner of the farm. For the purpose of applying this subparagraph (1) a person who owns only part of a farm cannot be considered the owner of the farm except that both husband and wife shall be considered the owner of the farm if the farm is jointly owned by such husband and wife.

(2) *Interest in another farm.* The farm operator shall not own or operate any other farm in the United States for which a peanut allotment is established for the current year.

(3) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and any other facilities of production (including irrigation water in irrigation areas) necessary to the production of peanuts on the farm.

(4) *Income requirement.* The operator must expect to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products.

(i) *Computing operator's income.* The following shall be considered in computing operator's income:

(a) *Income from farming.* Income from farming shall include the estimated return from home gardens, livestock, and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s). Do not include estimated return from the production of the requested new farm allotment.

(b) *Income from nonfarming.* Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments, and unemployment compensations.

(c) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(ii) *Operator a partnership.* If the operator is a partnership, each partner

must expect to obtain more than 50 percent of his current year income from farming.

(iii) *Operator a corporation.* If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(iv) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided the county committee determines that the farm operator's income, from both farm and nonfarm sources, will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that such determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making such determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(5) *Experience.* Operator must have had experience in producing, harvesting, and marketing peanuts. Such experience must have been gained: (i) By being a sharecropper, tenant, or farm operator. (Bona fide peanut production experience gained by a person as a member of a partnership shall be accepted as experience gained in meeting this requirement.) (ii) During at least 2 of the 5 years immediately preceding the year for which the new farm allotment is requested. If the operator was in the armed services during the 5-year period, extend the period 1 year for each year of military service during such 5-year period. (iii) On a farm having a peanut allotment for such years. Experience in growing peanuts on a farm having a farm allotment by temporary transfer shall be given credit.

(c) *Eligibility requirements for the farm.* The eligibility requirements for the farm are as follows:

(1) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for peanut production. Also continuous production of peanuts must not result in an undue erosion hazard.

(2) *Entire allotment permanently transferred by sale or owner.* A farm which includes land from which the entire peanut allotment was permanently transferred by sale or owner shall not be eligible for a new farm allotment for a period of 5 years beginning with the year in which the transfer became effective.

(3) *Entire allotment permanently released.* A farm which includes land from which the entire peanut allotment was permanently released shall not be eligible for a new farm allotment for a period of (3) years beginning with the year the release was effective.

(4) *Entire allotment designated by owner for a reconstitution.* A farm which includes land which has no peanut allotment because the owner did not designate a peanut allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter shall not be eligible for a new farm peanut allotment for a period of (3) years beginning with the year in which the reconstitution became effective.

(5) *Eminent domain.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire peanut allotment was pooled pursuant to Part 719 of this chapter, which is subsequently returned to agricultural production, shall not be eligible for a new farm allotment for a period of (3) years from the date the former owner was displaced.

4. Section 729.20 is revised to read as follows:

§ 729.20 Establishing new farm allotments for eligible applicants lacking experience.

If the total of the acreage required to establish allotments for all new farms in the State which are eligible under § 729.19, is less than the acreage available in the State reserve under § 729.16, for establishing such allotments, the balance, upon approval by the State committee, shall be available for establishing new farm allotments for farms for which a written application is filed by the farm operator at the office of the county committee on or before February 15 of the year for which the allotment is requested and the conditions of eligibility of § 729.19 are met. Such farm operators are not required to meet the peanut experience requirement of § 729.19(b)(5).

§ 729.22 [Amended]

5. The fourth sentence of paragraph (a) of § 729.22 is revoked.

6. Paragraph (a) of § 729.27 is revised to read as follows:

§ 729.27 Erroneous notice of allotment.

(a) If the county committee determines with the approval of the State executive director that (1) the official written notice of the farm acreage allotment issued by the State or county office for any farm erroneously stated the acreage allotment to be larger than the final effective allotment for the farm, and (2) the error was not so gross that the operator, relying upon such notice and acting in good faith materially changes his position to enable him to produce the allotment crop (for example obligated expenditures of funds for land preparation, additional equipment and labor), the acreage allotment shown on the erroneous notice shall be considered the effective farm allotment.

* * * * *

§ 729.29 [Revoked]

7. Section 729.29 is revoked.

8. A new subparagraph (1) is added to paragraph (b) of § 729.43 to read as follows:

§ 729.43 Penalty rate.

* * * * *

(b) *Future years.* * * *

(1) *1972 crop.* The basic support price for peanuts for the marketing year beginning August 1, 1972, and ending July 31, 1973, is $285 per ton or 14.25 cents per pound. Therefore, the basic penalty rate for the 1972 crop of peanuts is 10.7 cents per pound.

* * * * *

9. Section 729.47 is revised to read as follows:

§ 729.47 Payment of penalty.

A draft, money order, or check drawn payable to the "Agricultural Stabilization and Conservation Service, USDA" may be used to pay any penalty, other indebtedness, or interest thereon, but any such draft or check shall be received subject to collection and payment at par. The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of 6 percent per annum from the date the penalty becomes due until the date of payment of penalty. For purposes of this section penalty becomes due on the date of marketing. Interest shall begin to accrue on Monday of the third calendar week following the week in which the peanuts were marketed.

10. Section 729.69 is amended by correcting subparagraph (2) of paragraph (e); by revising paragraph (f); by revoking paragraph (l); by revising paragraph (o); and by revising paragraph (s) to read as follows:

§ 729.69 Terms and conditions applicable to transfers under section 358a of the Act.

* * * * *

(e) *Productivity adjustments.* * * *

(2) *Downward allotment adjustment because of irrigation.* If the county committee so determines, in the event an allotment is transferred to a farm which at the time of such transfer is not irrigated, but within 5 years subsequent to such transfer is placed under irrigation, it shall make an annual downward adjustment in the allotment so transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the actual yield per acre for the previous year, adjusted for abnormal weather conditions, on the farm to which the allotment is transferred.

* * * * *

(f) *Sale or lease transfers—limit on amount of acreage transferred.* The total

peanut allotment transferred by sale or lease, or both, to any farm shall not exceed the smaller of:

(1) The cropland on the farm minus the peanut allotment; or

(2) Fifty acres.

The cropland on the farm for the current year for purposes of such transfers shall be the total cropland as defined in Part 719 of this chapter.

* * * * *

(l) [Revoked]

(o) *Limitation on transfers to and from a farm.* No transfer of allotment for any year shall be made (1) from a farm receiving allotment by transfer for such year, or (2) to a farm which had allotment transferred from it for such year. Where an allotment is transferred temporarily from a farm for 1 or more years (and the transfer remains in effect) and the farm is subsequently combined with another farm that is otherwise eligible to receive allotment by transfer, such earlier temporary transfer from the parent farm shall be disregarded for the purpose of applying this provision.

* * * * *

(s) *Federally owned land.* No transfer under section 358a of the Act shall be made from any land owned by the United States, or any agency or instrumentality wholly owned by the United States, except that the transfer may be approved in cases where the land is leased back with uninterrupted possession to the former owner after acquisition under right of eminent domain. For such transfers, the Government agency or instrumentality is not required to sign the record of transfer.

(Secs. 358, 358a, 359, 375, 55 Stat. 88, as amended, 81 Stat. 658, as amended, 55 Stat. 90, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1358, 1358a, 1359, 1375)

Effective date: Date of publication in the FEDERAL REGISTER (11–3–72).

[FR Doc.72–18878 Filed 11–2–72;8:53 am]

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

PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Marketing Control Percentages for 1972–73 Marketing Year

Notice was published in the October 11, 1972, issue of the FEDERAL REGISTER (37 F.R. 21443) regarding a proposal to establish marketable and surplus percentages for walnuts during the 1972–73 marketing year. The year began August 1, 1972. The proposal was recommended by the Walnut Control Board. The establishment of such percentages is in accordance with the relevant provisions of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984). The amended marketing agreement and order regulate the handling of walnuts grown in California, Oregon, and Washington, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received.

The marketable and surplus percentages are pursuant to § 984.49(b) of the walnut marketing agreement and order program. These percentages are based on Walnut Control Board estimates of supply, and inshell and shelled trade demands adjusted for handler carryover, for the 1972–73 marketing year. The total 1972–73 supply subject to regulation is estimated at 123.3 million kernelweight pounds. Inshell and shelled trade demands adjusted for handler carryover are estimated at 28.6 and 72.5 million kernelweight pounds, respectively. The estimated adjusted total demand (inshell and shelled demands) is 101.1 million kernelweight pounds. The trade demand area includes the United States, Puerto Rico, and the Canal Zone.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Board, and other available information, it is found that establishment of marketable and surplus percentages as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, the marketable and surplus percentages for walnuts during the 1972–73 marketing year are established as follows:

§ 984.219 Marketable and surplus percentages for walnuts during the 1972–73 marketing year.

The marketable and surplus percentages during the marketing year beginning August 1, 1972, shall be as follows:

	California (District 1)	Oregon and Washington (District 2)
Marketable percentage	82	91
Surplus percentage	18	9

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and this part require that marketable and surplus percentages designated for a particular marketing year shall be applicable to all walnuts handled during such year; and (2) the current 1972–73 marketing year began August 1, 1972, and the percentages established herein will automatically apply to all such walnuts beginning with such date.

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

Dated: October 30, 1972.

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

[FR Doc.72–18875 Filed 11–2–72;8:52 am]

PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Expenses and Rates of Assessment for 1972–73 Marketing Year

Notice was published in the October 18, 1972, issue of the FEDERAL REGISTER (37 F.R. 22000) regarding proposed expenses of the Walnut Control Board for the 1972–73 marketing year and rates of assessment for that year. This action approves such expenses and assessment rates and is pursuant to §§ 984.68 and 984.69 of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984). The amended marketing agreement and order regulate the handling of walnuts grown in California, Oregon, and Washington, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Walnut Control Board, and other available information, it is found that the expenses of the Board and rates of assessment for the 1972–73 marketing year (which began August 1, 1972, and ends July 31, 1973), shall be as follows:

§ 984.324 Expenses of the Walnut Control Board and rates of assessment for the 1972–73 marketing year.

(a) *Expenses.* Expenses in the amount of $175,000 are reasonable and likely to be incurred by the Walnut Control Board during the marketing year beginning August 1, 1972, for its maintenance and functioning, and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rates of assessment.* The rates of assessment for said marketing year, payable by each handler in accordance with § 984.69, are fixed at 0.10 cent per pound for merchantable inshell walnuts and 0.25 cent per pound for merchantable shelled walnuts.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rates of assessment fixed for a particular marketing year shall be applicable to all assessable walnuts from the beginning of such year; and (2) the 1972–73 marketing year began August 1, 1972, and the rates of assessment herein fixed will automatically apply to all such assessable walnuts beginning with that date.

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

Dated: October 31, 1972.

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

[FR Doc.72-18876 Filed 11-2-72;8:52 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72-572]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, paragraph (e) (2) relating to the State of Indiana is amended to read:

(e) * * *

(2) *Indiana.* (i) That portion of Carroll County bounded by a line beginning at the junction of the Carroll-Tippecanoe County line and the east bank of the Wabash River; thence, following the east bank of the Wabash River in a generally northeasterly direction to the Carroll-Cass County line; thence, following the Carroll-Cass County line in a southerly, then easterly, then southerly direction to the junction of the Carroll-Cass-Howard County lines; thence, following the Carroll-Howard County line in a southerly direction to Division Road; thence, following Division Road in a westerly direction to State Highway 18; thence, following State Highway 18 in a westerly direction to the Monroe-Carrollton Township line; thence, following the Monroe-Carrollton Township line in a southerly direction to the junction of the Monroe-Carrollton-Burlington Township lines; thence, following the Monroe-Burlington Township line in a southerly direction to the junction of the Monroe-Burlington-Democrat Township lines; thence, following the Democrat-Burlington Township line in a southerly direction to State Highway 600 S; thence, following State Highway 600 S in a westerly direction to the Democrat-Clay Township line; thence, following the Democrat-Clay Township line in a northerly direction to the junction of the Democrat-Clay-Madison Township lines; thence, following the Clay-Madison Township line in a westerly direction to U.S. Highway 421; thence, following U.S. Highway 421 in a northerly, then northwesterly direction to Division Road; thence, following Division Road in a westerly direction to the Carroll-Tippecanoe County line; thence, following the Carroll-Tippecanoe County line in a northerly direction to its junction with the east bank of the Wabash River.

(ii) That portion of Randolph County bounded by a line beginning at the junction of State Highway 32 and Greenville Pike; thence, following Greenville Pike in a south easterly direction to the Indiana-Ohio State line; thence, following the Indiana Ohio State line in a southerly direction to the Randolph-Wayne County line (in Indiana); thence, following the Randolph-Wayne County line (in Indiana) in a westerly direction to the West River-Washington Township line; thence, following the West River-Washington Township line in a northerly direction to the junction of the West River-Washington-White River Township lines; thence, following the White River-Washington Township line in an easterly direction to Huntsville Pike; thence, following Huntsville Pike in a northeasterly direction to State Highway 32; thence, following State Highway 32 in an easterly direction to its junction with Greenville Pike.

2. In § 76.2, paragraph (e) (3) relating to the State of Kansas is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264–1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Randolph County in Indiana because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined area.

The amendments exclude a portion of Osborne County in Kansas from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from non-quarantined areas contained in said Part 76 apply to the excluded area. No areas in Kansas remain under quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as the amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18831 Filed 11-2-72;8:49 am]

[Docket No. 72-574]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined and Released

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e) (2) relating to the State of Indiana, a new subdivision (iii) relating to Delaware and Randolph Counties is added to read:

(e) * * *

(2) *Indiana.* * * *

(iii) The adjacent portions of Delaware and Randolph Counties bounded by a line beginning at the junction of the Liberty-Center Township line and State Highway 32 in Delaware County; thence, following State Highway 32 in an easterly direction to State Highway 1 in Randolph County; thence, following State Highway 1 in a southerly direction to the junction of the Stony Creek-White River-West River Township lines; thence, following the Stony Creek-West River Township line in a southerly direction to the junction of the Stony Creek-Nettle

Creek-West River Township lines; thence, following the Stony Creek-Nettle Creek Township line in a westerly direction to the Randolph-Delaware County line; thence, following the Randolph-Delaware County line in a southerly direction to the junction of the Randolph-Delaware-Henry County lines; thence, following the Delaware-Henry County line in a westerly direction to County Road 200 East in Delaware County; thence, following County Road 200 East in a northerly direction to County Road 450 South; thence, following County Road 450 South in a westerly direction to County Road 150 East; thence, following County Road 150 East in a northerly direction to the Center-Monroe Township line; thence, following the Center-Monroe Township line in an easterly direction to the junction of the Center-Monroe-Perry-Liberty Township lines; thence, following the Center-Liberty Township line in a northerly direction to its junction with State Highway 32 in Delaware County.

2. In § 76.2, in paragraph (e)(6) relating to the State of North Carolina, subdivision (ii) relating to Johnston, Harnett, Cumberland, and Sampson Counties is amended to read:

(e) * * *

(6) *North Carolina.* * * *

(ii) The adjacent portions of Johnston, Harnett, Cumberland and Sampson Counties bounded by a line beginning at the junction of State Highway 50 and Secondary Road 1122 in Johnston County; thence, following State Highway 50 in a southwesterly direction to State Highway 55 in Harnett County; thence, following State Highway 55 in a southeasterly direction to Secondary Road 2006; thence, following Secondary Road 2006 in a southeasterly direction to Secondary Road 1769; thence, following Secondary Road 1769 in a northwesterly direction to the east bank of Thorntons Creek; thence, following the east bank of Thorntons Creek in a generally southeasterly direction to the north bank of Cape Fear River; thence, following the north bank of Cape Fear River in a generally southeasterly direction to dirt road extension of Secondary Road 1709; thence, following dirt road extension of Secondary Road 1709 in a northeasterly direction to Secondary Road 1709; thence, following Secondary Road 1709 in a northeasterly direction to Secondary Road 1802; thence, following Secondary Road 1802 in a southeasterly direction to U.S. Highway 301; thence, following U.S. Highway 301 in a southeasterly direction to U.S. Highway 13; thence, following U.S. Highway 13 in a northeasterly direction to Secondary Road 1818; thence, following Secondary Road 1818 in a southeasterly direction to Secondary Road 1826; thence, following Secondary Road 1826 in a generally southeasterly direction to Secondary Road 1848; thence, following Secondary Road 1848 in a northeasterly direction to Secondary Road 1851; thence, following Secondary Road 1851 in a northeasterly direction to Secondary Road 1426 in Sampson County; thence, following Secondary Road 1426 in a northeasterly direction to Secondary Road 1424; thence, following Secondary Road 1424 in a northwesterly direction to Secondary Road 1427; thence, following Secondary Road 1427 in a northeasterly direction to Secondary Road 1425; thence, following Secondary Road 1425 in a northeasterly direction to Secondary Road 1428; thence, following Secondary Road 1428 in a northeasterly direction to Secondary Road 1430; thence, following Secondary Road 1430 in a generally northeasterly direction to Secondary Road 1414; thence, following Secondary Road 1414 in a generally northeasterly direction to Secondary Road 1326; thence, following Secondary Road 1326 in a northeasterly direction to State Highway 242; thence, following State Highway 242 in a northwesterly direction to Secondary Road 1006; thence, following Secondary Road 1006 in a northeasterly direction to Secondary Road 1332; thence, following Secondary Road 1332 in a northeasterly direction to Secondary Road 1325; thence, following Secondary Road 1325 in a generally northwesterly direction to Secondary Road 1338; thence, following Secondary Road 1338 in a northeasterly direction to U.S. Highway 421; thence, following U.S. Highway 421 in a southwesterly direction to Secondary Road 1809; thence, following Secondary Road 1809 in a northwesterly direction to Secondary Road 1636; thence, following Secondary Road 1636 in a northeasterly direction to Secondary Road 1703; thence, following Secondary Road 1703 in a northwesterly direction to Secondary Road 1647; thence, following Secondary Road 1647 in a northwesterly direction to State Highway 50; thence, following State Highway 50 in a northwesterly direction to its junction with Secondary Road 1122 in Johnston County.

3. In § 76.2, paragraph (e)(4) relating to the State of Kentucky is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Delaware County and an additional portion of Randolph County in Indiana because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendments exclude a portion of Johnston County in North Carolina and portions of Breckinridge, Hardin, and Meade Counties in Kentucky from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas. No area in Kentucky remains under quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as the amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18829 Filed 11-2-72;8:49 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Release of Areas Quarantined

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, in paragraph (a)(1) relating to the State of California, in subdivision (iv) relating to Orange County, (a) is deleted, and subdivisions (i) relating to Ventura County and (iii) relating to Riverside and San Bernadino Counties are amended to read:

(a) * * *

(1) *California.* (i) That portion of Ventura County bounded by a line beginning at the junction of the north bank of the Santa Clara River and the Pacific Ocean; thence, following the north bank

of the Santa Clara River in a generally northeasterly direction to the Ventura-Los Angeles County line; thence, following the Ventura-Los Angeles County line in a southeasterly, then generally southwesterly direction to its junction with U.S. Highway 101; thence, following U.S. Highway 101 in a generally northwesterly direction to its junction with the north bank of the Santa Clara River.

* * * * *

(iii) That portion of San Bernardino and Riverside Counties bounded by a line beginning at the junction of the San Bernardino-Los Angeles County line and the dividing line between T. 2 N. and T. 1 N. of the San Bernardino base line; thence, following the dividing line between T. 2 N. and T. 1 N. in an easterly direction to the San Bernardino meridian in San Bernardino County; thence, following the San Bernardino meridian in a southerly direction to the San Bernardino-Riverside County line; thence, following the San Bernardino-Riverside County line in an easterly direction to the dividing line between R. 3 E. and R. 4 E. of the San Bernardino meridian in San Bernardino County; thence, following the dividing line between R. 3 E. and R. 4 E. in a southerly direction to the dividing line between T. 6 S. and T. 7 S. of the San Bernardino base line; thence, following the dividing line between T. 6 S. and T. 7 S. in a westerly direction to the dividing line between R. 2 W. and R. 3 W. of the San Bernardino meridian; thence, following the dividing line between R. 2 W. and R. 3 W. in a southerly direction to the dividing line between T. 7 S. and T. 8 S. of the San Bernardino base line; thence, following the dividing line between T. 7 S. and T. 8 S. in a westerly direction to the dividing line between R. 3 W. and R. 4 W. of the San Bernardino meridian; thence, following the dividing line between R. 3 W. and R. 4 W. in a northerly direction to the dividing line between T. 7 S. and T. 6 S. of the San Bernardino base line; thence, following the dividing line between T. 7 S. and T. 6 S. in an easterly direction to the western edge of U.S. Highway 395; thence, following the western edge of U.S. Highway 395 in a northwesterly direction to the Riverside-San Bernardino County line; thence, following the Riverside-San Bernardino County line in a westerly, then southwesterly direction to the junction of the Riverside-San Bernardino-Orange County lines; thence, following the San Bernardino-Orange County line in a northwesterly direction to the junction of the San Bernardino-Orange-Los Angeles County lines; thence, following the San Bernardino-Los Angeles County line in a northeasterly direction to its junction with the dividing line between T. 2 N. and T. 1 N. of the San Bernadino base line.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sections 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes portions of Ventura, Riverside, Orange, and San Bernardino Counties in California from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 82.3. Further, the provisions of the regulations relating to movements from nonquarantined areas apply with respect to the dequarantined areas.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72–18830 Filed 11–2–72;8:49 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 1]

PART 115—SURETY BOND GUARANTEE

Fees

On September 2, 1972, there was published in the FEDERAL REGISTER (37 F.R. 17980) a notice that the Small Business Administration proposed to change the fee structure of the Surety Bond Guarantee Program by amending Part 115 of Chapter I of Title 13 of the Code of Federal Regulations, § 115.7. Interested parties were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed amendment. No objections have been received, and the proposed amendment is hereby adopted without change and is set forth below.

§ 115.7 Guarantee fees.

(a) An applicant small business concern, being required to provide a bond for performance or payment equivalent to 100 percent of the contract price shall pay to SBA a guarantee fee of 0.2 percent of the contract price upon obtaining the contract.

(b) An applicant small business concern, being required to provide a bond for performance or payment of less than 100 percent of the contract price shall pay the SBA a guarantee fee of 0.2 percent of the contract price or an amount equal to 20 percent of the premium charged by the surety, whichever is less, upon obtaining the contract.

(c) The surety company shall pay to SBA a guarantee fee of 10 percent of its bond premium.

Effective date. This amendment shall be effective as of November 1, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72–18839 Filed 11–2–72;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 72–WE–8–AD; Amdt. 39–1549]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Aircraft With Volpar Tricycle Landing Gears

Beech Models C–45G, TC–45G, C–45H, TC–45H, TC–45J (SNB–5), RC–45J (SNB–5P), D18C, D18S, E18S, E18S–9700, G18S, H18, JRB–6, 3N, 3NM, and 3TM aircraft with Volpar tricycle landing gear (STC SA4–1531, STC SA111WE, STC SA1832WE or any other STC modification incorporating the provisions of this installation).

Amendment 39–1494 (37 F.R. 15421), AD 72–16–2, provides, inter alia, procedures for the inspection and modification of the Beech main landing gear cylinder and top brace assembly, P/N 404–188406, for airplanes with Volpar trigear which do not incorporate the Volpar P/N 859 strap reinforcement. After issuing Amendment 39–1494, the agency determined that inspection and modification of the main landing gear cylinder and top brace assembly can be accomplished without complete disassembly of the main landing gear shock strut. Therefore, paragraph 3 of the AD is being amended to provide procedures for the inspection and modification of the main landing gear cylinder and top brace assembly with the main landing gear shock strut assembled.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and

the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1494 (37 F.R. 15421), AD 72-16-2 is amended as follows:

Amend paragraph 3 to read:

3. Main landing gear cylinder and top brace assembly:

a. For airplanes with Volpar trigear which do not incorporate the Volpar P/N 859 strap reenforcement on Beech main landing gear cylinder and top brace assembly P/N 404-188406, inspect the cylinder and top brace assembly for cracks within 50 hours' time in service after the effective date of this amendment to AD 72-16-2, unless already accomplished. For inspection purposes accomplish the following:

(1) Support aircraft on jacks.

(2) Remove main wheel and brake assembly.

(3) Remove main landing gear shock strut assembly from aircraft.

(4) Clean surfaces and inspect the cylinder and top brace assembly for cracks using magnetic particle inspection method per MIL-I-6868 or dye penetrant inspection method "C", type II, per MIL-I-6866.

b. If cracks are found by the inspections per paragraph 3a above, repair in accordance with FAR Part 43 prior to accomplishing modification per paragraph 3c below.

NOTE: The repair is restricted to the areas shown on the attached Figure No. 2. If cracks are found in areas other than shown, disassembled shock strut and replace cylinder and top brace assembly as follows:

(1) Release air charge and remove AN 6286 valve from main landing gear shock strut.

(2) Remove the following components from shock strut:

(a) Cylinder cap assembly P/N 414-188438.

(b) Bracket P/N 709.

(c) Torque links P/N 738 and P/N 706.

(3) Drain oil from the cylinder.

(4) Remove the AN 365-820 nut from the lower end of the piston at the P/N 426 fork.

NOTE: Care must be taken to avoid shearing the roll pin installed on the E-G-H18 aircraft metering rod assembly. Use a ¾-inch socket to hold the upper end of the metering rod. On C-45 and D18 aircraft, a slotted screw driver is used to hold the metering rod.

(5) Remove the P/N 426 fork from the piston by pressing off. Heat may be used on the fork to facilitate removal. Heat to a maximum of 300° F., to 350° F.

(6) Remove the P/N 275 stud from the bottom of the piston and slide piston, metering rod, inner cylinder, and seals from the outer cylinder assembly.

(7) Reverse the above procedure for the assembly of shock strut using a cylinder and top brace assembly that has been inspected and modified in accordance with paragraph 3c below.

(8) Complete a landing gear operational check before returning the aircraft to service.

CAUTION: (a) The AN 936-816 lock washer should be installed on to the threaded portion of the metering rod between the P/N 275 stud and the base of the piston.

(b) The AN 6227-7 "O" ring should be installed in groove on metering rod before installation in the piston.

(c) The 426 fork should not be driven or pressed on to piston with the AN 365 nut. Heat should be used on the P/N 426 fork. Cool piston with ice to allow slide fit, then torque AN 365 nut in place on stud.

c. If no cracks are found by the inspections per paragraph 3a above, modify clyinder and top brace assembly with Volpar P/N 859 strap reinforcement prior to further flight in accordance with the attached figure No. 1.

NOTE: Following the installation of the reinforcement, reinspect the top brace assembly for cracks using magnetic particle inspection method per MIL-I-6868. If cracks are found, repair in accordance with FAR Part 43 prior to further flight.

This amendment becomes effective November 3, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on October 24, 1972.

WILLIAM R. KRIEGER,
Acting Director,
FAA Western Region.

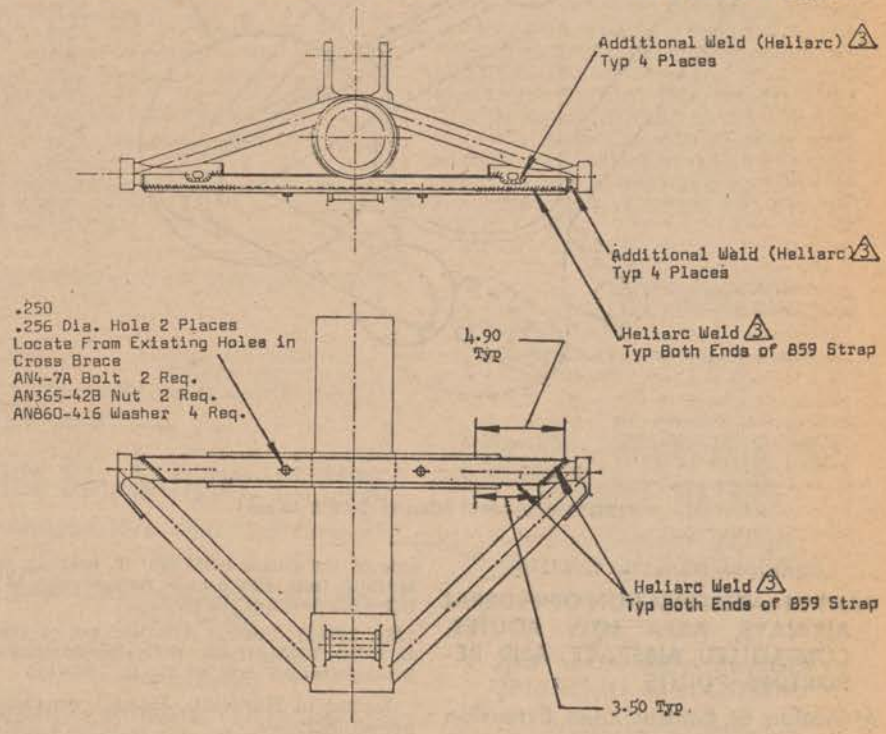

FIGURE NO. 1

5. After Welding, Paint Non-Plated Weld Areas with Zinc Chromate and then Aluminum Lacquer.
4. Heliarc Weld in accordance with the requirements of FAR 43.
3. Before Welding, Remove Cadmium Plating in Areas to be Welded.
2. Magnetic Particle Inspect 404-188406 Cylinder & Top Brace Asst Per Mil-I-6868 Before and After Welding.
1. Disassemble Beech 414-188400-1 or 404-188400-600/-601 Shock Absorber Assy to Obtain 404-188406 Cylinder Top Brace Assy.
Part of Original Airplane. Not Furnished with Kit.

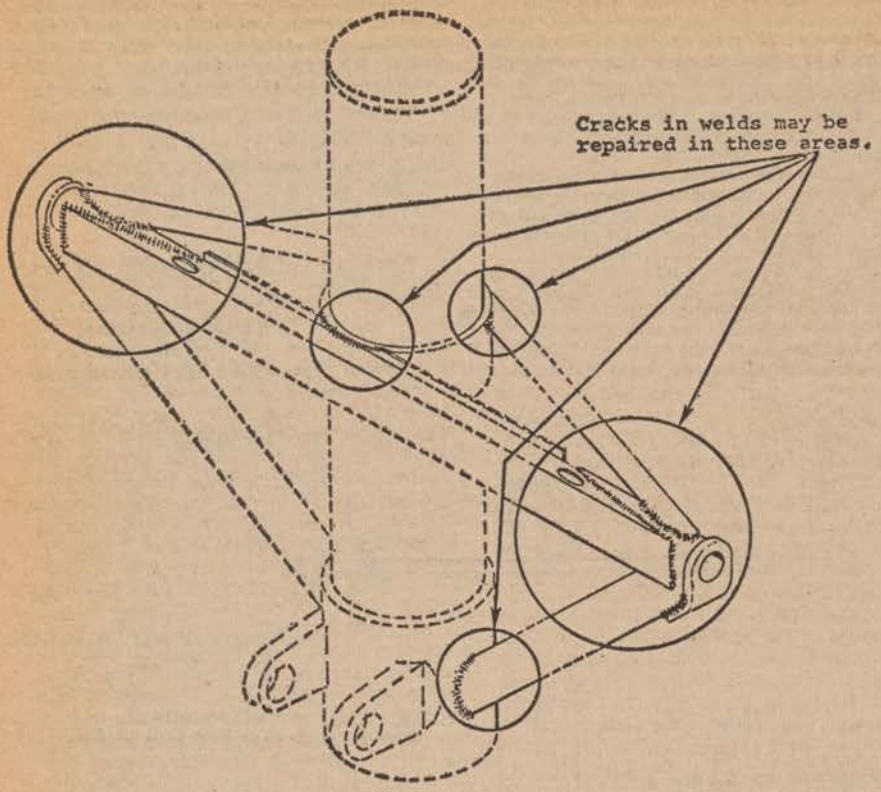

FIGURE NO. 2

[FR Doc.72-18663 Filed 11-2-72;8:45 am]

[Airspace Docket No. 72-PC-3]

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

Alteration of Control Zone Extension

On September 12, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 18472) stating that the Federal Aviation Administration proposed an amendment to Part 71 of the Federal Aviation Regulations that would increase the Guam (NAS Agana) control zone extension.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No objections were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 6, 1972, as hereinafter set forth.

GUAM ISLAND (NAS AGANA)

Within a 5-mile radius of NAS Agana (latitude 13°29'00'' N., longitude 144°47'00'' E.); within 4 miles each side of Agana VORTAC 244° R. (245° T.), extending from the 5-mile radius zone to 8 miles southwest of the VORTAC, and within 1.5 miles each side of the Guam RBN 046° T. bearing, extending from the 5-mile radius zone to 2 miles northeast of the RBN.

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

Issued in Honolulu, Hawaii, on October 25, 1972.

JOHN H. HILTON,
Acting Director,
Pacific-Asia Region.

[FR Doc.72-18798 Filed 11-2-72;8:46 am]

[Airspace Docket No. 72-SW-18]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route Segments

Correction

In F.R. Doc. 72-16900 appearing on page 20807 in the issue for Wednesday, October 4, 1972, the following changes should be made:

1. The sixth line of paragraph b. should be followed by a closing quotation mark.

2. The fourth line of paragraph c., now reading 'Orleans, La., via" and substitute "Hous-', should read 'Orleans, La., via" and substitute "(Hous-'.

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Sulfamethazine

The Commissioner of Food and Drugs has evaluated evaluated a supplemental new animal drug application (32-378V) filed by Norden Laboratories, Lincoln, Nebr. 68501, proposing revised labeling regarding the safe and effective use of sulfamethazine boluses by deleting reference to "sustained-release". The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135c.10 *Sulfamethazine* is amended in paragraph (d) in the table under the "Limitations" column by deleting the words "sustained-release" and by inserting following the word "bolus" the word "form", and by deleting the phrase "for use by or on the order of a licensed veterinarian" and substituting therefore the phrase "Federal law restricts this drug to use by or on the order of a licensed veterinarian".

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER (11-3-72).

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

Dated: October 27, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-18821 Filed 11-2-72;8:50 am]

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

Exempt Chemical Preparations

A notice was published in the FEDERAL REGISTER of August 29, 1972 (37 F.R. 17478) proposing that several chemical preparations containing controlled substances be granted the exemptions provided for in § 308.24 of Title 21 of the Code of Federal Regulations. All interested persons were invited to submit objections or comments on the proposal within 30 days after publication. No objections or comments have been received. However, one entry was erroneously made and has been deleted for republication at a later date.

Therefore, under the authority vested in the Attorney General by sections 301

and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 871(b)) and redelegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that Part 308 of Title 21 of the Code of Federal Regulations be amended as follows:

By amending § 308.24(i) by adding the following exempt chemical preparations:

§ 308.24 Exempt chemical preparations.

* * * * *

(i) * * *

Manufacturer or supplier	Product name and supplier's catalog number	Form of product	Date of application
Cordis Laboratories	Barbital-Acetate Buffer, Powder 709-317	Package: 20 envelopes—10.65 grams per envelope.	7-27-72
Do	Counterelectrophoresis, Plates CEP I 709-304.	Package: 5 plates—18 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP II 709-305.	Package: 5 plates—18 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP III 709-306.	Package: 5 plates—18 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP IV 709-307.	Package: 5 plates—18 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP I 709-324.	Package: 10 plates—8.5 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP II 709-325.	Package: 10 plates—8.5 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP III 709-326.	Package: 10 plates—8.5 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP IV 709-327.	Package: 10 plates—8.5 ml. per plate.	7-27-72
Do	GVB^{2+} Buffer, 753-037	Bottle: 50 ml	7-27-72
Do	Glucose—GVB^{2+} Buffer, 753-036	Bottle: 50 ml	7-27-72
Do	EDTA (0.04M)—GVB Buffer, 753-034	Bottle: 5 ml	7-27-72
Do	EDTA (0.01M)—GVB Buffer, 753-031	Bottle: 5 ml	7-27-72
Do	5X Isotonic Veronal Buffer	Bottle: 1000 ml	7-27-72

Effective date. This order is effective upon the date of its publication in the FEDERAL REGISTER (11-3-72).

Dated: October 30, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-18823 Filed 11-2-72;8:50 am]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 20—OCCUPATIONAL TRAINING OF UNEMPLOYED PERSONS

Effective Period of Program

Public Law 92-277 extended title II of the Manpower Development and Training Act for 1 year, from June 30, 1972, to June 30, 1973, and removed the provision which limited expenditures under title II to the 6-month period following the expiration of authority under title II. Section 20.2, Title 29, Code of Federal Regulations, is being amended to conform to Public Law 92-277, and is amended to read as follows:

§ 20.2 Effective period of program.

No commitment of funds shall be made pursuant to the authority conferred upon the Secretary under title II of the Act after June 30, 1973, unless by Act of Congress the Act is extended beyond that date.

(Sec. 207, 76 Stat. 29, 42 U.S.C. 2587)

Signed at Washington, D.C., this 26th day of October 1972.

MALCOLM R. LOVELL,
Assistant Secretary for Manpower.

[FR Doc.72-18869 Filed 11-2-72;8:52 am]

Title 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

PART 1631—ALLOCATION OF INDUCTIONS

Action of Local Board Upon Receipt of Allocation

Whereas, on September 30, 1972, the Director of Selective Service published a Notice of Proposed Amendments to Selective Service Regulations (37 F.R. 20577), of September 30, 1972; and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constitution a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59, e.s.t., on November 4, 1972, as follows:

Section 1631.6(c)(2)(ii) is amended to read as follows:

§ 1631.6 Action by local board upon receipt of allocation.

* * * * *

(c) * * *

(2) * * *

(ii) *1971 and later years.* In the calendar year 1971 and each calendar year thereafter, nonvolunteers in Class 1-A, Class 1-A-O, Class 1-O or Class 1-H who prior to January of each such calendar year have attained the age of 19 years but not of 20 years and nonvolunteers who prior to January 1 of each such calendar year have attained the age of 19 but not of 26 years, who do not qualify for the Extended Priority Selection Group as defined in subparagraph (1) or a lower priority selection group as defined in subparagraph (3), and who during that year are classified into Class 1-A, Class 1-A-O, Class 1-O or Class 1-H.

* * * * *

BYRON V. PEPITONE,
Acting Director.

OCTOBER 31, 1972.

[FR Doc.72-18851 Filed 11-2-72;8:45 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGD 72-213R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

White River, Ark.

This amendment revokes the regulation for the Missouri and Arkansas Railroad Bridge, mile 172.2, White River, near Georgetown, Ark., because this bridge has been removed.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking § 117.583.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on the date of publication in the FEDERAL REGISTER (11-3-72).

Dated: October 26, 1972.

J. D. MCCANN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-18844 Filed 11-2-72;8:45 am]

SUBCHAPTER K—SECURITY OF VESSELS

[CGD 72-194R]

PART 121—SPECIAL VALIDATION ENDORSEMENT FOR EMERGENCY SERVICE FOR MERCHANT MARINE PERSONNEL

SUBCHAPTER L—SECURITY OF WATERFRONT FACILITIES

PART 125—IDENTIFICATION CREDENTIALS FOR PERSONS REQUIRING ACCESS TO WATERFRONT FACILITIES OR VESSELS

Revocation of Standard

The amendments in this document to the security regulations revoke one of the standards that the Coast Guard uses to determine whether or not an applicant for a special validation endorsement for emergency service, or a holder of such endorsement, may be precluded from a determination that his character and habits of life are such to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States. This standard is contained in §§ 121.03 (e) and 125.19(e) of Title 33, Code of Federal Regulations, and concerns membership in, or affiliation or sympathetic association with any foreign or domestic organization, association, movement, group, or combination of persons designated by the Attorney General pursuant to Executive Order 10450, as amended.

In a review of its security program, the Coast Guard has determined that the standard contained in §§ 121.03(e) and 125.19(e) is stated in indefinite terms and such vagueness does not fully inform the public of the standard to be applied. This document revokes these sections as an interim measure until a more definitive delineation of the standard to be applied is proposed in the FEDERAL REGISTER.

Since the amendment in this document contains a revocation of a general statement of policy, the exception to the notice of proposed rule making contained in 5 U.S.C. 553(b)(A) applies, and the revocation may be made effective in less than 30 days, as authorized by 5 U.S.C. 553(d)(2).

In consideration of the foregoing, Chapter 1 of Title 33, Code of Federal Regulations is amended as follows:

1. By revoking paragraph (e) of § 121.03.

2. By revoking paragraph (e) of § 125.19.

(Executive Orders 10173, 10277, and 10352, 3 CFR, 1949–53 Comp., pp. 356, 778, and 873; sec. 6(b)(1), 80 Stat. 937; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date. This amendment shall become effective on November 6, 1972.

Dated: October 27, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.72-18843 Filed 11-2-72;8:45 am]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

SUBCHAPTER N—PROCEDURES

PART 951—PROCEDURE GOVERNING THE ELIGIBILITY OF PERSONS TO PRACTICE BEFORE THE POSTAL SERVICE

PART 952—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO FALSE REPRESENTATION AND LOTTERY ORDERS

PART 953—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO MAILABILITY

PART 954—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE DENIAL, SUSPENSION OR REVOCATION OF SECOND-CLASS MAIL PRIVILEGES

PART 955—RULES OF PRACTICE BEFORE THE BOARD OF CONTRACT APPEALS

PART 957—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO DEBARMENT AND SUSPENSION FROM CONTRACTING

PART 958—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE REFUSAL TO RENT OR RENEW POST OFFICES BOXES AND THE CLOSING OF POST OFFICE BOXES

Change of Title of Hearing Examiners; Miscellaneous Amendments

The Judicial Officer pursuant to 39 CFR 222.2(b)(5) has amended the rules of procedure before the Judicial Officer codified in Parts 951–955, 957, and 958. The amendments reflect the change of the title "hearing examiner" to "Administrative Law Judge" in Part 930 of the Civil Service Commission's regulations (5 CFR Part 930) and amendments to the organization regulations of the Postal Service published in the daily issue of September 27, 1972 (37 F.R. 20167). An amendment to § 957.9 conforms terminology in that section to terminology used elsewhere in postal regulations.

The amendments made by the Judicial Officer are set out below and are effective upon publication in the FEDERAL REGISTER (11–3–72).

(39 U.S.C. 204, 401, 404)

ROGER P. CRAIG,
Deputy General Counsel.

ADAM G. WENCHEL,
Judicial Officer.

The rules of practice before the Judicial Officer are amended as follows:

1. Section 952.17 is amended by changing "Chief Hearing Examiner" where it appears in paragraph (a) to "Chief Administrative Law Judge".

2. Section 953.11 is amended by changing "Chief Hearing Examiner" to "Chief Administrative Law Judge."

3. Section 954.14 is amended by changing "Chief Hearing Examiner" where it appears in paragraph (a) to "Chief Administrative Law Judge."

4. Section 955.1 is amended by changing the second sentence of paragraph (b) to read: "The Board is composed of the Judicial Officer as Chairman, the Chief Administrative Law Judge and one other Administrative Law Judge designated by the Chairman."

5. Section 957.9 is amended by striking out "departmental decision" and inserting "Postal Service Decision" in lieu thereof.

6. Section 958.7 is amended by changing "Chief Hearing Examiner" to "Chief Administrative Law Judge."

7. Parts 951–954 and 958 are amended by changing "hearing examiner" and "hearing examiners" wherever those terms appear to "Administrative Law Judge" and "Administrative Law Judges", respectively.

[FR Doc.72-18852 Filed 11-2-72;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 114—Department of the Interior

PART 114–26—PROCUREMENT SOURCES AND PROGRAMS

PART 114–38—MOTOR EQUIPMENT MANAGEMENT

Miscellaneous Amendments

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and section 205(c), 63 Stat. 390; 40 U.S.C. 486(c), Subparts 114–26.4 and 114–38.1 of Chapter 114, Title 41 of the Code of Federal Regulations are amended as set forth below.

These amendments shall become effective on the date of publication in the FEDERAL REGISTER (11–3–72).

CHARLES G. EMILE,
Deputy Assistant
Secretary of the Interior.

OCTOBER 30, 1972.

Subpart 114–26.4—Purchase of Items From Federal Supply Schedule Contractors

The table of contents for Subpart 114–26.4 is amended by deleting the reference to § 114–26.406–6, *Notice to GSA of assignment of billing codes and billing addresses.*

Section 114-26.406–4(b) is revised to read as follows:

§ 114–26.406–4 Administrative control of credit cards.

* * * * *

(b) The head of each bureau and office shall be responsible for establishing procedures to provide for the administrative control of credit cards in accordance with the guidelines set forth in FPMR 101–26.406–4(b).

§ 114–26.406–6 [Deleted]

Section 114–26.406–6 is deleted in its entirety.

Subpart 114–38.1—Reporting Motor Vehicle Data

The table of contents for Subpart 114–38.1 is revised to provide for new entries as follows:

Sec.

114–38.100	Scope of subpart.
114–38.101	Records.
114–38.102	Preparation of Standard Form 82, Agency Report of Motor Vehicle Data.
114–38.102–1	Reporting period and submission.

Authority: The provisions of this Subpart 114–38.1 issued under 5 U.S.C. 301 and section 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 114–38.1 is revised to read as follows:

§ 114–38.100 Scope of subpart.

This subpart sets forth the responsibility of each bureau and office for maintaining inventory, cost, and operating data needed for the management and control of motor vehicles and to fulfill the reporting requirements established herein.

§ 114–38.101 Records.

(a) Accounting records. The head of each bureau and office is responsible for the development and maintenance of motor vehicle cost accounting records, and for the establishment of reporting procedures to insure compliance with the requirements of FPMR 101–38.1 and this Subpart 114–38.1.

(b) Utilization records, bureau-owned vehicles. Heads of bureaus and offices shall establish procedures to insure that:

(1) Records are maintained to reflect utilization data (miles or hours operated) on an individual motor vehicle basis.

(2) Utilization data are recorded each day a vehicle is operated. Data covering two or more short trips during a single day may be combined to record total utilization during that particular day.

(3) The utilization record of each motor vehicle is analyzed not less frequently than once each year by appropriate management officials, and

(4) Any necessary followup action is taken promptly to achieve maximum effective utilization at the minimum cost.

(c) Utilization records, interagency motor pool vehicles. Utilization records on interagency motor pool vehicles shall be recorded and reported in accordance with instructions issued by GSA regional offices and individual motor pools.

(d) Operator's record, Form DI–120, Operator's Record, may be used for recording utilization data prescribed in IPMR 114–38.103(b). This form is available on requisition from the Branch of Supply, Division of General Services, Office of Management Operations, Washington, D.C.

§ 114–38.102 Preparation of Standard Form 82, Agency Report of Motor Vehicle Data.

Each bureau and office which owns and/or rents motor vehicles shall prepare and submit a consolidated Standard Form 82, Agency Report of Motor Vehicle Data. Only the applicable portions of Standard Form 82 need to be completed if a bureau or office operates only rental vehicles. Section II is to be completed only by those bureaus having accountability for a fleet of 2,000 or more vehicles.

§ 114–38.102–1 Reporting period and submission.

Standard Form 82 shall be prepared as of June 30 of each year and submitted in triplicate, to reach the Director of Management Operations by September 1 of each year.

[FR Doc.72–18791 Filed 11–2–72;8:46 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Salt Meadow National Wildlife Refuge, Conn.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11–3–72).

§ 28.28 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

CONNECTICUT

SALT MEADOW NATIONAL WILDLIFE REFUGE

Entry onto the refuge, by foot, is permitted during daylight hours, by advanced reservation only, for the purpose of environmental education studies, hiking, and photography. Entrance permits may be obtained for specific dates, by mail, from the Refuge Manager, Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, MA 01742. Motor vehicles are limited to the designated parking areas. Pets are not permitted on the refuge unless authorized in the entrance permit.

Information about the refuge, which comprises approximately 180 acres, is available from the Refuge Manager, Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, MA 01742, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1972.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 26, 1972.

[FR Doc.72–18790 Filed 11–2–72;8:46 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7216]

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

Determination of Income Effectively Connected With U.S. Business of Nonresident Aliens or Foreign Corporations

On January 23, 1969, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform the regulations to section 864(c) of the Internal Revenue Code of 1954, relating to rules for determining income effectively connected with the U.S. business of nonresident alien individuals or foreign corporations, as added by section 102(d) of the Foreign Investors Tax Act of 1966 (80 Stat. 1544), was published in the FEDERAL REGISTER (34 F.R. 1030). Further, on January 23, 1971, notice of proposed rule making withdrawing a portion of the proposed regulations contained in the previous notice and proposing regulations in lieu thereof was published in the FEDERAL REGISTER (36 F.R. 1149). After consideration of all relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.864–3, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising example (2) of paragraph (b) thereof and by adding a new example (3) to such paragraph. These revised and added provisions read as set forth below.

PAR. 2. Paragraph (c) of § 1.864–4, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising subdivision (ii) of subparagraph (1), by revising subdivisions (i) and (iii) (*b*) of subparagraph (2), by revising subdivision (i) of subparagraph (3), and by revising subdivisions (i), (ii), (iii),

(vi), and (vii) of subparagraph (5). These revised provisions read as set forth below.

PAR. 3. Section 1.864–5, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising paragraph (a), by revising paragraph (b)(2)(i), the example in paragraph (b)(2)(ii), and paragraph (b)(3)(i), by adding a new subdivision (iii) to paragraph (b)(3), by revising paragraph (c)(1), by revising that part of paragraph (d)(2) that precedes the examples therein, and by revising paragraph (d)(3). These revised and added provisions read as follows:

PAR. 4. Section 1.864–6, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising paragraph (a), by revising paragraph (b)(1), (2), and (3)(i), and by revising paragraph (c)(1) and (2) and example (1) in paragraph (c)(3). These revised provisions read as set forth below.

PAR. 5. Section 1.864–7 is changed by revising paragraphs (c), (d)(1), (2), and (3)(i) and (ii), (e), and (f), by revising example (1) in paragraph (g), and by adding new examples (4), (5), and (6) in paragraph (g), as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: October 31, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 1.864 is amended by adding a subsection (c) to section 864 as follows and by leaving the historical note unchanged:

§ 1.864 Statutory provisions; definitions.

SEC. 864. *Definitions.* * * *

(c) *Effectively connected income, etc.*—

(1) *General rule.* For purposes of this title—

(A) In the case of a nonresident alien individual or a foreign corporation engaged in trade or business within the United States during the taxable year, the rules set forth in paragraphs (2), (3), and (4) shall apply in determining the income, gain, or loss which shall be treated as effectively connected with the conduct of a trade or business within the United States.

(B) Except as provided in section 871(d) or sections 882 (d) and (e), in the case of a nonresident alien individual or a foreign corporation not engaged in trade or business within the United States during the taxable year, no income, gain, or loss shall be treated as effectively connected with the conduct of a trade or business within the United States.

(2) *Periodical, etc., income from sources within United States—Factors.* In determining whether income from sources within the United States of the types described in section 871(a)(1) or section 881(a), or whether gain or loss from sources within the United States from the sale or exchange of capital assets, is effectively connected with the conduct of a trade or business within the United States, the factors taken into account shall include whether—

(A) The income, gain, or loss is derived from assets used in or held for use in the conduct of such trade or business, or

(B) The activities of such trade or business were a material factor in the realization of the income, gain, or loss.

In determining whether an asset is used in or held for use in the conduct of such trade or business or whether the activities of such trade or business were a material factor in realizing an item of income, gain, or loss, due regard shall be given to whether or not such asset or such income, gain, or loss was accounted for through such trade or business. In applying this paragraph and paragraph (4), interest referred to in section 861(a)(1)(A) shall be considered income from sources within the United States.

(3) *Other income from sources within United States.* All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.

(4) *Income from sources without United States.*—

(A) Except as provided in subparagraphs (B) and (C), no income, gain, or loss from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States.

(B) Income, gain, or loss from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States by a nonresident alien individual or a foreign corporation if such person has an office or other fixed place of business within the United States to which such income, gain, or loss is attributable and such income, gain, or loss—

(i) Consists of rents or royalties for the use of or for the privilege of using intangible property described in section 862(a)(4) (including any gain or loss realized on the sale of such property) derived in the active conduct of such trade or business;

(ii) Consists of dividends or interest, or gain or loss from the sale or exchange of stock or notes, bonds, or other evidences of indebtedness, and either is derived in the active conduct of a banking, financing, or similar business within the United States or is received by a corporation the principal business of which is trading in stocks or securities for its own account; or

(iii) Is derived from the sale (without the United States) through such office or other fixed place of business of personal property described in section 1221(1), except that this clause shall not apply if the property is sold for use, consumption, or disposition outside the United States and an office or other fixed place of business of the taxpayer outside the United States participated materially in such sale.

(C) In the case of a foreign corporation taxable under part I of subchapter L, any income from sources without the United States which is attributable to its U.S. business shall be treated as effectively connected with the conduct of a trade or business within the United States.

(D) No income from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it either—

(i) Consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or

(ii) Is subpart F income within the meaning of section 952(a).

(5) *Rules for application of paragraph (4)(B).* For purposes of subparagraph (B) of paragraph (4)—

(A) In determining whether a nonresident alien individual or a foreign corporation has an office or other fixed place of business, an office or other fixed place of business of an agent shall be disregarded unless such agent (i) has the authority to negotiate and conclude contracts in the name of the nonresident alien individual or foreign corporation and regularly exercises that authority or has a stock of merchandise from which he regularly fills orders on behalf of such individual or foreign corporation, and (ii) is not a general commission agent, broker, or other agent of independent status acting in the ordinary course of his business.

(B) Income, gain, or loss shall not be considered as attributable to an office or other fixed place of business within the United States unless such office or fixed place of business is a material factor in the production of such income, gain, or loss and such office or fixed place of business regularly carries on activities of the type from which such income, gain, or loss is derived, and

(C) The income, gain, or loss which shall be attributable to an office or other fixed place of business within the United States shall be the income, gain, or loss property allocable thereto, but, in the case of a sale described in clause (iii) of such subparagraph, the income which shall be treated as attributable to an office or other fixed place of business within the United States shall not exceed the income which would be derived from sources within the United States if the sale were made in the United States.

PAR. 2. The following new sections are added immediately after § 1.864–2:

§ 1.864–3 Rules for determining income effectively connected with U.S. business of nonresident aliens or foreign corporations.

(a) *In general.* For purposes of the Internal Revenue Code, in the case of a nonresident alien individual or a foreign corporation that is engaged in a trade or business in the United States at any time during the taxable year, the rules set forth in §§ 1.864–4 through 1.864–7 and this section shall apply in determining whether income, gain, or loss shall be treated as effectively connected for a taxable year beginning after December 31, 1966, with the conduct of a trade or business in the United States. Except as provided in sections 871 (c) and (d) and 882 (d) and (e), and the regulations thereunder, in the case of a nonresident alien individual or a foreign corporation that is at no time during the taxable year engaged in a trade or business in the United States, no income, gain, or loss shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States. The general rule prescribed by the preceding sentence shall apply even though the income, gain, or loss would have been treated as effectively connected with the conduct of a trade or business in the United States if such income or gain had been received or accrued, or such loss had been sustained, in an earlier taxable year when the taxpayer was engaged in a trade or business in the United States. In applying §§ 1.864–4 through 1.864–7 and this section, the

determination whether an item of income, gain, or loss is effectively connected with the conduct of a trade or business in the United States shall not be controlled by any administrative, judicial, or other interpretation made under the laws of any foreign country.

(b) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). During 1967 foreign corporation N, which uses the calendar year as the taxable year, is engaged in the business of purchasing and selling household equipment on the installment plan. During 1967 N is engaged in business in the United States by reason of the sales activities it carries on in the United States for the purpose of selling therein some of the equipment which it has purchased. During 1967 N receives installment payments of $800,000 on sales it makes that year in the United States, and the income from sources within the United States for 1967 attributable to such payments is $200,000. By reason of section 864(c)(3) and paragraph (b) of § 1.864–4 this income of $200,000 is effectively connected for 1967 with the conduct of a trade or business in the United States by N. In December of 1967, N discontinues its efforts to make any further sales of household equipment in the United States, and at no time during 1968 is N engaged in a trade or business in the United States. During 1968 N receives installment payments of $500,000 on the sales it made in the United States during 1967, and the income from sources within the United States for 1968 attributable to such payments is $125,000. By reason of section 864(c)(1)(B) and this section, this income of $125,000 is not effectively connected for 1968 with the conduct of a trade or business in the United States by N, even though such amount, if it had been received by N during 1967, would have been effectively connected for 1967 with the conduct of a trade or business in the United States by that corporation.

Example (2). R, a foreign holding company, owns all of the voting stock in five corporations, two of which are domestic corporations. All of the subsidiary corporations are engaged in the active conduct of a trade or business. R has an office in the United States where its chief executive officer, who is also the chief executive officer of one of the domestic corporations, spends a substantial portion of the taxable year supervising R's investment in its operating subsidiaries and performing his function as chief executive officer of the domestic operating subsidiary. R is not considered to be engaged in a trade or business in the United States during the taxable year by reason of the activities carried on in the United States by its chief executive officer in the supervision of its investment in its operating subsidiary corporations. Accordingly, the dividends from sources within the United States received by R during the taxable year from its domestic subsidiary corporations are not effectively connected for that year with the conduct of a trade or business in the United States by R.

Example (3). During the months of June through December 1971, B, a nonresident alien individual who uses the calendar year as the taxable year and the cash receipts and disbursements method of accounting, is employed in the United States by domestic corporation M for a salary of $2,000 per month, payable semimonthly. During 1971, B receives from M salary payments totaling $13,000, all of which income by reason of section 864(c)(2) and paragraph (c)(6)(ii) of § 1.864–4, is effectively connected for 1971 with the conduct of a trade or business in the United States by B. On December 31, 1971, B terminates his employment with M and departs from the United States. At no time during 1972 is B engaged in a trade or business in the United States. In January of 1972, B receives from M salary of $1,000 for the last half of December 1971, and a bonus of $1,000 in consideration of the services B performed in the United States during 1971 for that corporation. By reason of section 864(c)(1)(B) and this section, the $2,000 received by B during 1972 from sources within the United States is not effectively connected for that year with the conduct of a trade or business in the United States, even though such amount, if it had been received by B during 1971, would have been effectively connected for 1971 with the conduct of a trade or business in the United States by B.

§ 1.864–4 U.S. source income effectively connected with U.S. business.

(a) *In general.* This section applies only to a nonresident alien individual or a foreign corporation that is engaged in a trade or business in the United States at some time during a taxable year beginning after December 31, 1966, and to the income, gain, or loss of such person from sources within the United States. If the income, gain, or loss of such person for the taxable year from sources within the United States consists of (1) gain or loss from the sale or exchange of capital assets or (2) fixed or determinable annual or periodical gains, profits, and income or certain other gains described in section 871(a)(1) or 881(a), certain factors must be taken into account, as prescribed by section 864(c)(2) and paragraph (c) of this section, in order to determine whether the income, gain, or loss is effectively connected for the taxable year with the conduct of a trade or business in the United States by that person. All other income, gain, or loss of such person for the taxable year from sources within the United States shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that person, as prescribed by section 864(c)(3) and paragraph (b) of this section.

(b) *Income other than fixed or determinable income and capital gains.* All income, gain, or loss for the taxable year derived by a nonresident alien individual or foreign corporation engaged in a trade or business in the United States from sources within the United States which does not consist of income, gain, or loss described in section 871(a)(1) or 881(a), or of gain or loss from the sale or exchange of capital assets, shall, for purposes of paragraph (a) of this section, be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States. This income, gain, or loss shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States, whether or not the income, gain, or loss is derived from the trade or business being carried on in the United States during the taxable year. The application of this paragraph may be illustrated by the following examples:

Example (1). M, a foreign corporation which uses the calendar year as the taxable year, is engaged in the business of manufacturing machine tools in a foreign country. It establishes a branch office in the United States during 1968 which solicits orders from customers in the United States for the machine tools manufactured by that corporation. All negotiations with respect to such sales are carried on in the United States. By reason of its activity in the United States M is engaged in business in the United States during 1968. The income or loss from sources within the United States from such sales during 1968 is treated as effectively connected for that year with the conduct of a business in the United States by M. Occasionally, during 1968 the customers in the United States write directly to the home office of M, and the home office makes sales directly to such customers without routing the transactions through its branch office in the United States. The income or loss from sources within the United States for 1968 from these occasional direct sales by the home office is also treated as effectively connected for that year with the conduct of a business in the United States by M.

Example (2). The facts are the same as in example (1) except that during 1967 M was also engaged in the business of purchasing and selling office machines and that it used the installment method of accounting for the sales made in this separate business. During 1967 M was engaged in business in the United States by reason of the sales activities it carried on in the United States for the purpose of selling therein a number of the office machines which it had purchased. Although M discontinued this business activity in the United States in December of 1967, it received in 1968 some installment payments on the sales which it had made in the United States during 1967. The income of M for 1968 from sources within the United States which is attributable to such installment payments is effectively connected for 1968 with the conduct of a business in the United States, even though such income is not connected with the business carried on in the United States during 1968 through its sales office located in the United States for the solicitation of orders for the machine tools it manufactures.

Example (3). Foreign corporation S, which uses the calendar year as the taxable year, is engaged in the business of purchasing and selling electronic equipment. The home office of such corporation is also engaged in the business of purchasing and selling vintage wines. During 1968, S establishes a branch office in the United States to sell electronic equipment to customers, some of whom are located in the United States and the balance, in foreign countries. This branch office is not equipped to sell, and does not participate in sales of, wine purchased by the home office. Negotiations for the sales of the electronic equipment take place in the United States. By reason of the activity of its branch office in the United States, S is engaged in business in the United States during 1968. As a result of advertisements which the home office of S places in periodicals sold in the United States, customers in the United States frequently place orders for the purchase of wines with the home office in the foreign country, and the home office makes sales of wine in 1968 directly to such customers without routing the transactions through its branch office in the United States. The income or loss from sources within the United States for 1968 from sales of electronic equipment by the branch office, together with the income or loss from sources within the United States for that

year from sales of wine by the home office, is treated as effectively connected for that year with the conduct of a business in the United States by S.

(c) *Fixed or determinable income and capital gains*—(1) *Principal factors to be taken into account*—(i) *In general.* In determining for purposes of paragraph (a) of this section whether any income for the taxable year from sources within the United States which is described in section 871(a)(1) or 881(a), relating to fixed or determinable annual or periodical gains, profits, and income and certain other gains, or whether gain or loss from sources within the United States for the taxable year from the sale or exchange of capital assets, is effectively connected for the taxable year with the conduct of a trade or business in the United States, the principal tests to be applied are (*a*) the asset-use test, that is, whether the income, gain, or loss is derived from assets used in, or held for use in, the conduct of the trade or business in the United States, and (*b*) the business-activities test, that is, whether the activities of the trade or business conducted in the United States were a material factor in the realization of the income, gain, or loss.

(ii) *Special rule relating to interest on certain deposits.* For purposes of determining under section 861(a)(1)(A) (relating to interest on deposits with banks, savings and loan associations, and insurance companies paid or credited before Jan. 1, 1976) whether the interest described therein is effectively connected for the taxable year with the conduct of a trade or business in the United States, such interest shall be treated as income from sources within the United States for purposes of applying this paragraph and § 1.864–5. If by reason of the application of this paragraph such interest is determined to be income which is not effectively connected for the taxable year with the conduct of a trade or business in the United States, it shall then be treated as interest from sources without the United States which is not subject to the application of § 1.864–5.

(2) *Application of the asset-use test*—(i) *In general.* For purposes of subparagraph (1) of this paragraph, the asset-use test ordinarily shall apply in making a determination with respect to income, gain, or loss of a passive type where the trade or business activities as such do not give rise directly to the realization of the income, gain, or loss. However, even in the case of such income, gain, or loss, any activities of the trade or business which materially contribute to the realization of such income, gain, or loss shall also be taken into account as a factor in determining whether the income, gain, or loss is effectively connected with the conduct of a trade or business in the United States. The asset-use test is of primary significance where, for example, interest or dividend income is derived from sources within the United States by a nonresident alien individual or foreign corporation that is engaged in the business of manufacturing or selling goods in the United States. See also subparagraph (5) of this paragraph for rules applicable to taxpayers conducting a banking, financing, or similar business in the United States.

(ii) *Cases where applicable.* Ordinarily, an asset shall be treated as used in, or held for use in, the conduct of a trade or business in the United States if the asset is—

(*a*) Held for the principal purpose of promoting the present conduct of the trade or business in the United States, as, for example, in the case of stock acquired and held to assure a constant source of supply for the trade or business, or

(*b*) Acquired and held in the ordinary course of the trade or business conducted in the United States, as, for example, in the case of an account or note receivable arising from that trade or business, or

(*c*) Otherwise held in a direct relationship to the trade or business conducted in the United States, as determined under subdivision (iii) of this subparagraph.

(iii) *Direct relationship between holding of asset and trade or business*—(*a*) *In general.* In determining whether an asset is held in a direct relationship to the trade or business conducted in the United States, principal consideration shall be given to whether the asset is needed in that trade or business. An asset shall be considered needed in a trade or business, for this purpose, only if the asset is held to meet the present needs of that trade or business and not its anticipated future needs. An asset shall be considered as needed in the trade or business conducted in the United States if, for example, the asset is held to meet the operating expenses of that trade or business. Conversely, an asset shall be considered as not needed in the trade or business conducted in the United States if, for example, the asset is held for the purpose of providing for (*1*) future diversification into a new trade or business, (*2*) expansion of trade or business activities conducted outside of the United States, (*3*) future plant replacement, or (*4*) future business contingencies.

(*b*) *Presumption of direct relationship.* Generally, an asset will be treated as held in a direct relationship to the trade or business if (*1*) the asset was acquired with funds generated by that trade or business, (*2*) the income from the asset is retained or reinvested in that trade or business, and (*3*) personnel who are present in the United States and actively involved in the conduct of that trade or business exercise significant management and control over the investment of such asset.

(iv) *Illustrations.* The application of this subparagraph may be illustrated by the following examples:

Example (*1*). M, a foreign corporation which uses the calendar year as the taxable year, is engaged in industrial manufacturing in a foreign country. M maintains a branch in the United States which acts as importer and distributor of the merchandise it manufactures abroad; by reason of these branch activities, M is engaged in business in the United States during 1968. The branch in the United States is required to hold a large current cash balance for business purposes, but the amount of the cash balance so required varies because of the fluctuating seasonal nature of the branch's business. During 1968 at a time when large cash balances are not required the branch invests the surplus amount in U.S. Treasury bills. Since these Treasury bills are held to meet the present needs of the business conducted in the United States they are held in a direct relationship to that business, and the interest for 1968 on these bills is effectively connected for that year with the conduct of the business in the United States by M.

Example (*2*) R, a foreign corporation engaged in the manufacture of goods, maintains a factory at its branch in the United States and by reason of its activities therein is engaged in business in the United States during the taxable year 1968. R engages a stock brokerage firm in the United States to manage its securities which were purchased with funds from R's general surplus reserves. The brokerage firm is engaged by the U.S. branch and is instructed to deposit all income and gains derived from the securities in the New York bank account of the U.S. branch. The funds invested in these securities are not necessary to provide for the present needs of the U.S. branch. Accordingly, the securities are not held in a direct relationship to the business conducted in the United States by R, and all such income and gains for 1968 from sources within the United States are not effectively connected for that year with the conduct of the business in the United States.

Example (*3*). S, a foreign corporation which uses the calendar year as the taxable year, is engaged in the manufacture of goods in a foreign country. S maintains a branch in the United States and by reason of the activities of that branch is engaged in business in the United States during 1968. S invests excess cash, which is generated by the U.S. branch but not currently needed in the business of the branch, in securities issued by domestic corporations. The securities are held in the name of S in a brokerage office in the United States, which receives and remits all income from the securities to S's home office abroad. The officers of the U.S. branch have authority to manage the securities held in the brokerage account of S. Any dividends and interest on the securities for 1968, and any gain or loss for that year resulting from the sale or exchange of the securities, are not effectively connected for 1968 with the conduct of the business in the United States by S, because the securities are not held to meet the present needs of that business and thus are not held in a direct relationship to that business.

Example (*4*). F, a foreign corporation which uses the calendar year as the taxable year, is engaged in business in the United States during 1968 through its manufacturing branch in the United States. The branch holds on its books stock in domestic corporation D, a wholly owned subsidiary of F. There is no relationship between the business of D and the business of F's branch in the United States, and the officers of D report to the home office of F and not to its U.S. branch. Dividends paid on the stock in D are paid to F's branch in the United States and are mingled with its general funds, but the U.S. branch has no present need in its business operations for the cash so received. Since the stock in D is not held in a direct relationship to the business conducted in the United States by F, any dividends received by F during 1968 on such stock are not effectively connected for that year with the conduct of that business.

Example (*5*). Foreign corporation M, which uses the calendar year as the taxable year,

has a branch office in the United States where it sells to customers located in the United States various products which are manufactured by that corporation in a foreign country. By reason of this activity M is engaged in business in the United States during 1968. The U.S. branch establishes in 1968 a fund to which are periodically credited various amounts which are derived from the business carried on at such branch. The amounts in this fund are invested in various securities issued by domestic corporations by the managing officers of the U.S. branch, who have the responsibility for maintaining proper investment diversification and investment of the fund. During 1968, the branch office derives from sources within the United States dividends on these securities, and gains and losses resulting from the sale or exchange of such securities. Since the securities were acquired with amounts generated by the business conducted in the United States, the dividends are retained in that business, and the portfolio is managed by personnel actively involved in the conduct of that business, the securities are presumed under subdivision (iii)(*b*) of this subparagraph to be held in a direct relationship to that business. However, M is able to rebut this presumption by demonstrating that the fund was established to carry out a program of future expansion and not to meet the present needs of the business conducted in the United States. Consequently, the income, gains, and losses from the securities for 1968 are not effectively connected for that year with the conduct of a trade or business in the United States by M.

(3) *Application of the business-activities test*—(i) *In general.* For purposes of subparagraph (1) of this paragraph, the business-activities test shall ordinarily apply in making a determination with respect to income, gain, or loss which, even though generally of the passive type, arises directly from the active conduct of the taxpayer's trade or business in the United States. The business-activities test is of primary significance, for example, where (*a*) dividends, interest, or gain or loss are derived by a dealer in stocks or securities, or similar business, (*b*) royalties are derived in the active conduct of a business consisting of the licensing of patents or similar intangible property, or (*c*) service fees are derived in the active conduct of a servicing business. In applying the business-activities test, activities relating to the management of investment portfolios shall not be treated as activities of the trade or business conducted in the United States unless the maintenance of the investments constitutes the principal activity of that trade or business. See also subparagraph (5) of this paragraph for rules applicable to taxpayers conducting a banking, financing, or similar business in the United States.

(ii) *Illustrations.* The application of this subparagraph may be illustrated by the following examples:

Example (1). Foreign corporation S is a foreign investment company organized for the purpose of investing in stocks and securities. S is not a personal holding company or a corporation which would be a personal holding company but for section 542(c)(7) or 543(b)(1)(C). Its investment portfolios consist of common stocks issued by both foreign and domestic corporations and a substantial amount of high grade bonds. The business activity of S consists of the management of its portfolios for the purpose of investing, reinvesting, or trading in stocks and securities. During the taxable year 1968, S has its principal office in the United States within the meaning of paragraph (c)(2)(iii) of § 1.864–2 and, by reason of its trading in the United States in stocks and securities, is engaged in business in the United States. The dividends and interest derived by S during 1968 from sources within the United States, and the gains and losses from sources within the United States for such year from the sale of stocks and securities from its investment portfolios, are effectively connected for 1968 with the conduct of the business in the United States by that corporation, since its activities in connection with the management of its investment portfolios are activities of that business and such activities are a material factor in the realization of such income, gains, and losses.

Example (2). N, a foreign corporation which uses the calendar year as the taxable year, has a branch in the United States which acts as an importer and distributor of merchandise; by reason of the activities of that branch, N is engaged in business in the United States during 1968. N also carries on a business in which it licenses patents to unrelated persons in the United States for use in the United States. The businesses of the licensees in which these patents are used have no direct relationship to the business carried on in N's branch in the United States, although the merchandise marketed by the branch is similar in type to that manufactured under the patents. The negotiations and other activities leading up to the consummation of these licenses are conducted by employees of N who are not connected with the U.S. branch of that corporation, and the U.S. branch does not otherwise participate in arranging for the licenses. Royalties received by N during 1968 from these licenses are not effectively connected for that year with the conduct of its business in the United States because the activities of that business are not a material factor in the realization of such income.

(4) *Method of accounting as a factor.* In applying the asset-use test or the business-activities test described in subparagraph (1) of this paragraph, due regard shall be given to whether or not the asset, or the income, gain, or loss, is accounted for through the trade or business conducted in the United States, that is, whether or not the asset, or the income, gain, or loss, is carried on books of account separately kept for that trade or business, but this accounting test shall not by itself be controlling. In applying this subparagraph, consideration shall be given to whether the accounting treatment of an item reflects the consistent application of generally accepted accounting principles in a particular trade or business in accordance with accepted conditions or practices in that trade or business and whether there is a consistent accounting treatment of that item from year to year by the taxpayer.

(5) *Special rules relating to banking, financing, or similar business activity*—(i) *Definition of banking, financing, or similar business.* A nonresident alien individual or a foreign corporation shall be considered for purposes of this section and paragraph (b)(2) of § 1.864–5 to be engaged in the active conduct of a banking, financing, or similar business in the United States if at some time during the taxable year the taxpayer is engaged in business in the United States and the activities of such business consist of any one or more of the following activities carried on, in whole or in part, in the United States in transactions with persons situated within or without the United States:

(*a*) Receiving deposits of funds from the public,

(*b*) Making personal, mortgage, industrial, or other loans to the public,

(*c*) Purchasing, selling, discounting, or negotiating for the public on a regular basis, notes, drafts, checks, bills of exchange, acceptances, or other evidences of indebtedness,

(*d*) Issuing letters of credit to the public and negotiating drafts drawn thereunder,

(*e*) Providing trust services for the public, or

(*f*) Financing foreign exchange transactions for the public.

Although the fact that the taxpayer is subjected to the banking and credit laws of a foreign country shall be taken into account in determining whether he is engaged in the active conduct of a banking, financing, or similar business, the character of the business actually carried on during the taxable year in the United States shall determine whether the taxpayer is actively conducting a banking, financing, or similar business in the United States. A foreign corporation which acts merely as a financing vehicle for borrowing funds for its parent corporation or any other person who would be a related person within the meaning of section 954(d)(3) if such foreign corporation were a controlled foreign corporation shall not be considered to be engaged in the active conduct of a banking, financing, or similar business in the United States.

(ii) *Effective connection of income from stocks or securities with active conduct of a banking, financing, or similar business.* Notwithstanding the rules in subparagraphs (2) and (3) of this paragraph with respect to the asset-use test and the business-activities test, any dividends or interest from stocks or securities, or any gain or loss from the sale or exchange of stocks or securities which are capital assets, which is from sources within the United States and derived by a nonresident alien individual or a foreign corporation in the active conduct during the taxable year of a banking, financing, or similar business in the United States shall be treated as effectively connected for such year with the conduct of that business only if the stocks or securities giving rise to such income, gain, or loss are attributable to the U.S. office through which such business is carried on and—

(*a*) Were acquired—

(*1*) As a result of, or in the course of making loans to the public,

(*2*) In the course of distributing such stocks or securities to the public, or

(*3*) For the purpose of being used to satisfy the reserve requirements, or other

requirements similar to reserve requirements, established by a duly constituted banking authority in the United States, or

(b) Consist of securities (as defined in subdivision (v) of this subparagraph) which are—

(1) Payable on demand or at a fixed maturity date not exceeding 1 year from the date of acquisition.

(2) Issued by the United States, or any agency or instrumentality thereof, or

(3) Not described in (a) or in (1) or (2) of this (b).

However, the amount of interest from securities described in (b)(3) of this subdivision (ii) which shall be treated as effectively connected for the taxable year with the active conduct of a banking, financing, or similar business in the United States shall be an amount (but not in excess of the entire interest for the taxable year from sources within the United States from such securities) determined by multiplying the entire interest for the taxable year from sources within the United States from such securities by a fraction the numerator of which is 10 percent and the denominator of which is the same percentage, determined on the basis of a monthly average for the taxable year, as the book value of the total of such securities held by the U.S. office through which such business is carried on bears to the book value of the total assets of such office. The amount of gain or loss, if any, for the taxable year from the sale or exchange of such securities which shall be treated as effectively connected for the taxable year with the active conduct of a banking, financing, or similar business in the United States shall be an amount (but not in excess of the entire gain or loss for the taxable year from sources within the United States from the sale or exchange of such securities) determined by multiplying the entire gain or loss for the taxable year from sources within the United States from the sale or exchange of such securities by the fraction described in the immediately preceding sentence. The percentage of the denominator of the limiting fraction for such purposes shall be the percentage obtained by separately adding the book value of such securities and such total assets held at the close of each month in the taxable year, dividing each such sum by 12, and then dividing the amount of securities so obtained by the amount of assets so obtained. This subdivision does not apply to dividends from stock owned by a foreign corporation in a domestic corporation of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned by such foreign corporation and which is engaged in the active conduct of a banking business in the United States. The application of this subdivision may be illustrated by the following example:

Example. Foreign corporation M, created under the laws of foreign country Y, has in the United States a branch, B, which during the taxable year is engaged in the active conduct of the banking business in the United States within the meaning of subdivision (i) of this subparagraph. During the taxable year M derives from sources within the United States through the activities carried on through B, $7,500,000 interest from securities described in subdivision (b)(3) of this subdivision (ii) and $7,500,000 gain from the sale or exchange of such securities. The monthly average, determined as of the last day of each month in the taxable year, of such securities held by B divided by the monthly average, as so determined, of the total assets held by B equals 15 percent. Under this subdivision, the amount of interest income from such securities that shall be treated as effectively connected for the taxable year with the active conduct by M of a banking business in the United States is $5 million ($7,500,000 interest × 10%/15%), and the amount of gain from the sale or exchange of such securities that shall be treated as effectively connected for such year with the active conduct of such business is $5 million ($7,500,000 gain × 10%/15%).

(iii) *Stocks or securities attributable to U.S. office*—(a) *In general.* For purposes of subdivision (ii) of this subparagraph, a stock or security shall be deemed to be attributable to a U.S. office only if—

(1) Such office actively participated in soliciting, negotiating, or performing other activities required to arrange, the acquisition of such stock or security, and

(2) Such stock or security is or was held in the United States by or for such office and recorded on its books or records as having been purchased or acquired by such office or for its account.

(b) *Exceptions.* A stock or security shall not be deemed to be attributable to a U.S. office merely because such office conducts one or more of the following activities:

(1) Collects or accounts for the dividends, interest, gain, or loss from such stock or security,

(2) Exercises general supervision over the activities of the persons directly responsible for carrying on the activities described in (a)(1) of this subdivision,

(3) Performs merely clerical functions incident to the acquisition of such stock or security, or

(4) Exercises final approval over the execution of the acquisition of such stock or security.

(iv) *Acquisitions in course of making loans to the public.* For purposes of subdivision (ii) of this subparagraph—

(a) A stock or security shall be considered to have been acquired in the course of making a loan to the public where, for example, such stock or security was acquired as additional consideration for the making of the loan,

(b) A stock or security shall be considered to have been acquired as a result of making a loan to the public if, for example, such stock or security was acquired by foreclosure upon a bona fide default of the loan and is held as an ordinary and necessary incident to the active conduct of the banking, financing, or similar business in the United States, and

(c) A stock or security acquired on a stock exchange or organized over-the-counter market shall be considered not to have been acquired as a result of, or in the course of, making loans to the public.

(v) *Security defined.* For purposes of this subparagraph, a security is any bill, note, bond, debenture, or other evidence of indebtedness, or any evidence of an interest in, or right to subscribe to or purchase, any of the foregoing items.

(vi) *Limitations on application of subparagraph*—(a) *Other business activity.* This subparagraph provides rules for determining when certain income from stocks or securities is effectively connected with the active conduct of a banking, financing, or similar business in the United States. Any dividends, interest, gain, or loss from sources within the United States which by reason of the application of subdivision (ii) of this subparagraph is not effectively connected with the active conduct by a nonresident alien individual or a foreign corporation of a banking, financing, or similar business in the United States may be effectively connected for the taxable year, under subparagraph (2) or (3) of this paragraph with the conduct by such taxpayer of another trade or business in the United States, such as, for example, the business of selling or manufacturing goods or merchandise or of trading in stocks or securities for the taxpayer's own account.

(b) *Other income.* For rules relating to income, gain, or loss from sources within the United States (other than dividends or interest from, or gain or loss from the sale or exchange of, stocks or securities referred to in subdivision (ii) of this subparagraph) derived in the active conduct of a banking, financing, or similar business in the United States, see subparagraphs (2) and (3) of this paragraph and paragraph (b) of this section.

(vii) *Illustrations.* The application of this subparagraph may be illustrated by the following examples:

Example (1). Foreign corporation F, which is created under the laws of foreign country X and engaged in the active conduct of the banking business in country X and a number of other foreign countries, has in the United States a branch, B, which during the taxable year is engaged in the active conduct of the banking business in the United States within the meaning of subdivision (i) of this subparagraph. In the course of its banking business in foreign countries, F receives at its branches located in country X and other foreign countries substantial deposits in U.S. dollars which are transferred to the accounts of B in the United States. During the taxable year, B actively participates in negotiating loans to residents of the United States, such as call loans to U.S. brokers, which are financed from the U.S. dollar deposits transferred to B by F. In addition, B actively participates in purchasing on the New York Stock Exchange and over-the-counter markets long-term bonds and notes issued by the U.S. Government, U.S. Treasury bills, and long-term interest-bearing bonds issued by domestic corporations and having a maturity date of less than 1 year from the date of acquisition, all of

which are purchased from the deposits transferred to B by F. All of the securities so acquired are held by B and recorded on its books in the United States. Pursuant to subdivision (ii) of this subparagraph, the interest received by F during the taxable year on these loans, bonds, notes, and bills is effectively connected for such year with the active conduct by F of a banking business in the United States.

Example (2). The facts are the same as in example (1) except that B also actively participates in using part of the U.S. dollar deposits, which are transferred to it by F, to purchase on the New York Stock Exchange shares of common stock issued by various domestic corporations. All of the shares so purchased are considered to be capital assets within the meaning of section 1221 and are recorded on B's books in the United States. None of the shares so purchased were acquired for the purpose of meeting reserve or other similar requirements. During the taxable year some of the shares are sold by B on the stock exchange. Pursuant to subdivision (ii) of this subparagraph, the dividends and gains received by F during the taxable year on these shares of stock are not effectively connected with the active conduct by F of a banking, financing, or similar business in the United States.

Example (3). The facts are the same as in example (1) except that B also uses part of the U.S. dollar deposits, which are transferred to it by F, to make a loan to domestic corporation M. As part of the consideration for the loan, M gives to B a number of shares of common stock issued by M. All of these shares of stock are considered to be capital assets within the meaning of section 1221 and are recorded on B's books in the United States. During the taxable year one-half of these shares of stock is sold by B on the New York Stock Exchange. Pursuant to subdivision (ii) of this subparagraph, the dividends and gains received by F during the taxable year on these shares of stock are effectively connected for such year with the active conduct by F of a banking business in the United States.

Example (4). The facts are the same as in example (1) except that during the taxable year the home office of F in country X actively participates in negotiating loans to residents of the United States, such as call loans to U.S. brokers, which are financed by the U.S. dollar deposits received at the home office and are recorded on the books of the home office. B does not participate in negotiating these loans. Pursuant to subdivision (ii) of this subparagraph the interest received by F during the taxable year on these loans made by the home office in country X is not effectively connected with the active conduct by F of a banking, financing, or similar business in the United States.

(6) *Income related to personal services of an individual*—(i) *Income, gain, or loss from assets.* Income or gains from sources within the United States described in section 871(a)(1) and derived from an asset, and gain or loss from sources within the United States from the sale or exchange of capital assets, realized by a nonresident alien individual engaged in a trade or business in the United States during the taxable year solely by reason of his performing personal services in the United States shall not be treated as income, gain, or loss which is effectively connected for the taxable year with the conduct of a trade or business in the United States, unless there is a direct economic relationship between his holding of the asset from which the income, gain, or loss results and his trade or business of performing the personal services. This direct economic relationship exists, for example, where the individual purchases stock in a domestic corporation to assure the opportunity of performing personal services in the United States for that corporation.

(ii) *Wages, salaries, and pensions.* Wages, salaries, fees, compensations, emoluments, or other remunerations, including bonuses, received by a nonresident alien individual for performing personal services in the United States which, under paragraph (a) of § 1.864–2, constitute engaging in a trade or business in the United States, and pensions and retirement pay attributable to such personal services, constitute income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual if he is engaged in a trade or business in the United States at some time during the taxable year in which such income is received.

§ 1.864–5 Foreign source income effectively connected with U.S. business.

(a) *In general.* This section applies only to a nonresident alien individual or a foreign corporation that is engaged in a trade or business in the United States at some time during a taxable year beginning after December 31, 1966, and to the income, gain, or loss of such person from sources without the United States. The income, gain, or loss of such person for the taxable year from sources without the United States which is specified in paragraph (b) of this section shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States, only if he also has in the United States at some time during the taxable year, but not necessarily at the time the income, gain, or loss is realized, an office or other fixed place of business, as defined in § 1.864–7, to which such income, gain, or loss is attributable in accordance with § 1.864–6. The income of such person for the taxable year from sources without the United States which is specified in paragraph (c) of this section shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States when derived by a foreign corporation carrying on a life insurance business in the United States. Except as provided in paragraphs (b) and (c) of this section, no income, gain, or loss of a nonresident alien individual or a foreign corporation for the taxable year from sources without the United States shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that person. Any income, gain, or loss described in paragraph (b) or (c) of this section which, if it were derived by the taxpayer from sources within the United States for the taxable year, would not be treated under § 1.864–4 as effectively connected for the taxable year with the conduct of a trade or business in the United States shall not be treated under this section as effectively connected for the taxable year with the conduct of a trade or business in the United States.

(b) *Income other than income attributable to U.S. life insurance business.* Income, gain, or loss from sources without the United States other than income described in paragraph (c) of this section shall be taken into account pursuant to paragraph (a) of this section in applying §§ 1.864–6 and 1.864–7 only if it consists of—

(1) *Rents, royalties, or gains on sales of intangible property.* (i) Rents or royalties for the use of, or for the privilege of using, intangible personal property located outside the United States or from any interest in such property, including rents or royalties for the use, or for the privilege of using, outside the United States, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties, if such rents or royalties are derived in the active conduct of the trade or business in the United States.

(ii) Gains or losses on the sale or exchange of intangible personal property located outside the United States or from any interest in such property, including gains or losses on the sale or exchange of the privilege of using, outside the United States, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties, if such gains or losses are derived in the active conduct of the trade or business in the United States.

(iii) Whether or not such an item of income, gain, or loss is derived in the active conduct of a trade or business in the United States shall be determined from the facts and circumstances of each case. The frequency with which a nonresident alien individual or a foreign corporation enters into transactions of the type from which the income, gain, or loss is derived shall not of itself determine that the income, gain, or loss is derived in the active conduct of a trade or business.

(iv) This subparagraph shall not apply to rents or royalties for the use of, or for the privilege of using, real property or tangible personal property, or to gain or loss from the sale or exchange of such property.

(2) *Dividends or interest, or gains or loss from sales of stocks or securities*—(i) *In general.* Dividends or interest from any transaction, or gains or losses on the sale or exchange of stocks or securities, realized by (*a*) a nonresident alien individual or a foreign corporation in the active conduct of a banking, financing, or similar business in the United States or (*b*) a foreign corporation engaged in business in the United States whose principal business is trading in stocks or securities for its own account. Whether the taxpayer is engaged in the active conduct of a banking, financing,

or similar business in the United States for purposes of this subparagraph shall be determined in accordance with the principles of paragraph (c)(5)(i) of § 1.864–4.

(ii) *Incidental investment activity.* This subparagraph shall not apply to income, gain, or loss realized by a nonresident alien individual or foreign corporation on stocks or securities held, sold, or exchanged in connection with incidental investment activities carried on by that person. Thus, a foreign corporation which is primarily a holding company owning significant percentages of the stocks or securities issued by other corporations shall not be treated under this subparagraph as a corporation the principal business of which is trading in stocks or securities for its own account, solely because it engages in sporadic purchases or sales of stocks or securities to adjust its portfolio. The application of this subdivision may be illustrated by the following example:

Example. F, a foreign corporation, owns voting stock in foreign corporations M, N, and P, its holdings in such corporations constituting 15, 20, and 100 percent, respectively, of all classes of their outstanding voting stock. Each of such stock holdings by F represents approximately 20 percent of its total assets. The remaining 40 percent of F's assets consist of other investments, 20 percent being invested in securities issued by foreign governments and in stocks and bonds issued by other corporations in which F does not own a significant percentage of their outstanding voting stock, and 20 percent being invested in bonds issued by N. None of the assets of F are held primarily for sale; but, if the officers of that corporation were to decide that other investments would be preferable to its holding of such assets, F would sell the stocks and securities and reinvest the proceeds therefrom in other holdings. Any income, gain, or loss which F may derive from this investment activity is not considered to be realized by a foreign corporation described in subdivision (i) of this subparagraph.

(3) *Sale of goods or merchandise through U.S. office.* (i) Income, gain, or loss from the sale of inventory items or of property held primarily for sale to customers in the ordinary course of business, as described in section 1221(1), where the sale is outside the United States but through the office or other fixed place of business which the nonresident alien or foreign corporation has in the United States, irrespective of the destination to which such property is sent for use, consumption, or disposition.

(ii) This subparagraph shall not apply to income, gain, or loss resulting from a sales contract entered into on or before February 24, 1966. See section 102(e)(1) of the Foreign Investors Tax Act of 1966 (80 Stat. 1547). Thus, for example, the sales office in the United States of a foreign corporation enters into negotiations for the sale of 500,000 industrial bearings which the corporation produces in a foreign country for consumption in the Western Hemisphere. These negotiations culminate in a binding agreement entered into on January 1, 1966. By its terms delivery under the contract is to be made over a period of 3 years beginning in March of 1966. Payment is due upon delivery. The income from sources without the United States resulting from this sale negotiated by the U.S. sales office of the foreign corporation shall not be taken into account under this subparagraph for any taxable year.

(iii) This subparagraph shall not apply to gains or losses on the sale or exchange of intangible personal property to which subparagraph (1) of this paragraph applies or of stocks or securities to which subparagraph (2) of this paragraph applies.

(c) *Income attributable to U.S. life insurance business.* (1) All of the income for the taxable year of a foreign corporation described in subparagraph (2) of this paragraph from sources without the United States, which is attributable to its U.S. life insurance business, shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. Thus, in determining its life insurance company taxable income from its U.S. business for purposes of section 802, the foreign corporation shall include all of its items of income from sources without the United States which would appropriately be taken into account in determining the life insurance company taxable income of a domestic corporation. The income to which this subparagraph applies shall be taken into account for purposes of paragraph (a) of this section without reference to §§ 1.864–6 and 1.864–7.

(2) A foreign corporation to which subparagraph (1) of this paragraph applies is a foreign corporation carrying on an insurance business in the United States during the taxable year which—

(i) Without taking into account its income not effectively connected for that year with the conduct of any trade or business in the United States, would qualify as a life insurance company under part I (section 801 and following) of subchapter L, chapter 1 of the Code, if it were a domestic corporation, and

(ii) By reason of section 842 is taxable under that part on its income which is effectively connected for that year with its conduct of any trade or business in the United States.

(d) *Excluded foreign source income.* Notwithstanding paragraphs (b) and (c) of this section, no income from sources without the United States shall be treated as effectively connected for any taxable year with the conduct of a trade or business in the United States by a nonresident alien individual or a foreign corporation if the income consists of—

(1) *Dividends, interest, or royalties paid by a related foreign corporation.* Dividends, interest, or royalties paid by a foreign corporation in which the nonresident alien individual or the foreign corporation described in paragraph (a) of this section owns, within the meaning of section 958(a), or is considered as owning, by applying the ownership rules of section 958(b), at the time such items are paid more than 50 percent of the total combined voting power of all classes of stock entitled to vote.

(2) *Subpart F income of a controlled foreign corporation.* Any income of the foreign corporation described in paragraph (a) of this section which is subpart F income for the taxable year, as determined under section 952(a), even though part of the income is attributable to amounts which, if distributed by the foreign corporation, would be distributed with respect to its stock which is owned by shareholders who are not U.S. shareholders within the meaning of section 951(b). This subparagraph shall not apply to any income of the foreign corporation which is excluded in determining its subpart F income for the taxable year for purposes of section 952(a). Thus, for example, this subparagraph shall not apply to—

(i) Any dividends, interest, or gains from qualified investments in less developed countries which are excluded under section 954(b)(1),

(ii) Foreign base company income amounting to less than 30 percent of gross income which by reason of section 954(b)(3)(A) does not become subpart F income for the taxable year,

(iii) Any income excluded from foreign base company income under section 954(b)(4), relating to exception for foreign corporations not availed of to reduce taxes,

(iv) Any income derived in the active conduct of a trade or business which is excluded under section 954(c)(3), or

(v) Any income received from related persons which is excluded under section 954(c)(4).

This subparagraph shall apply to the foreign corporation's entire subpart F income for the taxable year determined under section 952(a), even though no amount is included in the gross income of a U.S. shareholder under section 951(a) with respect to that subpart F income because of the minimum distribution provisions of section 963(a) or because of the reduction under section 970(a) with respect to an export trade corporation. This subparagraph shall apply only to a foreign corporation which is a controlled foreign corporation within the meaning of section 957 and the regulations thereunder. The application of this subparagraph may be illustrated by the following examples:

Example (1). Controlled foreign corporation M, incorporated under the laws of foreign country X, is engaged in the business of purchasing and selling merchandise manufactured in foreign country Y by an unrelated person. M negotiates sales, through its sales office in the United States, of its merchandise for use outside of country X. These sales are made outside the United States, and the merchandise is sold for use outside the United States. No office maintained by M outside the United States participates materially in the sales made through its U.S. sales office. These activities constitute the only activities of M. During the taxable year M derives $100,000 income from these sales made through its U.S. sales office, and all of such income is foreign base

company sales income by reason of section 954(d)(2) and paragraph (b) of § 1.954–3. The entire $100,000 is also subpart F income, determined under section 952(a). In addition, all of this income would, without reference to section 864(c)(4)(D)(ii) and this subparagraph, be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by M. Through its entire taxable year 60 percent of the one class of stock of M is owned within the meaning of section 958(a) by U.S. shareholders, as defined in section 951(b), and 40 percent of its one class of stock is owned within the meaning of section 958(a) by persons who are not U.S. shareholders, as defined in section 951(b). Although only $60,000 of the subpart F income of M for the taxable year is includible in the income of the U.S. shareholders under section 951(a), the entire subpart F income of $100,000 constitutes income which, by reason of section 864(c)(4)(D)(ii) and this subparagraph, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by M.

Example (2). The facts are the same as in example (1) except that the foreign base company sales income amounts to $150,000 determined in accordance with paragraph (d)(3)(i) of § 1.954–1, and that M also has gross income from sources without the United States of $50,000 from sales, through its sales office in the United States, of merchandise for use in country X. These sales are made outside the United States. All of this income would, without reference to section 864(c)(4)(D)(ii) and this subparagraph, be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by M. Since the foreign base company income of $150,000 amounts to 75 percent of the entire gross income of $200,000, determined as provided in paragraph (d)(3)(ii) of § 1.954–1, the entire $200,000 constitutes foreign base company income under section 954(b)(3)(B). Assuming that M has no amounts to be taken into account under paragraphs (1), (2), (4), and (5) of section 954(b), the $200,000 is also subpart F income, determined under section 952(a). This subpart F income of $200,000 constitutes income which, by reason of section 864(c)(4)(D)(ii) and this subparagraph, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by M.

(3) *Interest on certain deposits.* Interest which, by reason of section 861(a)(1)(A) (relating to interest on deposits with banks, savings and loan associations, and insurance companies paid or credited before January 1, 1976) and paragraph (c) of § 1.864–4, is determined to be income from sources without the United States because it is not effectively connected for the taxable year with the conduct of a trade or business in the United States by the nonresident alien individual or foreign corporation.

§ 1.864–6 Income, gain, or loss attributable to an office or other fixed place of business in the United States.

(a) *In general.* Income, gain, or loss from sources without the United States which is specified in paragraph (b) of § 1.864–5 and received by a nonresident alien individual or a foreign corporation engaged in a trade or business in the United States at some time during a taxable year beginning after December 31, 1966, shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States only if the income, gain, or loss is attributable under paragraphs (b) and (c) of this section to an office or other fixed place of business, as defined in § 1.864–7, which the taxpayer has in the United States at some time during the taxable year.

(b) *Material factor test*—(1) *In general.* For purposes of paragraph (a) of this section, income, gain, or loss is attributable to an office or other fixed place of business which a nonresident alien individual or a foreign corporation has in the United States only if such office or other fixed place of business is a material factor in the realization of the income, gain, or loss, and if the income, gain, or loss is realized in the ordinary course of the trade or business carried on through that office or other fixed place of business. For this purpose, the activities of the office or other fixed place of business shall not be considered to be a material factor in the realization of the income, gain, or loss unless they provide a significant contribution to, by being an essential economic element in, the realization of the income, gain, or loss. Thus, for example, meetings in the United States of the board of directors of a foreign corporation do not of themselves constitute a material factor in the realization of income, gain, or loss. It is not necessary that the activities of the office or other fixed place of business in the United States be a major factor in the realization of the income, gain, or loss. An office or other fixed place of business located in the United States at some time during a taxable year may be a material factor in the realization of an item of income, gain, or loss for that year even though the office or other fixed place of business is not present in the United States when the income, gain, or loss is realized.

(2) *Application of material factor test to specific classes of income.* For purposes of paragraph (a) of this section, an office or other fixed place of business which a nonresident alien individual or a foreign corporation, engaged in a trade or business in the United States at some time during the taxable year, had in the United States, shall be considered a material factor in the realization of income, gain, or loss consisting of—

(i) *Rents, royalties, or gains on sales of intangible property.* Rents, royalties, or gains or losses, from intangible personal property specified in paragraph (b)(1) of § 1.864–5, if the office or other fixed place of business either actively participates in soliciting, negotiating, or performing other activities required to arrange, the lease, license, sale, or exchange from which such income, gain, or loss is derived or performs significant services incident to such lease, license, sale, or exchange. An office or other fixed place of business in the United States shall not be considered to be a material factor in the realization of income, gain, or loss for purposes of this subdivision merely because the office or other fixed place of business conducts one or more of the following activities: (*a*) develops, creates, produces, or acquires and adds substantial value to, the property which is leased, licensed, or sold, or exchanged, (*b*) collects or accounts for the rents, royalties, gains, or losses, (*c*) exercises general supervision over the activities of the persons directly responsible for carrying on the activities or services described in the immediately preceding sentence, (*d*) performs merely clerical functions incident to the lease, license, sale, or exchange or (*e*) exercises final approval over the execution of the lease, license, sale, or exchange. The application of this subdivision may be illustrated by the following examples:

Example (1). F, a foreign corporation, is engaged in the active conduct of the business of licensing patents which it has either purchased or developed in the United States. F has a business office in the United States. Licenses for the use of such patents outside the United States are negotiated by offices of F located outside the United States, subject to approval by an officer of such corporation located in the U.S. office. All services which are rendered to F's foreign licensees are performed by employees of F's offices located outside the United States. None of the income, gain, or loss resulting from the foreign licenses so negotiaed by F is attributable to its business office in the United States.

Example (2). N, a foreign corporation, is engaged in the active conduct of the business of distributing motion picture films and television programs. N does not distribute such films or programs in the United States. The foreign distribution rights to these films and programs are acquired by N's U.S. business office from the U.S. owners of these films and programs. Employees of N's offices located in various foreign countries carry on in such countries all the solicitations and negotiations for the licensing of these films and programs to licensees located in such countries and provide the necessary incidental services to the licensees. N's U.S. office collects the rentals from the foreign licensees and maintains the necessary records of income and expense. Officers of N located in the United States also maintain general supervision over the employees of the foreign offices, but the foreign employees conduct the day to day business of N outside the United States of soliciting, negotiating, or performing other activities required to arrange the foreign licenses. None of the income, gain, or loss resulting from the foreign licenses so negotiated by N is attributable to N's U.S. office.

(ii) *Dividends or interest, or gains or losses from sales of stock or securities*—(*a*) *In general.* Dividends or interest from any transaction, or gains or losses on the sale or exchange of stocks or securities, specified in paragraph (b)(2) of § 1.864–5, if the office or other fixed place of business either actively participates in soliciting, negotiating, or performing other activities required to arrange, the issue, acquisition, sale, or exchange, of the asset from which such income, gain, or loss is derived or performs significant services incident to such issue, acquisition, sale, or exchange.

An office or other fixed place of business in the United States shall not be considered to be a material factor in the realization of income, gain, or loss for purposes of this subdivision merely because the office or other fixed place of business conducts one or more of the following activities: (*1*) collects or accounts for the dividends, interest, gains, or losses, (*2*) exercises general supervision over the activities of the persons directly responsible for carrying on the activities or services described in the immediately preceding sentence, (*3*) performs merely clerical functions incident to the issue, acquisition, sale, or exchange, or (*4*) exercises final approval over the execution of the issue, acquisition, sale, or exchange.

(*b*) *Effective connection of income from stocks or securities with active conduct of a banking, financing, or similar business.* Nothwithstanding (*a*) of this subdivision (ii), the determination as to whether any dividends or interest from stocks or securities, or gain or loss from the sale or exchange of stocks or securities which are capital assets, which is from sources without the United States and derived by a nonresident alien individual or a foreign corporation in the active conduct during the taxable year of a banking, financing, or similar business in the United States, shall be treated as effectively connected for such year with the active conduct of that business shall be made by applying the principles of paragraph (c)(5)(ii) of § 1.864–4 for determining whether income, gain, or loss of such type from sources within the United States is effectively connected for such year with the active conduct of that business.

(*c*) *Security defined.* For purposes of this subdivision (ii), a security is any bill, note, bond, debenture, or other evidence of indebtedness, or any evidence of an interest in, or right to subscribe to or purchase, any of the foregoing items.

(*d*) *Limitations on application of rules on banking, financing, or similar business—(1) Trading for taxpayer's own account.* The provisions of (*b*) of this subdivision (ii) apply for purposes of determining when certain income, gain, or loss from stocks or securities is effectively connected with the active conduct of a banking, financing, or similar business in the United States. Any dividends, interest, gain, or loss from sources without the United States which by reason of the application of (*b*) of this subdivision (ii) is not effectively connected with the active conduct by a foreign corporation of a banking, financing, or similar business in the United States may be effectively connected for the taxable year, under (*a*) of this subdivision (ii), with the conduct by such taxpayer of a trade or business in the United States which consists of trading in stocks or securities for the taxpayer's own account.

(*2*) *Other income.* For rules relating to dividends or interest from sources without the United States (other than dividends or interest from, or gain or loss from the sale or exchange of, stocks or securities referred to in (*b*) of this subdivision (ii)) derived in the active conduct of a banking, financing, or similar business in the United States, see (*a*) of this subdivision (ii).

(iii) *Sale of goods or merchandise through U.S. office.* Income, gain, or loss from sales of goods or merchandise specified in paragraph (b)(3) of § 1.864–5, if the office or other fixed place of business actively participates in soliciting the order, negotiating the contract of sale, or performing other significant services necessary for the consummation of the sale which are not the subject of a separate agreement between the seller and the buyer. The office or other fixed place of business in the United States shall be considered a material factor in the realization of income, gain, or loss from a sale made as a result of a sales order received in such office or other fixed place of business except where the sales order is received unsolicited and that office or other fixed place of business is not held out to potential customers as the place to which such sales orders should be sent. The income, gain, or loss must be realized in the ordinary course of the trade or business carried on through the office or other fixed place of business in the United States. Thus, if a foreign corporation is engaged solely in a manufacturing business in the United States, the income derived by its office in the United States as a result of an occasional sale outside the United States is not attributable to the U.S. office if the sales office of the manufacturing business is located outside the United States. On the other hand, if a foreign corporation establishes a sales office in the United States to sell for consumption in the Western Hemisphere merchandise which the corporation produces in Africa, the income derived by the sales office in the United States as a result of an occasional sale made by it in Europe shall be attributable to the U.S. sales office. An office or other fixed place of business in the United States shall not be considered to be a material factor in the realization of income, gain, or loss for purposes of this subdivision merely because of one or more of the following activities: (*a*) the sale is made subject to the final approval of such office or other fixed place of business, (*b*) the property sold is held in, and distributed from, such office or other fixed place of business, (*c*) samples of the property sold are displayed (but not otherwise promoted or sold) in such office or other fixed place of business, or (*d*) such office or other fixed place of business performs merely clerical functions incident to the sale. Activities carried on by employees of an office or other fixed place of business constitute activities of that office or other fixed place of business.

(*3*) *Limitation where foreign office is a material factor in realization of income—*(i) *Goods or merchandise destined for foreign use, consumption, or disposition.* Notwithstanding subparagraphs (1) and (2) of this paragraph, an office or other fixed place of business which a nonresident alien individual or a foreign corporation has in the United States shall not be considered, for purposes of paragraph (a) of this section, to be a material factor in the realization of income, gain, or loss from sales of goods or merchandise specified in paragraph (b)(3) of § 1.864–5 if the property is sold for use, consumption, or disposition outside the United States and an office or other fixed place of business, as defined in § 1.864–7, which such nonresident alien individual or foreign corporation has outside the United States participates materially in the sale. For this purpose an office or other fixed place of business which the taxpayer has outside the United States shall be considered to have participated materially in a sale made through the office or other fixed place of business in the United States if the office or other fixed place of business outside the United States actively participates in soliciting the order resulting in the sale, negotiating the contract of sale, or performing other significant services necessary for the consummation of the sale which are not the subject of a separate agreement between the seller and buyer. An office or other fixed place of business which the taxpayer has outside the United States shall not be considered to have participated materially in a sale merely because of one or more of the following activities: (*a*) The sale is made subject to the final approval of such office or other fixed place of business, (*b*) the property sold is held in, and distributed from, such office or other fixed place of business, (*c*) samples of the property sold are displayed (but not otherwise promoted or sold) in such office or other fixed place of business, (*d*) such office or other fixed place of business is used for purposes of having title to the property pass outside the United States, or (*e*) such office or other fixed place of business performs merely clerical functions incident to the sale.

(ii) *Rules for determining country of use, consumption, or disposition—*(*a*) *In general.* As a general rule, personal property which is sold to an unrelated person shall be presumed for purposes of this subparagraph to have been sold for use, consumption, or disposition in the country of destination of the property sold; for such purpose, the occurrence in a country of a temporary interruption in shipment of property shall not cause that country to be considered the country of destination. However, if at the time of a sale of personal property to an unrelated person the taxpayer knew, or should have known from the facts and circumstances surrounding the transaction, that the property probably would not be used, consumed, or disposed of in the country of destination, the taxpayer must determine the country of ultimate use, consumption, or disposition of the property

or the property shall be presumed to have been sold for use, consumption, or disposition in the United States. A taxpayer who sells personal property to a related person shall be presumed to have sold the property for use, consumption, or disposition in the United States unless the taxpayer establishes the use made of the property by the related person; once he has established that the related person has disposed of the property, the rules in the two immediately preceding sentences relating to sales to an unrelated person shall apply at the first stage in the chain of distribution at which a sale is made by a related person to an unrelated person. Notwithstanding the preceding provisions of this subdivision (*a*), a taxpayer who sells personal property to any person whose principal business consists of selling from inventory to retail customers at retail outlets outside the United States may assume at the time of the sale to that person that the property will be used, consumed, or disposed of outside the United States. For purposes of this (*a*), a person is related to another person if either person owns or controls directly or indirectly the other, or if any third person or persons own or control directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable. For illustrations of the principles of this subdivision, see paragraph (a)(3)(iv) of § 1.954–3.

(*b*) *Fungible goods.* For purposes of this subparagraph, a taxpayer who sells to a purchaser personal property which because of its fungible nature cannot reasonably be specifically traced to other purchasers and to the countries of ultimate use, consumption, or disposition shall, unless the taxpayer establishes a different disposition as being proper, treat that property as being sold, for ultimate use, consumption, or disposition in those countries, and to those other purchasers, in the same proportions in which property from the fungible mass of the first purchaser is sold in the ordinary course of business by such first purchaser. No apportionment is required to be made, however, on the basis of sporadic sales by the first purchaser. This (*b*) shall apply only in a case where the taxpayer knew, or should have known from the facts and circumstances surrounding the transaction, the manner in which the first purchaser disposes of property from the fungible mass.

(iii) *Illustration.* The application of this subparagraph may be illustrated by the following example:

Example. Foreign corporation M has a sales office in the United States during the taxable year through which it sells outside the United States for use in foreign countries industrial electrical generators which such corporation manufactures in a foreign country. M is not a controlled foreign corporation within the meaning of section 957 and the regulations thereunder, and, by reason of its activities in the United States, is engaged in business in the United States during the taxable year. The generators require specialized installation and continuous adjustment and maintenance services. M has an office in foreign country X which is the only organization qualified to perform these installation, adjustment, and maintenance services. During the taxable year M sells several generators through its U.S. office for use in foreign country Y under sales contracts which also provide for installation, adjustment, and maintenance by its office in country X. The generators are installed in country Y by employees of M's office in country X, who also are responsible for the servicing of the equipment. Since the office of M in country X performs significant services incident to these sales which are necessary for their consummation and are not the subject of a separate agreement between M and the purchaser, the U.S. office of M is not considered to be a material factor in the realization of the income from the sales and, for purposes of paragraph (a) of this section, such income is not attributable to the U.S. office of that corporation.

(c) *Amount of income, gain, or loss allocable to U.S. office*—(1) *In general.* If, in accordance with paragraph (b) of this section, an office or other fixed place of business which a nonresident alien individual or a foreign corporation has in the United States at some time during the taxable year is a material factor in the realization for that year of an item of income, gain, or loss specified in paragraph (b) of § 1.864–5, such item of income, gain, or loss shall be considered to be allocable in its entirety to that office or other fixed place of business. In no case may any income, gain, or loss for the taxable year from sources without the United States, or part thereof, be allocable under this paragraph to an office or other fixed place of business which a nonresident alien individual or a foreign corporation has in the United States if the taxpayer is at no time during the taxable year engaged in a trade or business in the United States.

(2) *Special limitation in case of sales of goods or merchandise through U.S. office.* Notwithstanding subparagraph (1) of this paragraph, in the case of a sale of goods or merchandise specified in paragraph (b)(3) of § 1.864–5, which is not a sale to which paragraph (b)(3)(i) of this section applies, the amount of income which shall be considered to be allocable to the office or other fixed place of business which the nonresident alien individual or foreign corporation has in the United States shall not exceed the amount which would be treated as income from sources within the United States if the taxpayer had sold the goods or merchandise in the United States. See, for example, section 863(b)(2) and paragraph (b) of § 1.863–3, which prescribes, as available methods for determining the income from sources within the United States, the independent factory or production price method, the gross sales and property apportionment method, and any other method regularly employed by the taxpayer which more clearly reflects taxable income from such sources than those specifically authorized.

(3) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). Foreign corporation M, which is not a controlled foreign corporation within the meaning of section 957 and the regulations thereunder, manufactures machinery in a foreign country and sells the machinery outside the United States through its sales office in the United States for use in foreign countries. Title to the property which is sold is transferred to the foreign purchaser outside the United States, but no office or other fixed place of business of M in a foreign country participates materially in the sale made through its U.S. office. During the taxable year M derives a total taxable income (determined as though M were a domestic corporation) of $250,000 from these sales. If the sales made through the U.S. office for the taxable year had been made in the United States and the property had been sold for use in the United States, the taxable income from sources within the United States from such sales would have been $100,000, determined as provided in section 863 and 882(c) and the regulations thereunder. The taxable income which is allocable to M's U.S. sales office pursuant to this paragraph and which is effectively connected for the taxable year with the conduct of a trade or business within the United States by that corporation is $100,000.

Example (2). Foreign corporation N, which is not a controlled foreign corporation within the meaning of section 957 and the regulations thereunder, has an office in a foreign country which purchases merchandise and sells it through its sales office in the United States for use in various foreign countries, such sales being made outside the United States and title to the property passing outside the United States. No other office of N participates materially in these sales made through its U.S. office. By reason of its sales activities in the United States, N is engaged in business in the United States during the taxable year. During the taxable year N derives taxable income (determined as though N were a domestic corporation) of $300,000 from these sales made through its U.S. sales office. If the sales made through the U.S. office for the taxable year had been made in the United States and the property had been sold for use in the United States, the taxable income from sources within the United States from such sales would also have been $300,000, determined as provided in sections 861 and 882(c) and the regulations thereunder. The taxable income which is allocable to N's U.S. sales office pursuant to this paragraph and which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation is $300,000.

Example (3). The facts are the same as in example (2), except that N has an office in a foreign country which participates materially in the sales which are made through its U.S. office. The taxable income which is allocable to N's U.S. sales office is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation.

§ 1.864–7 Definition of office or other fixed place of business.

(a) *In general.* (1) This section applies for purposes of determining whether a nonresident alien individual or a foreign corporation that is engaged in a trade or business in the United States at some time during a taxable year beginning after December 31, 1966, has an office or other fixed place of business in the United States for purposes of applying section 864(c)(4)(B) and § 1.-864–6 to income, gain, or loss specified in

paragraph (b) of § 1.864–5 from sources without the United States or has an office or other fixed place of business outside the United States for purposes of applying section 864(c)(4)(B)(iii) and paragraph (b)(3)(i) of § 1.864–6 to sales of goods or merchandise for use, consumption, or disposition outside the United States.

(2) In making a determination under this section due regard shall be given to the facts and circumstances of each case, particularly to the nature of the taxpayer's trade or business and the physical facilities actually required by the taxpayer in the ordinary course of the conduct of his trade or business.

(3) The law of a foreign country shall not be controlling in determining whether a nonresident alien individual or a foreign corporation has an office or other fixed place of business.

(b) *Fixed facilities*—(1) *In general.* As a general rule, an office or other fixed place of business is a fixed facility, that is, a place, site, structure, or other similar facility, through which a nonresident alien individual or a foreign corporation engages in a trade or business. For this purpose an office or other fixed place of business shall include, but shall not be limited to, a factory; a store or other sales outlet; a workshop; or a mine, quarry, or other place of extraction of natural resources. A fixed facility may be considered an office or other fixed place of business whether or not the facility is continuously used by a nonresident alien individual or foreign corporation.

(2) *Use of another person's office or other fixed place of business.* A nonresident alien individual or a foreign corporation shall not be considered to have an office or other fixed place of business merely because such alien individual or foreign corporation uses another person's office or other fixed place of business, whether or not the office or place of business of a related person, through which to transact a trade or business, if the trade or business activities of the alien individual or foreign corporation in that office or other fixed place of business are relatively sporadic or infrequent, taking into account the overall needs and conduct of that trade or business.

(c) *Management activity.* A foreign corporation shall not be considered to have an office or other fixed place of business merely because a person controlling that corporation has an office or other fixed place of business from which general supervision and control over the policies of the foreign corporation are exercised. The fact that top management decisions affecting the foreign corporation are made in a country shall not of itself mean that the foreign corporation has an office or other fixed place of business in that country. For example, a foreign sales corporation which is a wholly owned subsidiary of a domestic corporation shall not be considered to have an office or other fixed place of business in the United States merely because of the presence in the United States of officers of the domestic parent corporation who are generally responsible only for the policy decisions affecting the foreign sales corporation, provided that the foreign corporation has a chief executive officer, whether or not he is also an officer of the domestic parent corporation, who conducts the day-to-day trade or business of the foreign corporation from a foreign office. The result in this example would be the same even if the executive officer should (1) regularly confer with the officers of the domestic parent corporation, (2) occasionally visit the U.S. office of the domestic parent corporation, and (3) during such visits to the United States temporarily conduct the business of the foreign subsidiary corporation out of the domestic parent corporation's office in the United States.

(d) *Agent activity*—(1) *Dependent agents*—(i) *In general.* In determining whether a nonresident alien individual or a foreign corporation has an office or other fixed place of business, the office or other fixed place of business of an agent who is not an independent agent, as defined in subparagraph (3) of this paragraph, shall be disregarded unless such agent (*a*) has the authority to negotiate and conclude contracts in the name of the nonresident alien individual or foreign corporation, and regularly exercises that authority, or (*b*) has a stock of merchandise belonging to the nonresident alien individual or foreign corporation from which orders are regularly filed on behalf of such alien individual or foreign corporation. A person who purchases goods from a nonresident alien individual or a foreign corporation shall not be considered to be an agent for such alien individual or foreign corporation for purposes of this paragraph where such person is carrying on such purchasing activities in the ordinary course of its own business, even though such person is related in some manner to the nonresident alien individual or foreign corporation. For example, a wholly owned domestic subsidiary corporation of a foreign corporation shall not be treated as an agent of the foreign parent corporation merely because the subsidiary corporation purchases goods from the foreign parent corporation and resells them in its own name. However, if the domestic subsidiary corporation regularly negotiates and concludes contracts in the name of its foreign parent corporation or maintains a stock of merchandise from which it regularly fills orders on behalf of the foreign parent corporation, the office or other fixed place of business of the domestic subsidiary corporation shall be treated as the office or other fixed place of business of the foreign parent corporation unless the domestic subsidiary corporation is an independent agent within the meaning of subparagraph (3) of this paragraph.

(ii) *Authority to conclude contracts or fill orders.* For purposes of subdivision (i) of this subparagraph, an agent shall be considered regularly to exercise authority to negotiate and conclude contracts or regularly to fill orders on behalf of his foreign principal only if the authority is exercised, or the orders are filled, with some frequency over a continuous period of time. This determination shall be made on the basis of the facts and circumstances in each case, taking into account the nature of the business of the principal; but, in all cases, the frequency and continuity tests are to be applied conjunctively. Regularity shall not be evidenced by occasional or incidental activity. An agent shall not be considered regularly to negotiate and conclude contracts on behalf of his foreign principal if the agent's authority to negotiate and conclude contracts is limited only to unusual cases or such authority must be separately secured by the agent from his principal with respect to each transaction effected.

(2) *Independent agents.* The office or other fixed place of business of an independent agent, as defined in subparagraph (3) of this paragraph, shall not be treated as the office or other fixed place of business of his principal who is a nonresident alien individual or a foreign corporation, irrespective of whether such agent has authority to negotiate and conclude contracts in the name of his principal, and regularly exercises that authority, or maintains a stock of goods from which he regularly fills orders on behalf of his principal.

(3) *Definition of independent agent*—(i) *In general.* For purposes of this paragraph, the term "independent agent" means a general commission agent, broker, or other agent of an independent status acting in the ordinary course of his business in that capacity. Thus, for example, an agent who, in pursuance of his usual trade or business, and for compensation, sells goods or merchandise consigned or entrusted to his possession, management, and control for that purpose by or for the owner of such goods or merchandise is an independent agent.

(ii) *Related persons.* The determination of whether an agent is an independent agent for purposes of this paragraph shall be made without regard to facts indicating that either the agent or the principal owns or controls directly or indirectly the other or that a third person or persons own or control directly or indirectly both. For example, a wholly owned domestic subsidiary corporation of a foreign corporation which acts an an agent for the foreign parent corporation may be treated as acting in the capacity of independent agent for the foreign parent corporation. The facts and circumstances of a specific case shall determine whether the agent, while acting for his principal, is acting in pursuance of his usual trade or business and in such manner as to constitute him an independent agent in his relations with the nonresident alien individual or foreign corporation.

(iii) *Exclusive agents.* Where an agent who is otherwise an independent agent within the meaning of subdivision

(i) of this subparagraph acts in such capacity exclusively, or almost exclusively, for one principal who is a nonresident alien individual or a foreign corporation, the facts and circumstances of a particular case shall be taken into account in determining whether the agent, while acting in that capacity, may be classified as an independent agent.

(e) *Employee activity.* Ordinarily, an employee of a nonresident alien individual or a foreign corporation shall be treated as a dependent agent to whom the rules of paragraph (d)(1) of this section apply if such employer does not in and of itself have a fixed facility (as defined in paragraph (b) of this section) in the United States or outside the United States, as the case may be. However, where the employee, in the ordinary course of his duties, carries on the trade or business of his employer in or through a fixed facility of such employer which is regularly used by the employee in the course of carrying out such duties, such fixed facility shall be considered the office or other fixed place of business of the employer, irrespective of the rules of paragraph (d)(1) of this section. The application of this paragraph may be illustrated by the following example:

Example. M, a foreign corporation, opens a showroom office in the United States for the purpose of promoting its sales of merchandise which it purchases in foreign country X. The employees of the U.S. office, consisting of salesmen and general clerks, are empowered only to run the office, to arrange for the appointment of distributing agents for the merchandise offered by M, and to solicit orders generally. These employees do not have the authority to negotiate and conclude contracts in the name of M, nor do they have a stock of merchandise from which to fill orders on behalf of M. Any negotiations entered into by these employees are under M's instructions and subject to its approval as to any decision reached. The only independent authority which the employees have is in the appointment of distributors to whom M is to sell merchandise, but even this authority is subject to the right of M to approve or disapprove these buyers on receipt of information as to their business standing. Under the circumstances, this office used by a group of salesmen for sales promotion is a fixed place of business which M has in the United States.

(f) *Office or other fixed place of business of a related person.* The fact that a nonresident alien individual or a foreign corporation is related in some manner to another person who has an office or other fixed place of business shall not of itself mean that such office or other fixed place of business of the other person is the office or other fixed place of business of the nonresident alien individual or foreign corporation. Thus, for example, the U.S. office of foreign corporation M, a wholly owned subsidiary corporation of foreign corporation N, shall not be considered the office or other fixed place of business of N unless the facts and circumstances show that N is engaged in trade or business in the United States through that office or other fixed place of business. However, see paragraph (b)(2) of this section.

(g) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). S, a foreign corporation, is engaged in the business of buying and selling tangible personal property. S is a wholly owned subsidiary of P, a domestic corporation engaged in the business of buying and selling similar property, which has an office in the United States. Officers of P are generally responsible for the policies followed by S and are directors of S, but S has an independent group of officers, none of whom are regularly employed in the United States. In addition to this group of officers, S has a chief executive officer, D, who is also an officer of P but who is permanently stationed outside the United States. The day-to-day conduct of S's business is handled by D and the other officers of such corporation, but they regularly confer with the officers of P and on occasion temporarily visit P's offices in the United States, at which time they continue to conduct the business of S. S does not have an office or other fixed place of business in the United States for purposes of this section.

Example (2). The facts are the same as in example (1) except that, on rare occasions, an employee of P receives an order which he, after consultation with officials of S and because P cannot fill the order, accepts on behalf of S rather than on behalf of P. P does not hold itself out as a person which those wishing to do business with S should contact. Assuming that orders for S are seldom handled in this manner and that they do not constitute a significant part of that corporation's business, S shall not be considered to have an office or other fixed place of business in the United States because of these activities of an employee of P.

Example (3). The facts are the same as in example (1) except that all orders received by S are subject to review by an officer of P before acceptance. S has a business office in the United States.

Example (4). S, a foreign corporation organized under the laws of Puerto Rico, is engaged in the business of manufacturing dresses in Puerto Rico and is entitled to an income tax exemption under the Puerto Rico Industrial Incentive Act of 1963. S is a wholly owned subsidiary of P, a domestic corporation engaged in the business of buying and selling dresses to customers in the United States. S sells most of the dresses it produces to P, the assumption being made that the income from these sales is derived from sources without the United States. P in turn sells these dresses in the United States in its name and through the efforts of its own employees and of distributors appointed by it. S does not have a fixed facility in the United States, and none of its employees are stationed in the United States. On occasion, employees of S visit the office of P in the United States, and executives of P visit the office of S in Puerto Rico, to discuss with one another matters of mutual business interest involving both corporations, including the strategy for marketing the dresses produced by S. These matters are also regularly discussed by such persons by telephone calls between the United States and Puerto Rico. S's employees do not otherwise participate in P's marketing activities. Officers of P are generally responsible for the policies followed by S and are directors of S, but S has a chief executive officer in Puerto Rico who, from its office therein, handles the day-to-day conduct of S's business. Based upon the facts presented, and assuming there are no other facts which would lead to a different determination, S shall not be considered to have an office or other fixed place of business in the United States for purposes of this section.

Example (5). The facts are the same as in example (4) except that the dresses are manufactured by S in styles and designs furnished by P and out of goods and raw materials purchased by P and sold to S. Based upon the facts presented, and assuming there are no other facts which would lead to a different determination, S shall not be considered to have an office or other fixed place of business in the United States for purposes of this section.

Example (6). The facts are the same as in example (5) except that, pursuant to the instructions of P, the dresses sold by P are shipped by S directly to P's customers in the United States. Based upon the facts presented, and assuming there are no other facts which would lead to a different determination, S shall not be considered to have an office or other fixed place of business in the United States for purposes of this section.

[FR Doc.72-18868 Filed 11-2-72;8:45 am]

Proposed Rule Making

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[21 CFR Part 308]

SCHEDULES OF CONTROLLED SUBSTANCES

Excluded Nonnarcotic Substances

The Director of the Bureau of Narcotics and Dangerous Drugs has received an application pursuant to § 308.21 of Title 21 of the Code of Federal Regulations requesting that a product, Rynal, containing a nonnarcotic controlled substance (methamphetamine) be excluded from all schedules pursuant to section 201(g)(1) of the Controlled Substances Act and § 308.21 of Title 21 of the Code of Federal Regulations. The Bureau has been informed by the Food and Drug Administration that Rynal may be sold over the counter without a prescription.

Therefore, under the authority vested in the Attorney General by sections 201(g)(1) and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(g)(1) and 871(b)) and redelegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby proposes that Part 308 of Title 21 of the Code of Federal Regulations be amended as follows:

By amending § 308.22 by adding the following product:

§ 308.22 Excluded substances.

* * * * *

Trade name of other designation	Composition	Manufacturer or supplier
* * *	* * *	* * *
Rynal	Solution for Spray: dl-Desoxyephedrine HCl 0.22%; antipyrine 0.28%; pyrilamine maleate 0.01%; methyl dodecylbenzyltrimethyl ammonium chloride 0.02%; glycerine dehydrated 1.50%.	Blaine Co.
* * *	* * *	* * *

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Attention: Hearing Clerk, Room 611, 1405 I Street NW., Washington, DC 20537, and must be received no later than November 30, 1972.

Dated: October 30, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-18822 Filed 11-2-72;8:50 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 971]

LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Proposed Limitation of Shipments

Consideration is being given to the issuance of a limitation of shipments regulation, hereinafter set forth, which was recommended by the South Texas Lettuce Committee. The committee has been established pursuant to Marketing Agreement No. 144 and Marketing Order No. 971 (7 CFR Part 971) which regulates the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

During 1971–72, a strong U.S. winter lettuce market extended from early December through mid-February. Temporary supply gaps caused by irregular weather patterns in the West resulted in sharp price advances in January and February.

Texas harvested 5,000 acres of winter lettuce in 1972, with a production of 850,000 hundredweight, for which they received a seasonal average price of $8.20 per hundredweight. The 1971 comparison was 7,200 harvested acres, 900,000 hundredweight production and a $5.12 price.

There is presently no official estimate of 1973 U.S. winter lettuce production. The committee estimates that planted acreage in the Lower Rio Grande Valley will amount to 7,000 acres compared to 3,969 acres last year.

It is not likely that the favorable combination of marketing factors that existed for south Texas lettuce during the 1972 winter season will be repeated in 1973. Their 1973 season average price is not expected to exceed parity.

This proposal is in accord with the committee's recommendations and marketing policy and reflects its appraisal of the composition of the 1972–73 crop of lettuce in the Lower Valley and marketing prospects for the season.

The south Texas lettuce industry as well as other lettuce shipping areas are accustomed to operating on a 6-day shipping week. The experience has been that a 6-day shipping week is adequate for 5 days distribution in terminal markets. Experience has shown that these "packaging holidays" on Sundays and Christmas contribute to the improvement of growers prices and are beneficial in promoting more orderly marketing.

The pack and container requirements are needed to maintain the accepted commercial practices of the south Texas lettuce industry of packing specified numbers of heads of lettuce in specific sized containers limited to those found acceptable to the trade for safe transportation of the lettuce and to avoid deceptive practices.

No purpose would be served by regulating the pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore quantities up to two cartons of lettuce per day may be handled without regard to such requirements.

Provision with respect to special purpose shipments, including export, are designed to meet the different requirements for other than commercial channels of trade. Because of the production area's proximity to the Mexican border, Mexican buyers have been accustomed to acquiring small lots of production area lettuce for their home market; these buyers can utilize lettuce which fails to meet the domestic pack and container regulations. Inasmuch as such shipments have negligible effect on the domestic market, they should be permitted provided certain safeguard requirements are met.

All persons who desire to submit written data, views, or arguments in connection with these proposals shall file the same with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than November 8, 1972.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposal is as follows:

§ 971.313 Limitation of shipments.

During the period November 15, 1972, through March 31, 1973, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b), (c), and (d) of this section, or unless such lettuce is handled in accordance with paragraph (e) or (f) of this section. Further, no person may package lettuce during the above period on any Sunday or on Christmas Day.

(a) [Reserved]

(b) *Pack.* (1) Lettuce heads, packed in container No. 7303, 7306, or 7313, if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 85-40 may be packed only 24 or 30 heads per container.

(c) *Containers.* Containers may be only—

(1) Cartons with inside dimensions of 10 inches by 14¼ inches by 21$^{5}/_{16}$ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches by 14 inches by 21 inches (designated as carrier container Nos. 7306 and 7313), or

(3) Cartons with inside dimensions of 21½ by 16⅛ inches by 10¾ inches (designated as carrier container No. 85-40—flat pack).

(d) *Inspection.* (1) No handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued with respect thereto, except when relieved of such requirement pursuant to paragraphs (e) and (f) of this section.

(2) No handler may transport, or cause the transportation of, any shipment of lettuce by motor vehicle, for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI-23) furnished by the inspection service verifying that such shipment meets the current grade, pack, and container requirements of this section. A copy of such inspection certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(e) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons of lettuce a day without regard to inspection, assessment, grade, and pack requirements, but must meet container requirements. This exception may not be applied to any shipment of over two cartons of lettuce.

(f) *Special purpose shipments.* Lettuce not meeting grade, pack, or container requirements of paragraphs (a), (b), or (c) of this section may be handled for any purpose listed, if handled as prescribed in subparagraphs (1) and (2) of this paragraph. Inspection and assessments are not required on such shipments. These special purpose shipments are as follows:

(1) For relief, charity, experimental purposes, or export to Mexico, if, prior to handling, the handler pursuant to §§ 971.120–971.125 obtains a Certificate of Privilege applicable thereto and reports thereon; and

(2) For export to Mexico, if the handler of such lettuce loads and transports it only in a vehicle bearing Mexican registration (license).

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film (Cf AMS 481) and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

Dated: October 30, 1972.

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

[FR Doc.72-18826 Filed 11-2-72;8:49 am]

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Finding That Estimated Season Average Price of Raisins for 1972–73 Is in Excess of Parity

This action is pursuant to the provisions of § 989.61 of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 37 F.R. 19621, 20022), hereinafter referred to collectively as the "order," regulating the handling of raisins produced from grapes grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act." This action will tend to effectuate the declared policy of the act and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish thereunder.

In its meeting of October 5, 1972, the Raisin Administrative Committee considered data relevant to the formulation of a marketing policy for the crop year which began September 1, 1972, and recommended that volume regulation not be applied to the handling of raisins during such crop year. The Committee estimated that 91,695 tons of natural Thompson Seedless raisins would be produced and determined that the price for that varietal type had been established between handlers and producers at $476 per ton. During the week of October 9, that price advanced to $500 per ton. At its October 5 meeting, the Committee also estimated that 1972 production of other varietal types of raisins would approximate 10,250 tons, and determined that the producer prices established for such varietal types ranged from $440 per ton to $550 per ton. The September 29, 1972, parity price for raisins was $411 per ton.

In view of the foregoing, it is hereby found that the estimated season average price to producers for raisins for the crop year which began September 1, 1972, will be in excess of the parity level specified in section 2(1) of the act. Accordingly, only the provisions of the order which apply in over-parity situations, with an exception hereinafter set forth regarding minimum grade and condition standards, will be applicable in the 1972–73 crop year. The provisions which apply only to volume regulation will not be applicable. In this regard, there was published in the FEDERAL REGISTER issue of September 23, 1972 (37 F.R. 20037; F.R. Doc. 72-16237), a proposal to designate a desirable free tonnage for natural Thompson Seedless raisins of 131,340 tons. In view of the Committee's production estimate of 91,695 tons for natural Thompson Seedless raisins, designation of a desirable free tonnage for such raisins for the 1972–73 crop year is unnecessary and would serve no purpose. Therefore, the action proposed in said notice is hereby terminated.

Section 989.61 of the order provides that the provisions of the order relating to minimum grade and condition standards and inspection requirements, within the meaning of section 2(3) of the act, and any other provisions pertaining to the administration and enforcement thereof, shall continue in effect irrespective of whether the estimated season average price to producers for raisins is in excess of the parity level specified in section 2(1) of the act. Section 2(5) of the act provides for continuance for the remainder of any marketing season or marketing year, such regulation pursuant to any order as will tend to avoid a disruption of the orderly marketing of any commodity and be in the public interest, if the regulation of such commodity under an order has been initiated during such marketing season or marketing year on the basis of its need to effectuate the policy of the act.

The minimum grade and condition standards with respect to natural condition raisins are prescribed in § 989.97 (Exhibit B); the minimum grade standards for packed raisins are prescribed in the U.S. Standards for Grades of Processed Raisins. Action published in the FEDERAL REGISTER August 31, 1972 (37 F.R. 17723), amended § 989.201 of Subpart—Supplementary Orders Regulating Handling (7 CFR §§ 989.201–989.229), effective September 1, 1972. This action made a change in the maturity requirements of the minimum grade and condition standards for natural condition Thompson Seedless raisins.

To more closely align such minimum standards with industry needs, the change reduced (from not more than 12 percent, by weight, to not more than 8 percent, by weight) the tolerance for substandard raisins permitted in incoming lots of standard natural condition Thompson Seedless raisins and deleted a requirement for a specific (not less than 45 percent, by weight) minimum proportion of mature raisins which had been required in such lots. Said action also provided for a dockage system whereby lots of such raisins containing excess quantities of substandard raisins could be received by handlers. Said action included a finding that the change, including the dockage system, will tend to effectuate the declared policy of the act.

Handlers have already acquired a substantial quantity of standard natural condition Thompson Seedless raisins on the basis of the aforesaid minimum grade and condition standards as changed by the action effective September 1, 1972. However, a large proportion of the 1972 crop of such raisins remains

to be delivered by producers to handlers. Terminating § 989.201 for the balance of the current 1972–73 crop year would result in the application of minimum standards to raisins delivered thereafter by producers to handlers different from those standards applied earlier in such crop year. This could result in inequities among producers and handlers due to the application of different requirements for different parts of the crop year. Moreover, this would result in hardship to handlers to the extent they experience any difficulty in processing such raisins to meet the minimum grade standards for packed raisins. Therefore, it is hereby further found that to continue § 989.201 for the remainder of the 1972–73 crop year will tend to avoid a disruption of the orderly marketing of standard natural condition Thompson Seedless raisins and be in the public interest.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice of this action and engage in public rule making procedure, and that good cause exists for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The estimated 1972–73 season average price to producers for raisins is above parity and this fact is well known to the raisin industry; (2) this action is applicable to operations under the order during the 1972–73 crop year, which began September 1, 1972; (3) this action will require no advance preparation by handlers; and (4) no useful purpose would be served by delaying this action.

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

Dated: October 31, 1972.

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

[FR Doc.72-18877 Filed 11-2-72;8:53 am]

[7 CFR Part 1065]

[Docket No. AO-86-A27]

MILK IN NEBRASKA-WESTERN IOWA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Nebraska-Western Iowa marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Omaha, Nebr., on March 21–22, 1972, pursuant to notice thereof issued on February 28, 1972 (37 F.R. 4352).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on September 5, 1972 (37 F.R. 18203), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings, and conclusions, rulings and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein with the following modifications:

INDEX OF CHANGES

1. In the text following the centerhead "Description of Plan", the first paragraph is revised and the 22d paragraph is replaced with three new paragraphs.

2. Additional text is added to the sixth and seventh paragraphs following the centerhead "Updating of Production History Bases", and following the seventh paragraph a new paragraph is added.

3. The eighth paragraph following the centerhead "Allocation of Class I Bases" is revised.

4. The 15th paragraph following the centerhead "Base Transfers" is revised.

5. A correction is made in the reference to butterfat differential in the first paragraph following the centerhead "Uniform Prices for Base Milk and Excess Milk."

6. Two new paragraphs are added at the end of the "Findings and Conclusions."

The material issues on the record of the hearing relate to:

1. Diversion of producer milk.

2. Deletion of takeout-payback (Louisville) seasonal production incentive plan.

3. Need for emergency action with respect to issue No. 2.

4. Adoption of a Class I base plan.

5. Optional handler status for a cooperative on its deliveries of member milk to pool plants.

6. Defining milk received at a pool plant from a cooperative bulk tank handler as "producer milk" for which the plant operator would be obligated at the uniform price.

7. Miscellaneous:

(a) Adoption of more specific terminology in referring to health authorities and Grade A product.

(b) Redefining "route disposition."

(c) Computation of uniform price: Handlers' reports to be included.

(d) Adoption of appropriate terminology for partial payments, and conforming changes where necessary.

Issue No. 1 was dealt with in a decision issued June 5, 1972 (37 F.R. 11482). This decision deals with the remaining issues.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

2. *Louisville plan.* The Louisville seasonal production incentive plan should be deleted from the order.

This plan was provided originally to encourage milk producers to reduce seasonal changes in their milk production. This was to be accomplished by withholding part of the money due producers for milk deliveries in the April–June period and paying out such money to producers on deliveries of milk in September, October, and November.

For several years, however, producer organizations in the market have not favored use of the plan, and it has been rendered inoperative through suspension for the years 1970, 1971, and 1972 (37 F.R. 6491).

Even without the plan in operation, there is relatively small seasonal variation in milk production in this market. During April, May, and June 1971, production (including estimated overdiversions) was approximately 108 percent of production in the September-November period of the same year.

In these circumstances there is no need to continue the Louisville plan provisions in the order. Further, the Class I base plan as proposed to be adopted herein will provide incentive to producers to keep seasonal variation of production to a minimum. The Louisville plan provisions accordingly are deleted from the order.

3. *Emergency action for deletion of the Louisville plan.* In view of the suspension order issued March 24, 1972, previously cited, making the Louisville plan inoperative for 1972, there is sufficient time to consider under regular procedure the proposal to revoke the Louisville plan. An emergency decision therefore is not necessary.

4. *Adoption of a Class I base plan.* Producers supplying plants regulated by the Nebraska-Western Iowa Federal order should have the opportunity to decide whether the proceeds from the sale of their milk should be distributed among them by means of a Class I base plan issued in conformity with the Agricultural Act of 1970.

A witness for a cooperative organization representing a majority of the producers on the Nebraska-Western Iowa market testified that member producers generally favor the adoption of a Class I base plan. The plan is favored also by another cooperative. Producer members of the two cooperative associations comprise nearly all of the producers serving the market.

The plan, proponent stated, will allow the individual producer to adjust his production in line with a specific quantity of Class I disposition in the market allocated to him as his Class I base. He will be better able to adjust production in relation to market Class I disposition than under the present blend price system because his returns can be relatively free of the influence of excess production by other producers.

Testimony in opposition to the plan was presented by organizations that do not presently have producer members on this market. A witness for a dairy farmer's group with membership in the North Central States opposed the plan on grounds that it would impede the entry of new plants and dairy farmers into this market, limit the effectiveness of the order pricing to assure an adequate supply, and add administrative expense. A cooperative association not marketing milk under this order also opposed, in a

brief, the base plan as (1) ineffectual and administratively unenforceable, and (2) a barrier to more economic and efficient milk production and distribution.

Subsequent findings explain the method by which the plan adopted herein provides opportunity for dairy farmers not now producers to qualify for participation under the plan upon becoming producers and allows for adjustment of bases to changing supply and demand conditions. The objections are considered to be substantially met by the provisions adopted.

THE PURPOSE OF THE CLASS I BASE PLAN

The purpose of the Class I base plan is to provide a method for each producer supplying the Nebraska-Western Iowa market to adjust his production individually in accordance with the Class I needs of the market without necessarily reducing his participation in the Class I sales of the market.

The Class I base assigned to each producer will represent a share of the total Class I disposition of the market. Such base assignment will be in proportion to the producer's production history during the representative period. To provide a reserve over the level of Class I disposition in the market, the total of all producers' Class I bases assigned each year will be 120 percent of Class I disposition of handlers in the preceding year.

The proposed base plan is designed also to adapt to changing supply-demand conditions. Producer's bases will be updated each year to reflect changes in the volume of Class I milk disposed of in the market and changes in the volume of milk produced by individual producers. Further, new producers will be able to come on the market and earn, over a reasonable period of time, bases comparable to those of other producers. Also, any producer already on the market who desires to increase his production and thus earn additional base may do so.

DESCRIPTION OF PLAN

A Class I base will be assigned on the effective date of the plan to each producer who is on the market on such date and for whom a production history base is computed.

Production history bases will be computed from milk deliveries to plants in a representative period. The representative period adopted herein for use in the initial determination of production history base is the 2-year period 1971 and 1972.

The proponent cooperative association requested that a 3-year period be used in the initial determination of production history. Under proponent's plan, the higher year of the first 2 years' production of each producer would be averaged with the most recent year in determining a producer's initial production history base.

Proponent's representative, in support of this procedure, stated that nearly all dairymen from time to time experience production problems on their farms, such as disease, poor quality of feed, and breeding problems, that could result in lower milk production for an extended period of time. The averaging of daily milk deliveries during the most recent year of the proposed 3-year representative period with the higher of average daily deliveries during the 2 earlier years, this witness stated, would provide opportunity to delete from production history an abnormally low production year and would tend to promote equity among producers in establishing base.

Under proponent's proposal, therefore, a certain group of producers (those in production during the first of the 3 years) would be provided alternative periods of production history for use in establishing initial production history base. Similar alternatives are not proposed for producers who were not in production during the first year of the proposed representative period but who nevertheless began production shortly thereafter and also might have experienced unusual production problems.

There is inadequate basis in the record to support the proposal that producers who were in production during the first year of a 3 year period should be treated differently in establishing initial production history base from producers who were not in production during such year but nevertheless came on the market shortly thereafter.

Situations may exist in which some producers are scaling down their production for one reason or another or are phasing out their dairy enterprises entirely. The proponent's plan would increase the likelihood of producers receiving a base in excess of their actual ability to supply the fluid market. This would not be in the best interests of producers who are continuing to supply the market and would not promote orderly marketing.

Using deliveries during 1971 and 1972 will be more representative of the level of production a producer may be expected to deliver under the plan since most producers in this market, in fact, have been increasing their production.

Consideration was given on the record also to use of a 1-year period. A single year period, as pointed out by the proponent cooperative could be a time of adverse production conditions for some producers. Such producers could claim the plan is inequitable for this reason. The 2-year period adopted herein will meet the objection of the cooperative to a 1-year period.

The production history base of a producer will be his average daily deliveries of milk during the representative period, except for producers whose delivery periods are not sufficient for determination of a full production history base. This distinction between producers with longer production history and those who have been in production for only a brief period agrees generally with the scheme proposed by the cooperative.

The cooperative proposed that dairy farmers whose production began at any time before June 1, 1972, would receive a production history base equal to their average daily deliveries during the period beginning with their first delivery through the end of the representative period. Producers beginning on or after June 1, 1972, however, would have production history bases reduced by specified percentages.

Specifically the cooperative proposed that producers beginning on or after June 1 but before September 1, 1972, would be assigned production history bases equal to 80 percent of their average daily deliveries, while those beginning on or after September 1, 1972, would be assigned production history bases equal to 50 percent of average daily deliveries. These dates, in the cooperative proposal, were related to a suggested effective date of January 1, 1973. Thus, dairy farmers whose production began as much as 7 months before the effective date would receive full credit for their average daily deliveries in computation of production history and those with lesser periods of production would have reduced bases, as indicated.

At the hearing proponent stated that February 1, 1973, would be an acceptable effective date if it would implement using calendar years for the representative period rather than a period ending with August 1972, as specified in the hearing notice.

Since a February 1, 1973, effective date will accommodate use of calendar years for production history, it is used herein as a tentative effective date. Data for the most recent calendar year would be available for computation of base effective on February 1 each year.

The computation of production histories as proposed by the cooperative is accordingly modified to fit a February 1, 1973, effective date. The same percentages (as proposed) will be applied in the calculation of production history bases for producers whose deliveries began later than 7 months before the effective date.

Equitable apportionment of bases to producers should not allow the same amount of base for production in a relatively brief period as the base allowed when earned by producers from deliveries during the full representative period. Further, producers whose entire period of deliveries is within the few months preceding the effective date will have had opportunity to gauge their operations in contemplation that a base plan will be operative. For these reasons a graduated reduction in production history bases calculated from only the most recent months preceding the effective date of the plan is necessary to preserve equity among all producers.

For a producer who was in production for 7 months before the effective date there are only 6 months of production data since monthly data are available only after several days following the month. Accordingly, 6 months of deliveries will be the minimum period for which the average daily deliveries of the producer will be his production history base. Bases assigned to producers with less than 6 production months should be reduced by multiplying the average daily deliveries by the 80-percent factor, and bases assigned to producers beginning October 1, 1972, or later should be

the average daily deliveries multiplied by the 50 percent factor.

Milk deliveries by a dairy farmer during the representative period to both pool plants and nonpool plants will be used to compute production history base.

An interruption of 90 days or more in deliveries will cause a break in production history. As noted elsewhere in this decision, such an interruption after the effective date by a baseholding producer will cause forfeiture of his base and require a waiting period prior to the beginning of a new production history period.

Interruption of deliveries due to storm conditions also will require a modification of the computation of production history. While proponent requested that 15 days in any one calendar year be allowed as interruption for storm conditions, an allowance of 8 days of nondelivery (8 days of production) per year should be adequate for most occurrences where weather prevents milk delivery by a producer. If, under unusual circumstances, storm conditions prevent delivery by a producer for more than 8 days' production then the matter may be considered for relief under the hardship provisions. In periods of 6 months or less the allowed days of nondelivery for storm conditions will be four.

When a producer is prevented by storm conditions from delivering milk of his production, the calculation of his average daily deliveries will be modified by excluding from the divisor the allowed days of nondelivery.

Continuity of production history will be provided in the case of an intrafamily transfer of the operation of a herd. The person continuing milk production with the herd will be allowed credit for the production of the previous operator unless Class I base is transferred to a third party. This is a modification from the recommended decision, which associated transfer of production history with transfer of complete farm operations. Proponent, in exceptions filed, requested that production history be allowed to transfer with the herd.

Intrafamily transfers include transfers to husband, wife, son, daughter, father, mother, sister, brother, son-in-law, daughter-in-law, and to the estate of the baseholder.

On the effective date, the assignment of bases will be made only to those producers on the market who are eligible for such assignment. Conceivably a producer might be temporarily off the market on the effective date, without losing eligibility for base assignment if he resumes deliveries shortly thereafter. As explained previously, however, an interruption of 90 days or more in deliveries results in a break of production history.

The average daily deliveries of a producer during any specified period will be determined by dividing the quantity of milk delivered by the producer in the applicable period by the appropriate number of days. The number of days will be the days of production delivered but not less than the calendar days beginning with the first day of delivery and to the end of the period, excluding allowed days of nondelivery because of storm conditions. In this market, milk of a dairy farmer is picked up by a hauler normally on an every-other-day basis, and thus deliveries may include more days of production than the number of days in such period. The division by the number of days' production delivered will provide an equitable basis of computation for those producers whose average deliveries cover a relatively brief period.

For computations of production history bases, including those established after the plan becomes operative, it is desirable to define more generally the periods used for determination of each producer's production history base. A "production history period" is defined as the period during which milk deliveries used in the computation of production history base are made by the producer. Production history periods are designated as 1-year, 2-year or 3-year production history periods, depending on whether the deliveries of the producer are made in 1, 2, or 3 calendar years.

For purposes of base computation, average daily deliveries in a portion of a calendar year beginning on or before July 1 and through the end of the year will be given the same credit towards production history base as average deliveries of a producer who delivered the full year. As noted elsewhere, average daily deliveries of a dairy farmer starting production after July 1 are subject to a specified reduction in computation of production history base. Accordingly, a portion of any calendar year beginning on or before July 1 and continuing through December 31 will be considered to be a 1-year production history period.

Average daily deliveries of a producer during a 2- or 3-year production history period will be obtained by computing first the average daily deliveries in each calendar year (or portion of a year) and then dividing the sum of such averages by the number of periods (years or portions of years).

NEW PRODUCERS

The plan provides that after the effective date dairy farmers who enter the market as new producers may obtain an assignment of Class I base and production history base in amounts and at times related to the circumstances of entry into the market.

A dairy farmer who becomes a producer when a plant to which he delivers his milk becomes a pool plant will normally be assigned a base effective at the time he becomes a producer. His Class I and production history bases will be computed as if his deliveries prior to becoming a producer were deliveries to a pool plant. Assignment of base will not be immediate, however, if the producer had been on the market previously and had disposed of his base. In this circumstance he would not be eligible for base assignment until the 15th month after the sale of base. Also, as noted below, a producer with less than 1 year of production history would receive a later base assignment.

Another type of new producer is the dairy farmer who comes on the market as an individual and has a history of deliveries of milk to nonpool plants. If the producer has at least a 1-year production history period he will be assigned production history base and Class I base as if his deliveries to the nonpool plants had been deliveries to a pool plant, except that (1) such base assignment will be effective on the first day of the second month following the month in which the producer began deliveries to a pool plant, and (2) the production history base so computed will not exceed the average daily deliveries of such producer during the first 2 months on the market from the same production facilities from which he marketed milk during his production history period.

The Act provides that a producer entering the market under these circumstances will be assigned base effective within 90 days after becoming a producer. Proponent requested, however, that assignment of base be on the first day of the third month following the month in which the producer commenced deliveries to a pool plant. A producer beginning deliveries on June 1 would thus be assigned base on September 1 or 92 days after the first delivery. The assignment of base on the first day of the second month following the month of first delivery, as here adopted, will avoid exceeding the statutory limit of 90 days prior to assignment.

For those producers who enter the market with less than 1 year of production history a production history base will be assigned equal to 50 percent of the average daily milk deliveries of the producer during his first 2 calendar months on the market. This production history base will be effective on the first day of the second month following the month in which the producer began deliveries. If base is acquired by transfer, however, the producer's effective production history base will be the larger of (1) the computation previously described, or (2) the production history base acquired by transfer.

A dairy farmer is not entitled to add to a purchased base the base allotted to him computed from only 2 months' production. The latter base, because of the brief period from which computed, does not have similar status with bases computed from 6 months or more of deliveries in representing the ability of the producer to furnish milk to the market.

Dairy farmers who previously held base but have either forfeited or disposed of such base will be treated as new producers when they again become eligible for assignment of base computed from their own production. The provisions specify that after forfeiting or disposing of all his base 12 months must elapse before a producer's milk deliveries are considered for establishment of a new production history and Class I base. His base assignment will be effective on the first day of the second month following the first month in which he delivers milk eligible for production history. For example, if a producer forfeits his base in June 1973, his base assignment would

be made, at earliest, on September 1, 1974. The reasons for such a waiting period are discussed in connection with base rules.

A dairy farmer who has forfeited base would be entitled also to become a baseholder, without the waiting period, through purchase of base.

UPDATING OF PRODUCTION HISTORY BASES

After the plan becomes effective, adjustment will be made each year in the production history and Class I bases assigned to producers. The most recent year's production data will be used for updating on February 1 each year. Predicated on an effective date of February 1, 1973, the first updating of producer bases will occur on February 1, 1974.

At the time of the first updating, the year 1973 will be added to the production history period of each producer who has an effective base assignment. Thus, producers who on the effective date of the plan had a 2-year production history period will have a 3-year production history period on February 1, 1974. In subsequent updatings for such producers the earliest year will be dropped and the most recent year included, thus resulting in a 3-year rolling average.

Similarly, for a producer who originally had a 1-year production history period, successive years will be added until he has a 3-year production history period.

The updating process allows a producer to obtain an increase in his production history base through any increase in the level of his production over his existing base. On the other hand if his production does not increase, he can retain his existing production history base.

The updating procedure also will reflect changes in a producer's base due to purchase or disposal of Class I base. Other modifications of his Class I base because of underdelivery or hardship also will affect the updating.

Adjustment of a producer's Class I base for underdelivery is provided if his average daily milk deliveries in the preceding calendar year are less than 90 percent of the Class I base assigned to the producer on February 1 of the preceding year as adjusted for hardship and net disposal of base by transfer. The reduction of Class I base will be the difference between such average daily milk deliveries and the Class I base as so adjusted. The reduction for underdelivery will not be made, however, if during the preceding year total producer milk equalled or exceeded 135 percent of Class I dispositions described in § 1065.95(a)(1) of the Class I base provisions adopted herein.

Although in the record proponent opposed adjustment for underdelivery, it is concluded that when market supply is less than the quantity specified an adjustment of this nature is necessary if the Class I base program is to operate effectively and be in the public interest. Similar adjustments are provided under the Puget Sound and Georgia orders, the two markets which currently provide for a Class I base plan. The Class I base assigned to a producer under this program represents the extent to which reliance is placed on the producer to maintain an adequate and regular supply for the Class I market. An adjustment, therefore, is warranted that will reduce a producer's Class I base under the conditions specified to the extent that he fails to deliver a quantity equal to his allotted share of the market. A 10-percent tolerance is provided, however, so that a producer's base will not be reduced if he fails to maintain deliveries equal to his base but delivers at least 90 percent of base.

In exceptions filed, proponent requested deletion of the provisions for underdelivery but stated that if not deleted, the effect of such provisions should be limited to any year in which total producer milk is less than 135 percent of specified Class I milk dispositions. Such limitation is adopted as indicated in the foregoing findings.

The updating procedure on February 1, 1974, will apply to every producer who has at least 1 year of production history. As indicated earlier, a producer who delivered milk for the period July 1 through December 31, 1973, will be considered as having 1 year of production history.

The updating computation on February 1, 1974, will be as follows: The initial production history base assigned to the producer on the effective date of the plan, as adjusted for transfers, underdelivery or hardship, will be multiplied by two; to this will be added the average daily deliveries during 1973 and the sum will be divided by three. If the result of such computation is less than the initial production history base assigned to such producer on the effective date, adjusted for transfers, underdelivery or hardship, then such initial production history base as adjusted shall be the updated production history base.

For producers who entered the market during the first year of the plan their production history bases will be updated also on February 1, 1974, provided they have 1 year of production history.

At the second updating of bases on February 1, 1975, somewhat different calculations will be needed than in the first updating. Separate calculations will be made for producers with 1-year, 2-year and 3-year production history periods.

It will be necessary for purposes of updating to make certain adjustments in a producer's production history for previous years if he disposes of some of his base. An adjustment will be made in the producer's average daily deliveries in each year prior to such disposition of base. Such earlier production that is represented by the Class I base disposed of should not again be used in assignment of new Class I base or production history base. Sale of Class I base, therefore, is regarded as voiding an amount of previous production that had been used in the computation of the production history base that was transferred. It is necessary for this purpose to treat a base transfer in any January as if transferred in the preceding December in order that adjustment of deliveries in preceding years will be in the years preceding such December.

The average daily deliveries will be reduced also in the same manner for any downward adjustment of the producers' Class I base due to underdelivery. Such reduction of average deliveries will apply in the years preceding the year of underdelivery.

These reductions in average daily deliveries will be in proportion to the reduction in Class I base due to transfer or underdelivery.

If the entire effect of such adjustments is a reduction greater than the respective average daily deliveries, then the resulting amount after adjustment will be zero, and the period for which a zero amount is determined will not be regarded as a production history period. Only years following such period would be included in the calculation of the production history base of the producer.

Subject to these adjustments, the average daily deliveries in each of the years of a 3-year production history period will be combined and divided by three to obtain an average for the 3-year period. If the result is less than the production history base assigned to such producer on the preceding February 1 after adjustment for change in base because of transfers, underdelivery and hardship, then such previously assigned production history base, as adjusted, shall be the updated production history base.

For each producer who on February 1, 1975, has a 2-year production history period, and has not purchased base, the updating computation would require adjustment of average daily deliveries in the first year for disposal of Class I base by the producer and for underdelivery. The sum of (1) such adjusted average daily deliveries, (2) the average daily deliveries in the most recent year, and (3) the initial production history base assigned to such producer as a new producer, adjusted for transfers, underdelivery or hardship, will be divided by three. If such result is less than the production history base assigned to such producer on the preceding February 1 after adjustment for transfers, underdelivery and hardship, then such previously assigned production history base, as adjusted, shall be the updated production history base.

A producer with a 2-year production history period may have acquired base by transfer at any time during the 2-year period or before such period. Regardless of the time of acquisition of base by transfer, the computation will compare the average daily milk deliveries of the producer during the most recent year with the previously assigned production history base as adjusted for transfers, underdelivery, and hardship. The effect of the computation will be to increase the producer's base one-third of any excess of average daily deliveries in the most recent year over his existing production history base.

The updating on February 1, 1975, for each producer who has a 1-year production history period will be as follows: The initial production history base of such

producer will be subject to adjustment for transfer, underdelivery, or hardship. The initial production history base, so adjusted, multiplied by 2, plus the average daily milk deliveries of the producer in the most recent year, will be divided by 3. If such result is less than the initial production history base as adjusted for transfers, underdelivery, and hardship, then such initial base, as adjusted shall be the updated production history base.

ALLOCATION OF CLASS I BASES

On the effective date of this base plan the market administrator will assign a "Class I base" to each producer who has a production history base. On February 1, 1974, and on February 1 of each subsequent year the market administrator will update producers' Class I bases to reflect changes in Class I sales and production history bases.

The total of Class I bases to be assigned will exceed by 20 percent Class I disposition in the market in the preceding year. Such a reserve is needed because of seasonal and daily fluctuations in milk supply and Class I disposition.

A 20-percent reserve was supported by proponent cooperative association at the hearing. In testimony proponent stated that experience in recent years indicates a reserve of 20 percent is necessary to assure that at all times base milk will be sufficient for handlers' Class I dispositions.

The following Class I dispositions in the preceding calendar year will be included in the computation.

(1) Class I producer milk pursuant to § 1065.46;

(2) The Class I milk disposition of any plant that was a nonpool plant during part of the year and held pool plant status in December preceding the effective date, or February 1 on which the bases are computed; and

(3) The Class I sales of any person who was a producer-handler if such person were a producer in December preceding such February 1, or effective date.

The total of such Class I disposition will be multiplied by 120 percent and converted to a daily average by dividing by the number of days in the year.

The ratio of total Class I bases to total production histories will be expressed as a percentage, referred to as the "Class I base percentage." A producer's production history base multiplied by the Class I base percentage will be his Class I base.

Class I bases will be assigned also to new producers at the time they are issued production history bases. The Class I base percentage determined on the preceding February (or the effective date of the plan, whichever is most recent) will be applied to the production history base of the new producer (except as explained below) to determine his Class I base.

The Class I base of any producer having a production history period of less than 3 years whose milk deliveries (to pool plants or to nonpool plants) began after the effective date of the plan will be reduced by 20 percent for a period not to exceed 36 months from the beginning of such production history period. This 20 percent reduction will apply to base exclusive of any acquired by transfer.

In view of the current and anticipated supply-demand situation in the market, there is no need to provide an incentive for entry of new producers in substantial numbers. During 1971, producer milk was about 163 percent of Class I sales of regulated handlers. Thus, the 20-percent reduction of bases for new producers, as authorized by the Act, is reasonable and will tend to facilitate operation of the base plan in this market.

BASE TRANSFERS

Proponent requested that transfer of base be permitted. Provisions for transfer of base under specified conditions are adopted.

A transfer of base will be defined to mean the disposal of Class I base and production history base by a transferor and the associated acquisition of Class I base and production history base by transferee. Disposal of base will mean disposal of Class I base and disposal of a proportionate amount of the production history base held by the transferor. Acquisition of base will mean the acquisition of Class I base and an amount of production history base, which is the quantity of Class I base acquired multiplied by the reciprocal of the Class I base percentage.

The Act specifies that bases may be transferable under terms and conditions that do not result in bases taking on an "unreasonable value."

The value of base obtainable by sale should not be such that it is an incentive for a producer to leave the market to become a producer for another market. If such incentive exists, the base plan could disrupt the regular supply for the market and promote a value of base for purposes other than supplying this market. These effects would be contrary to the purpose of the Act to promote orderly marketing, including assurance of a stable supply for the market.

For these reasons it is necessary to place limits on disposal of base by transfer. A producer will be able to dispose of his entire base if he is terminating his dairy enterprise, or transferring his base to another member of the immediate family. Transfer of the complete base will be possible also in case of death of the baseholder, or when a baseholder enters the armed services. A baseholder as an individual will be able to transfer his base to a partnership or corporation if it is established to the satisfaction of the market administrator that the transferor has a material management interest in the transferee's milk production enterprise.

Allowing an entire base to be disposed of only subject to the above restrictions will bring to a minimum any windfall gains a producer may obtain from changing his deliveries to another market.

While such restrictions on the transfer of entire bases are necessary to stabilize the operation of the program by reducing incentive for windfall gains, it is necessary also to allow relatively unrestricted transfers of base for producers desiring to adjust the scale of their operations.

As pointed out elsewhere in these findings, a specific purpose of transfer is to afford a flexibility in the operation of the plan such that producers desiring to increase or decrease their production may acquire or dispose of base to achieve the adjustment between their base and production.

For those producers desiring to decrease production, the plan should allow a producer to dispose of by transfer a portion of his base. This amount should not be so large as to give incentive for windfall gains as described previously but should be adequate to permit adjustments in scale of operations. The opportunity to dispose of as much as 30 percent of base in most circumstances will allow a reasonable adjustment for the producer wishing to scale down his operation although not intending to cease production.

For those producers desiring to increase production, base may be available to them by transfer from other producers who are leaving the dairy enterprise or who are disposing of the allowed percentage of their base. The restriction on the percentage of base transferred would apply to the quantity assigned to the producers on the preceding February 1 or later date of initial base assignment.

To the extent that bases may be acquired under these limitations, they provide an alternative to a new producer that may operate to the benefit of both such producer and other producers on the market. Instead of going through the steps of building a base from his own production, he will have opportunity to acquire base by transfer. Further, if the producer desires to aline his production closely with his Class I base he can do so from the beginning through acquisition of base. Otherwise he would go to the expense of first expanding his production to build the base and then reducing his operation in line with such base. Also, through purchase of base he will minimize the effect on other baseholders since he will not be adding to the total base on the market.

Certain features of the plan adopted herein should tend to prevent bases from taking on unreasonable value. First, the base plan allows new dairy farmers an alternative to buying base. They may establish a production history and thus earn a full base over a period of 3 years. Similarly, established producers may increase Class I base by building up a greater production history through their own production. Thus new producers and established producers are not limited to buying base.

Second, there will be a one-third lapse of transferred Class I base and the production history base associated therewith, with limited exceptions. To illustrate, a producer with a Class I base of 300 pounds and a production history base of 500 pounds may decide to transfer 150 pounds of his Class I base. The transferee producer actually will receive only 100 pounds of Class I base. The amount of production history base disposed of by transferor will be proportional to the change in his Class I base—specifically, 250 pounds. The production

history acquired by transferee is 167 pounds.

The lapse of base will tend to prevent abuse of the transfer provisions and discourage some of the arrangements that otherwise might arise. As an example, without such a provision a producer whose production is temporarily below his base could transfer a portion of his Class I base to another producer with the understanding that the base will be transferred back to him once his production has come up to his base. The producers would be thereby manipulating the ownership of base for undue financial gain at the expense of other producers. They would be also defeating a purpose of the plan that is to encourage milk deliveries from each producer in line with his own ability to supply a portion of the Class I market. The one-third lapse of base will tend to discourage such arrangements. The one-third lapse will be to the advantage of baseholding producers generally, since each transfer will leave less production history be apportioned to Class I sales in the market. On each transfer of 150 pounds of base, 50 pounds will lapse, thereby increasing the Class I base percentage.

Various other rules will apply to transfers in the interest of integrity of the plan and administrative feasibility. It is provided that a producer may transfer his base in its entirety (subject to the prescribed rules), or portions of his base, not less than 150 pounds or multiples thereof.

The transfer of an entire base may be made effective on the day on which the transfer takes place if the market administrator receives an application for such transfer within 5 days after the transaction. It is likely that an entire base will be transferred in the case of the death of a producer or of the cessation of milk production. In the latter instances, the base transfer often is accompanied by a dispersal sale at which time the herd and base are disposed of simultaneously. When the entire herd is dispersed, the base of the selling producer should be transferable on the same date. However, if application for transfer is not made within the 5-day period, the transfer will become effective on the 1st day of the following month.

Partial transfers of base, in 150-pound multiples, will be effective the 1st day of the month following that in which the application for transfer is made to the market administrator.

In the case of jointly held bases the transfer of either the entire base or a portion thereof will be recognized only if the application for transfer is signed by each of the joint holders. Insofar as the order is concerned, the executor or trustee of an estate that holds a Class I base will be able to sign an application for transfer of such base.

A base established by two or more persons operating a dairy farm as joint owners or as a partnership may be divided between the owners. Such division will be effective on the 1st day of the month following receipt of written notification by the market administrator indicating the agreed division and signed by each baseholder (joint owner, partner, heir, executor, or trustee).

The question may arise as to whether formation of a joint enterprise followed by division of the jointly held base can be used as a device for transfer while avoiding one-third lapse of any base transferred. For example, producer A who has a 1,000-pound base could join in partnership with producer B who has an 800-pound base. A short time later producer B could leave the partnership without base, thus in effect transferring his 800 pounds of Class I base to producer A.

Such a transfer should be subject to the one-third lapse, just as any other transfer, if the producer's participation in the joint enterprise is of temporary duration. In division of a jointly held base, therefore, the one-third lapse should apply to the extent that a transfer of base results.

Such one-third lapse will apply to the quantity by which an individual's share of base on leaving a joint enterprise is less than the base contributed by him to the enterprise not more than 12 months previous. This provision will discourage use of joint enterprise as a device for avoiding one-third lapse in transfers.

A base established by combining the bases of two or more producers for the purpose of joint enterprise to be operated by such producers will not be subject to the one-third lapse except as discussed above.

Proponent requested other restrictions of base transfers, specifically that a producer who transferred base would not be permitted for 3 months thereafter to receive base by transfer. Similarly, a producer who received base by transfer would not be permitted for 3 months thereafter to transfer base.

The proposed 3-month restriction on transfers is unnecessary in view of other provisions adopted. The one-third lapse of base will make frequent transfers of base uneconomical.

It is necessary however to require a 12-month waiting period after base assignment before the bases of certain producers may be transferred. This will apply to any base assigned to a dairy farmer as a new producer. Producers assigned bases during a temporary period on the market would likely sell such bases upon leaving, thus adding to the base pool and diluting the Class I utilization assignable to base of producers who remain. The 12-month waiting period thus will tend to assure that these producers are a regular part of the market supply before transfer of their bases may occur.

For instance, a group of new producers might receive bases when a plant becomes pooled because it obtains a short-term contract in this market. The producers shipping to the plant might sell their allocated bases if the plant loses pool status, thereby receiving a windfall gain—clearly not the purpose of this base plan.

In some instances, however, a dairy farmer who is delivering his milk to a plant that temporarily has pool status may have purchased base in addition to the base assigned to him when the plant became pooled. Such producer will be allowed to dispose of by transfer the quantity of Class I base which he had acquired by transfer. The 12-month waiting period would not apply to this quantity of base.

One type of new producer for whom the 12-month waiting period on transfers should apply is a producer who had been a producer-handler. Such person's status as a producer may be only temporary. As in the instance of other new producers who may have temporary status, disposal of newly assigned base should not be permitted. Particularly in the cases where the dairy farmer has still available plant facilities, he will be in a position to shift his status alternately to producer and producer-handler. Under these circumstances he should not be permitted to dispose of the base assigned to him each time he becomes a producer. Such a practice, if permitted, would add to the quantity of base on the market without a corresponding increase in Class I milk assignable to such base. It would also allow the producer-handler to profit at the expense of other dairy farmers in the market. The 12-month waiting period on transfers will substantially prevent such a practice.

ADDITIONAL BASE RULES

Besides the limitation on transfer of base, the plan requires that any producer becoming a producer-handler shall forfeit the maximum Class I base he held in the past 12 months as a producer. If a producer were free to sell his base while changing to producer-handler status, he would be diluting the Class I utilization for base-holding producers, since his Class I disposition as a producer-handler is exempt from pooling. He thus would be achieving a windfall gain at the expense of producers generally and simultaneously have exemption as a producer-handler.

To prevent such undue advantage the plan must require that a producer changing to producer-handler status shall forfeit the largest amount of Class I base held by him during the preceding 12 months. If he has disposed of his Class I base by transfer, the producer could not receive a producer-handler designation until the first day of the 12th month after disposition of his base. His alternative to such a waiting period will be to repurchase base equal to the largest amount he held in the preceding 12 months and then forfeit such base. Base forfeiture should also be required if producer-handler designation is to be issued to any member of such producer's family, any affiliate of such a producer, or any business unit of which such a producer is a part.

The definition of producer-handler should be modified to reflect the base forfeiture requirement for granting producer-handler status.

Even with the limitations previously described there may be some producers

who seek to profit by disposition of their base while intending to reestablish base through a new dairy enterprise. The plan accordingly provides that a producer disposing of his entire base by transfer will not be eligible to receive a base as a new producer until the first day of the 15th month after the month in which such transfer was made.

Such a provision is reasonable since a dairy farmer who disposes of his entire Class I base by transfer does so with the knowledge that he is disposing of his privilege to receive returns for his milk at the minimum base price under the order. He likewise would be aware that if he establishes a new dairy enterprise he would be eligible to participate under the plan only as a new producer.

It is necessary to insure that a producer who transfers his entire base shall not evade the prescribed waiting period. It is provided, therefore, that the restrictions set forth above shall apply to a person using the same production facilities as had been used by the transferor-producer if such person is a member of the immediate family of the transferor-producer (or is the transferor-producer under a different name). In such cases, continuation of production of milk by transferee producer using the same facilities would be considered as a continuation of the operation by the transferor-producer. This restriction shall apply also to the use of any production facility to which a Class I base has not been assigned, wherever located, operated by a person in which the transferor-producer has a financial interest, if such facility commences production after the effective date of the transfer or if the transferor-producer acquired his financial interest in such person later than 3 months prior to the effective date of the transfer.

The same restrictions should apply to a base-holding producer who ceases deliveries as a producer for a period of 90 days or more and then returns to the market. The person who thus forfeits his base and resumes production at a subsequent date is not a new producer in the same sense as other nonbaseholding dairy farmers. Therefore, he need not be assigned a base in the same manner or in the same time period as other dairy farmers becoming producers.

The Class I base plan should operate to encourage a steady and reliable supply for the market. It would not serve this purpose if a producer could freely cease deliveries to the market for an extended period, and then return with the privilege of receiving payment under the plan for Class I base milk as though he had not left the market. A producer who ceases deliveries for as long as 90 days cannot be regarded as a regular supplier for the market. Therefore, the Class I base and production history of such producer will be forfeited. The same 15-month waiting period as in the case of the producer who disposed of all his base should apply in the case of forfeiture before assignment of base as a new producer.

A producer who enters the military service will be excepted from the forfeiture rule. He will be allowed to retain his Class I base and production history until 1 year after he is discharged from active military duty.

A special rule will apply to forfeiture of Class I base when a producer leaves the market because the plant to which he delivers milk loses pool status. If such a dairy farmer continues delivering to the same plant as a nonpool plant, his base will be forfeited after 90 days of such delivery. There is the possibility, however, that such plant will regain pool status and dairy farmers delivering to the plant will again be producers. Such a dairy farmer will be entitled to base assignment again without the 15-month waiting period unless he is a producer who has disposed of his base.

A further rule is necessary with respect to the dairy farmer who has lost producer status because the plant to which he delivers has lost pool plant status. Such a nonproducer will not be permitted to dispose of base since his base corresponds to a portion of total Class I disposition which is no longer pooled. If he regains producer status by delivery to another plant that is a pool plant, he will be entitled to retain his previously held base if such reentry is less than 90 days after the preceding disqualification from producer status.

Proponent cooperative requested that the order permit a producer to retain his Class I base if his milk is marketed by the cooperative to a plant which had been a pool plant but became regulated by another order. Such exception to forfeiture was supported on the basis that in these circumstances the producer is leaving the market on an involuntary basis, perhaps without his knowledge, and that such producer, as a cooperative member, would continue to receive a blend based substantially on returns of the cooperative from this market.

Whether the farmer ceases deliveries on the market voluntarily or involuntarily, his production is not part of the supply for this market. The base plan is intended to apply to dairy farmers who constitute the regular, dependable supply for the market. In the instance described, since the dairy farmer's milk will be delivered to a plant regulated by another order, it will be part of the regular supply for the other market. Accordingly, no exception to the rule of forfeiture should be made for the situation described.

The Class I base plan should exclude any dairy farmer if any of his milk is delivered during the month other than as producer milk to a nonpool plant having Class I disposition. For instance, a producer might find it advantageous to market his milk in part to a nonpool plant which has Class I disposition, thereby obtaining a higher return than under the order. In so doing, however, the producer is committing his milk in part to another fluid market and is not fully engaged as a dependable part of the supply for this market. The producer is also avoiding the intended effect of the base plan, to provide incentive for a producer to adjust his production in relation to the Class I needs of the market.

On a larger scale, a cooperative may market milk of baseholding members to a Class I outlet not regulated by the order.

This arrangement could be employed to the extent that outside Class I sales will be made only on certain days of the week, but on days when such milk is not needed by the other market it could be returned to the Nebraska-Western Iowa pool. Other producers on the market then will bear the burden of surplus of such out-of-market sales.

For these reasons the base plan should not allow a dairy farmer to retain the benefits of the plan in any month when his milk in whole or in part is marketed outside of order regulation for Class I use. The producer definition should be modified to provide that a dairy farmer is not a producer under these conditions. The effect of the provision adopted is that the dairy farmer will have no base milk in the month if any of his milk is delivered as other than producer milk to a nonpool plant that has Class I disposition. Also, his production history will be reduced because of the exclusion of his milk deliveries during the month. The corresponding number of days, however, will not be excluded in the computation of average daily deliveries. The rule of forfeiture will apply if the dairy farmer loses producer status for a period of 90 days.

PROVISIONS FOR ALLEVIATION OF HARDSHIP AND INEQUITY

The Agricultural Act of 1970 requires that provision be made for the alleviation of hardship and inequity among producers. Therefore, certain administrative guidelines should be established for review of hardship claims and the alleviation of hardship and inequities to producers under the Class I base plan adopted herein.

Certain provisions are included in the order to define circumstances for which a producer may apply for relief. A producer may apply for adjustment to alleviate hardship or inequity if he feels his production history is not representative of his level of milk production because of conditions which are beyond his control (such as acts of God, disease, pesticide residue, and condemnation of milk). Conditions over which a producer could have exerted control through prudent precautionary measures are not cause for hardship adjustment. These conditions would include, for example, inability to obtain adequate labor, or equipment failure during the representative base period.

The producer would be responsible for filing a written request for review of any hardship condition or inequity affecting him. Such request would be submitted to the market administrator for review by the hardship committee. A claimed hardship or inequity would set forth the following: (1) Conditions that caused alleged hardship or inequity; (2) extent of relief or adjustment requested; (3) basis upon which the amount of adjustment requested was determined; and (4) reasons why the relief or adjustment should be granted. Such request must be filed

within 45 days of the date on which Class I bases are issued, or of the occurrence to which it is related.

The market administrator would establish one or more "Producer Base Committees." A committee would consist of five producers appointed by the market administrator. The committee would review the requests for relief from hardship or inequity referred to it by the market administrator in a meeting called by the market administrator. The market administrator, or his designated representative, would be the recording secretary at such meeting. The committee decision must be endorsed by at least three of the five members to represent a committee quorum.

Producer Base Committee recommendations to deny any request would be final upon notification to the producer, subject only to appeal by such producer to the Director, Dairy Division within 45 days thereafter. Recommendations of the committee to grant a request, in whole or in part, would be transmitted to the Director, Dairy Division, and would become final unless vetoed by the Director within 15 days after transmitted.

The market administrator is authorized to reimburse committee members for their services at $30 per day, and for necessary travel and subsistence expenses incurred in carrying out their duties as committee members. Reimbursement to committee members would be from moneys collected under the administrative expense fund.

The moneys collected in the administrative fund are to pay for the necessary expenses incurred in the administration of the order. The statute expressly requires that provision be made for the relief of hardship and inequity among producers. It has been concluded that the review of petitions for such relief can be handled most effectively by a committee of producers. Hence, the expense associated with the operation of a Producer Base Committee is one incurred in the performance of an appropriate and necessary function of the order. Therefore, the order should provide that the necessary expenses incurred by the Producer Base Committee be paid from moneys collected pursuant to the administrative assessment.

UNIFORM PRICES FOR BASE MILK AND EXCESS MILK

Uniform prices to producers for base milk and excess milk will be computed each month. The price to producers who have no base will be the Class III price adjusted by the producer butterfat differential. The uniform price for excess milk will be the Class III price unless the quantity of excess milk (and milk of producers who have no base) exceeds the Class III producer milk. In the latter case Class II milk and then Class I milk will be assigned, in that sequence, to excess milk.

Location adjustments will apply to the price of base milk according to the location of the plant where the milk is received from producers. Since some of a producer's milk may be diverted, and thus may be subject to different location adjustment than when received at a pool plant, it will be necessary to prorate the producer's base milk to the quantities of his milk received at the various locations.

5. and 6. *Cooperative as handler for deliveries of member milk.* No change should be made in the definition of handler in the case of a cooperative association delivering milk of member producers from the farm to a pool plant in a tank truck owned or operated by, or under contract to, such cooperative association. Delivery of such milk to the plant should continue to be treated as an interhandler transfer of milk first received by the cooperative association as producer milk.

The order presently specifies that a cooperative association shall be a handler with respect to milk of its member producers delivered from the farm to a pool plant of another handler in a tank truck owned or operated by, or under contract to, such cooperative association. No evidence was presented at the hearing to modify the existing definition of handler in this respect or the interhandler nature of the transfer upon delivery to the plant. The proposals for the hearing bearing on these subjects were withdrawn by proponent at the hearing.

7. *Miscellaneous.* (a) Terminology for designation of health authority and Grade A product.

Order provisions specifying approval of plants or products by a health authority should specify such authority uniformly as "duly constituted health authority." Such term presently appears in § 1065.7 *Producer* but a different terminology ("appropriate health authority") is used in the definitions of "distributing plant" and "supply plant." The term "any health authority" is used in § 1065.12 *Pool plant.*

The term "duly constituted health authority" is commonly used in Federal milk orders in provisions where approval by a health authority of a plant or product is specified in a provision.

The term "duly constituted health authority" is sufficiently general to include any health authority empowered by Federal, State, city, or other governmental unit to approve milk for disposition for fluid consumption and dairy plants for the handling of such milk. The term "duly constituted health authority" accordingly should be used in each case in the order provisions where reference to health authority is made to eliminate possible confusion from using different terms in this regard.

Another instance of inadequate terminology, in § 1065.11 supply plant, is the phrase "for distribution in the marketing area under a Grade A label." The intent of the provision is to specify products that qualify as Grade A under health authority regulations. It is not necessary for this purpose to involve labeling requirements, if such exist. Further, the phrase cited might be interpreted as restricting approval to that given by health authorities in the marketing area. As indicated above, such restriction should not apply.

(b) Definition of "route disposition." The order contains a definition of "route" as follows:

"Route" means any delivery (including delivery by a vendor or through a distribution point, or sale from a plant store) of a fluid milk product to retail or wholesale outlets other than a delivery (a) in bulk to a milk plant, or (b) to a food processing plant pursuant to § 1065.41(c)(4).

While the provision clearly excludes deliveries in bulk to a milk plant, it does not exclude packaged milk deliveries to a milk plant. A proposal placed in the hearing notice by the Dairy Division, Consumer and Marketing Service (now Agricultural Marketing Service) provided opportunity for interested parties to recommend changes to clarify the status of packaged milk deliveries to milk plants. Although no industry representative presented testimony on the matter, a statement by counsel in behalf of a cooperative opposed any change which would exclude packaged disposition to milk plants from the route definition. Other testimony, by a representative of the Dairy Division, served only to describe the aspect of the provision for which clarification would be desirable.

In view of the lack of substantial evidence, no change is made in the status of packaged disposition to milk plants under the route definition.

(c) Handlers' reports included in uniform price computation.

The order provides that the computation of the uniform price for each month include the value of the net pool obligation of all handlers who have: (1) Submitted reports of receipts and utilization for the month, (2) made required payments to producers and cooperatives for milk delivered in the preceding month, and (3) who have paid their obligation to the producer-settlement fund for the previous month.

Obviously, if a handler does not file a report of his receipts and utilization such data cannot be included in the current uniform price computation. Federal orders generally exclude a handler's utilization from the uniform price computation for the additional reason that the handler has failed to pay his previous month's obligation to the producer-settlement fund. If the handler reports, but has failed to pay his producer-settlement fund obligation for the preceding month, this fact is known to the market administrator prior to the time for computing a uniform price in the following month.

Except for a "de minimus" situation, it is reasonable to require that payment to the producer-settlement fund for the preceding month also be a prerequisite for including the handler's receipts and uses in the current pool. Failure to pay in the preceding month provides strong indication of the handler's intention for the current month, which could affect moneys available for payments out of the pool.

Excluding a handler's utilization from the computation of the uniform price if he has not paid producers or cooperative associations presents obvious administrative difficulties. At the time the

uniform price is computed, the market administrator may not know whether a handler has paid producers or cooperative associations for the prior month. Audit of such payments for the preceding month normally has not been made by the date of the current uniform price computation. Whether such payments have been made could involve disputed questions of fact or arrangements between producers or cooperative associations, and handlers. The market administrator may not know, prior to the next computation of the pool, the complete facts concerning a particular incident of payment. It may not be feasible to have such questions cleared up prior to the date on which the uniform price must be computed. For this reason, the order should be amended to eliminate this prerequisite to pooling in the current month.

(d) Partial payments.

In the provisions for payments to producers the term "partial payment" should be substituted for "advance payment."

In § 1065.80(b) the order requires each handler to pay each producer before the 27th day of the month with respect to milk received from such producer during the first 15 days of the month at a rate not less than the uniform price for the preceding month. In case payments are made to a cooperative association for producers such payments are to be made to the cooperative on or before the 26th day of the month.

The order further provides that when the handler completes payment to producers or cooperative associations for all the milk received during the month, he is given credit for a payment made for milk delivered during the first 15 days of the month.

The payment made by the handler for milk received in the first 15 days of the month is a partial payment with respect to the quantity received during the entire month. The term "partial payment" is therefore more descriptive of the type of payment made than "advance payment" and the former term should be used. The order specifies that these payments shall be made only to each producer who has not discontinued shipping to such handler before the 27th day of the month. Thus the money calculated using the quantity of milk delivered during the first 15 days of the month would not in any case be as much as the handler's obligation for all the milk the producer has delivered up to the time of the payment.

In § 1065.80(d), the introductory text preceding subparagraph (1) specifies payments by a handler to a cooperative as a handler pursuant to § 1065.8 (c) or (d). The provisions in § 1065.8(c) defines a cooperative as a handler on milk it diverts to nonpool plants. The payments pursuant to § 1065.80, however, are payments by regulated handlers to producers and cooperatives and would not include any payments on milk diverted by a cooperative. The reference to § 1065.8(c) therefore is deleted.

(e) In § 1065.92(h) set forth in the tentative order accompanying the recommended decision, the text contained in subparagraph (1) is deleted and the remaining two subparagraphs are renumbered as (1) and (2), respectively. The adjustments described in the text deleted are more appropriately set forth in other provisions of the order herein adopted.

(f) Certain other minor changes have been made in the tentative order provisions for the purpose of more specifically implementing the intent of the findings and conclusions.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Nebraska-Western Iowa marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval of the Order: Referendum Order To Determine Producer Approval of the Class I Base Plan; Determination of Representative Period; and Designation of Referendum Agent

September 1972 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended (except for the proposed Class I base plan) regulating the handling of milk in the Nebraska-Western Iowa marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

It is hereby further directed that a referendum, in which each individual producer has one vote, be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the proposed order provisions constituting a Class I base plan of payment to producers, as specified in the attached order, regulating the handling of milk in the Nebraska-Western Iowa marketing area is separately approved or favored by the producers, as defined under the terms of the order, and who during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of the referendum is hereby determined to be the month of September 1972.

The agent of the Secretary to conduct such referendum is hereby designated to be U. Grant Grayson.

Signed at Washington, D.C., on October 30, 1972.

Richard E. Lyng,
Acting Secretary.

Order[1] *amending the order, regulating the handling of milk in the Nebraska-Western Iowa Marketing Area*

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nebraska-Western Iowa marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Nebraska-Western Iowa marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on September 5, 1972, and published in the FEDERAL REGISTER on September 8, 1972 (37 F.R. 18203), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein with the following modifications:

INDEX OF CHANGES

1. In § 1065.71(a), the text preceding paragraph (a)(1) is revised.

1a. A reference in § 1065.82(b)(1) is changed.

2. Section 1065.90(b)(3) is revised.

3. Text in § 1065.92 (a), (b), and (c) is revised for purposes of clarification.

4. In § 1065.92(h), a paragraph is deleted (see findings under "7. Miscellanous (e)").

5. In § 1065.93 (b) and (c) text is added.

6. In § 1065.94(a)(3), a proviso is added; and in paragraph (b) of this section, in the last sentence, a word is changed.

7. In § 1065.94(c), the reference "§ 1065.93" where it appears in subparagraphs (2) and (3) is changed to "§ 1065.93(c)" and in subpargraph (2) thereof, certain text is deleted.

8. Section 1065.96(d)(1) is revised.

§ 1065.7 [Amended]

1. § 1065.7 *Producer,* the period at the end of the provision is changed to a colon and the following proviso is added:

Provided, That a dairy farmer shall not be a producer in any month in which he holds a Class I base if any portion of his milk is delivered, other than as producer milk, to a nonpool plant at which there is Class I disposition.

§ 1065.9 [Amended]

2. In § 1065.9, the word "and" at the end of paragraph (b) is deleted, the period at the end of paragraph (c) is changed to a semicolon followed by the word "and", and a new paragraph (d) is added to read as follows:

(d) Has met the requirements pursuant to § 1065.97(c).

§ 1065.10 [Amended]

3. In § 1065.10 *Distributing plant,* the words "an appropriate health authority" are changed to "a duly constituted health authority."

§ 1065.11 [Amended]

4. In § 1065.11 *Supply plant,* the words "an appropriate health authority" are changed to "a duly constituted health authority"; also, the words "under a Grade A label" are changed to "as Grade A milk."

§ 1065.12 [Amended]

5. In § 1065.12 *Pool plant,* the words "any health authority" in the language preceding paragraph (a) is changed to "a duly constituted health authority."

6. Paragraph (k) of § 1065.22 is amended by revising subparagraph (2) to read as follows:

§ 1065.22 Additional duties of the market administrator.

* * * * *

(k) * * *

(2) The 12th day after the end of each month, the applicable uniform prices pursuant to § 1065.71 or § 1065.71a, and the butterfat differential to be paid pursuant to § 1065.72;

* * * * *

§ 1065.71 [Amended]

7. In § 1065.71, paragraphs (h), (i), (j), (k), and (l) are revoked and paragraph (g) is revised to read as follows:

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and except for any month in which a Class I base plan is effective shall be the "uniform price" for milk received from producers.

8. A new § 1065.71a is added to read as follows:

§ 1065.71a Computation of uniform prices for base milk and excess milk.

For each month in which a base plan is effective the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk of 3.5 percent butterfat content received from producers as follows:

(a) From the net amount computed pursuant to § 1065.71 (a) through (e) subtract the amounts specified in subparagraphs (1) through (5) of this paragraph:

(1) The amount computed by multiplying the hundredweight of milk specified in § 1065.71(f)(2) by the weighted average price for all milk;

(2) The amount obtained by multiplying by the Class III price the total hundredweight of milk delivered by all producers who have no Class I base; and

(3) The amount computed by multiplying the hundredweight of excess milk by the Class III price for 3.5 percent butterfat milk provided that the quantity of milk to which the Class III price is applied pursuant to this subparagraph plus the quantity pursuant to subparagraph (2) of this paragraph shall not exceed the quantity of producer milk in Class III;

(4) An amount computed by multiplying any remaining hundredweight of excess milk by the Class II price for 3.5 percent butterfat milk to the extent that producer milk in Class II is available for such assignment; and

(5) An amount computed by multiplying any remaining hundredweight of excess milk by the Class I price for 3.5 percent butterfat milk.

(b) Divide the net amount obtained in paragraph (a) of this section by the total hundredweight of base milk and subtract not less than 4 cents but less than 5 cents. This result shall be known as the uniform base price per hundredweight of milk of 3.5 percent butterfat content; and

(c) Divide the amount obtained in paragraphs (a) (3), (4), and (5) of this section by the hundredweight of excess milk, and subtract any fractional part of 1 cent. This result shall be known as the uniform excess price per hundredweight of milk of 3.5 percent butterfat content.

9. Section 1065.73 is amended by adding a new paragraph (d) to read as follows:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 1065.73 Location differentials to producers and on nonpool milk.

* * * * *

(d) For any month in which a base plan is effective, the uniform price for base milk computed pursuant to § 1065.71a shall be adjusted in the same manner as specified in paragraphs (a) and (b) of this section; *Provided,* That if the milk of a producer is delivered as producer milk to plants at which different base prices apply, then for purposes of location adjustment the base milk of the producer shall be prorated to plants in proportion to deliveries of the producer's milk to such plants.

10. In § 1065.80, the introductory text preceding paragraph (a), and the introductory text of paragraph (d) preceding subparagraph (1) thereof is revised to read as follows:

§ 1065.80 Time and method of payment.

Except in each month in which § 1065.80a applies, each handler shall make payments as follows:

* * * * *

(d) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler pursuant to § 1065.8(d) as follows:

* * * * *

11. A new § 1065.80a is added to read as follows:

§ 1065.80a Time and method of payment to producers and to cooperative associations.

For each month in which a base plan is effective each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraphs (c) and (d) of this section, at not less than the uniform base price for the quantity of base milk received, adjusted by the butterfat differential computed pursuant to § 1065.72 and by any location adjustment applicable under § 1065.73, at not less than the uniform excess price for the quantity of excess milk received, adjusted by the butterfat differential computed pursuant to § 1065.72 and at not less than the Class III price adjusted by the butterfat differential pursuant to § 1065.72 for the quantity of milk received from producers for whom no base milk is computed, less the following amounts: (1) The payments made pursuant to paragraph (b) of this section; (2) Marketing service deductions pursuant to § 1065.85; and (3) Any proper deductions authorized by the producer: *Provided,* That if by such date such handler has not received full payment for such month pursuant to § 1065.83, he shall not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator;

(b) On or before the 27th day of each month to each producer for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) or (d) of this section and who has not discontinued shipping milk to such handler, a partial payment with respect to milk received from such producer during the first 15 days of the month in an amount per hundredweight not to be less than the weighted average price for the preceding month:

(c) To a cooperative association which has filed a written request for such payment with such handler with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 26th day of the month, an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section, less any deductions authorized in writing by such cooperative association:

(2) On or before the 14th day after the end of each month an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler pursuant to § 1065.8(d) as follows:

(1) On or before the 26th day of the month, for milk received during the first 15 days of the month an amount per hundredweight equal to not less than the weighted average price for the preceding month; and

(2) On or before the 14th day after the end of each month not less than the value of such milk at the applicable class prices, less payment made pursuant to subparagraph (1) of this paragraph;

(e) In making payments to producers pursuant to paragraphs (a) and (c) of this section, each handler shall furnish each producer or cooperative association with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1065.71a, 1065.72, and 1065.73;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1065.85 together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

§ 1065.82 [Amended]

11a. In § 1065.82, *Payments to the producer-settlement fund,* paragraph (b)(1) is revised to read:

(b)(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1065.80 or § 1065.80a; and

12. A new centerhead "Class I Base Plan" is inserted after § 1065.86 and new §§ 1065.90 through 1065.98 are added as follows:

CLASS I BASE PLAN

§ 1065.90 Production history base and Class I base.

For purposes of determination and assignment of Class I base of each producer:

(a) "Production history base" as assigned to each producer means a quantity of milk in pounds per day as computed pursuant to §§ 1065.92, 1065.93, or 1065.94.

(b) "Production history period" means the period to be used for the computation of production history base. Subject to the conditions of subparagraphs (1), (2), and (3) of this paragraph, a production history period for a producer shall be a 1-year, 2-year, or 3-year production history period depending on whether milk deliveries by the producer began on or before July 1 in the first, second, or third calendar year, respectively, preceding the February 1 on which the production history base is being determined or preceding the most recent February 1.

(1) The production history period of a producer who has forfeited his Class I base pursuant to § 1065.97(a) or has disposed of all of his Class I base shall begin on the later of the following dates:

(i) The first day of the 13th month after the month in which the producer ceased deliveries of producer milk or disposed of his Class I base, or

(ii) The first day of production delivered when the producer resumes deliveries of producer milk.

(2) Except as provided in subparagraph (1) of this paragraph, if the milk deliveries of any dairy farmer are interrupted for 90 days or more during the period prior to the effective date of this provision or prior to the dairy farmer qualifying as a producer, only the period of milk deliveries following such interruption shall be included in the producer's production history period.

(3) In the case of a producer who has acquired the herd of a member of his immediate family (either before or after the effective date of this provision) and has continued production with such herd, the deliveries made by the previous producer during the production history period shall be assumed to have been delivered by the current producer for use in computing a production history base, unless the previous owner transferred the Class I base to a third person.

(c) "Class I base" means a quantity of milk in pounds per day as computed pursuant to § 1065.95 for which a pro-

ducer may receive the uniform price for base milk;

(d) "Average daily milk deliveries" of a producer in any specified period used for computing production history bases means the total pounds of milk delivered during the period by the producer to pool plants and to nonpool plants excluding milk delivered other than as a producer pursuant to the proviso of § 1065.7 divided by the greater of the number of days pursuant to subparagraphs (1) or (2) of this paragraph.

(1) The number of days' production delivered; or

(2) The calendar days from the first day of delivery through the last day of the period less the number of days' production the producer is prevented from delivering because of storm conditions: *Provided,* That the subtraction for storm conditions shall not exceed 8 days in any calendar year or exceed 4 days if a period of 6 months or less is involved.

§ 1065.91 Base milk and excess milk.

(a) "Base milk" means milk received from a producer during a month which is not in excess of his Class I base multiplied by the number of days in the month, except that if milk is received from a producer for only part of a month, base milk shall be milk received from such producer which is not in excess of his Class I base multiplied by the number of days of production of producer milk delivered during the month; and

(b) "Excess milk" means producer milk other than that defined under paragraph (a) of this section from producers delivering base milk.

§ 1065.92 Computation of production history base for each producer.

A production history base shall be determined by the market administrator pursuant to this section and § 1065.93 for each producer eligible for such base on the effective date of this provision and on February 1 of each year thereafter, respectively. Subject to the conditions of paragraph (h) of this section, a production history base for each producer on the effective date of this provision shall be determined by the market administrator as follows:

(a) The production history base for each producer who began milk deliveries not later than July 1, 1971, shall be calculated by adding the average daily milk deliveries during 1971 to the average daily milk deliveries in 1972 and dividing by two.

(b) The production history base for each producer who began delivery after July 1, 1971, but not later than July 1, 1972, shall be the average daily milk deliveries during the period beginning with the first delivery and through the end of the year 1972.

(c) The production history base for each producer not specified in paragraphs (a) and (b) of this section who began milk deliveries before October 1, 1972, shall be the average daily milk deliveries during the period beginning with the first delivery and through the end of such year multiplied by 0.80.

(d) The production history base for each producer who began milk deliveries on or after October 1, 1972, shall be computed pursuant to § 1065.93(c).

(e) For each producer who became a producer for this market before the effective date of this provision because the plant to which he regularly delivered milk became a fully regulated plant pursuant to this order, a production history base shall be determined, if possible, pursuant to paragraph (a), (b), (c), or (d) of this section, based on his deliveries of milk as if the nonpool plant(s) to which he delivered had been a pool plant(s) during the representative period;

(f) A producer not described pursuant to paragraph (e) of this paragraph who delivered milk to a nonpool plant(s) prior to becoming a producer shall be assigned a production history base if such base can be computed pursuant to paragraph (a), (b), (c), or (d) of this section from deliveries of milk from the same farm on which he is a producer at time of base assignment as if the plant(s) to which he delivered had been a pool plant(s) during the production history period.

(g) For a producer who held producer-handler status at any time subsequent to January 1, 1971, a production history base shall be calculated as described in paragraph (a), (b), (c), or (d) of this section as if the milk of his own production received at his producer-handler plant had been received at a pool plant;

(h) The determination of a production history base pursuant to this section shall be subject to the following conditions:

(1) If a producer operated more than one farm at the same time, a separate production history base shall be determined with respect to the average daily producer milk deliveries from each farm, except that only one production history base shall be determined with respect to milk production resources and facilities of a producer handler; and

(2) Only one production history base shall be allowed with respect to milk produced by one or more persons at a single location where the land, building, and equipment, are jointly used, owned, or operated.

§ 1065.93 New producers.

The market administrator shall determine a production history base for each producer for whom a production history base was not determined pursuant to § 1065.92 as follows:

(a) Any producer who delivered his milk to a nonpool plant that became a pool plant shall be assigned a production history base on the same basis as other producers under the order as though the deliveries to the nonpool plant had been deliveries to a pool plant, except that assignment of base in the case of any producer who previously forfeited base or disposed of base by transfer will be subject to the provisions of paragraph (d) of this section.

(b) A producer other than a producer pursuant to paragraph (a) of this section who delivered milk to a nonpool plant prior to becoming a producer as defined in this order and who has at least a 1-year production history period shall be assigned a production history base, effective on the first day of the second month following the month in which he began deliveries of producer milk to a pool plant, on the same basis as if he had been a producer under the order and his milk deliveries to the nonpool plant had been deliveries to a pool plant: *Provided,* That the production history base effective for such producer pursuant to this paragraph in any month before updating shall not exceed the average daily milk deliveries of such producer during the first 2 months of producer milk deliveries from the same production facilities from which milk deliveries were made during his production history period.

(c) A producer whose production history period is less than a 1-year production history period, except a producer assigned production history base pursuant to § 1065.92(c), shall be assigned a production history base on the effective date of this provision or on the first day of the second month following the month in which as a producer he began milk deliveries in an amount equal to 50 percent of his average daily milk deliveries during the immediately preceding 2-month period. Such production history base shall be effective for such producer unless a production history base is acquired by transfer, in which case the greater of the acquired or the base computed from his own production shall be the effective production history base.

(d) A producer who, after having forfeited or disposed of all his Class I base, either continues as a producer on the market or discontinues deliveries to the market and thereafter returns to the market as a producer, shall be assigned a production history base in the manner provided in paragraph (c) of this section, such assignment to be effective not earlier than the first day of the 15th month after the month in which the producer who forfeits his base ceases deliveries or a producer who disposes of all his Class I base makes such disposition. In the application of this provision, use of the same production facilities by another person (or the same person under a different name) to produce milk after the above described forfeiture or transfer of base shall be considered as a continuation of the operation by the previous operator if the new operator is a member of the immediate family of the previous operator. This provision shall be applied also to any production facility to which a Class I base has not been assigned that is operated by a person in which the producer who forfeited or transferred his base has a financial interest if such facility commences production on or after the effective date of the transfer or forfeiture, or such producer acquired his financial interest in such person later than 3 months prior to the effective date of the base transfer or forfeiture: *Provided,* That in the case of a producer who forfeited his base because he continued to deliver his milk to a plant that had been a pool plant but lost

its pool plant qualification, assignment of base pursuant to paragraph (a) of this section will not be subject to delay to the first day of the 15th month after forfeiture, and deliveries by such producer during the period of forfeiture shall not be excluded from production history by reason of such forfeiture.

§ 1065.94 Updating of production history bases.

The production history base for each producer who has neither disposed of his entire base by transfer nor forfeited his base pursuant to § 1065.97(a), or after having disposed of his entire base by transfer or forfeiture has met the delivery requirement prescribed in § 1065.93 (d) for determination of new production histotry base, shall be determined by the market administrator on February 1, 1974, and each February 1 thereafter as follows:

(a) In updating a production history base as described in this paragraph, adjustments to a producer's previously assigned production history base and/or average daily milk deliveries in prior years shall be made as follows:

(1) The prior production history base assigned to such producer shall be changed in proportion to the change in Class I base due to adjustment for hardship or loss of Class I base because of underdelivery of base. In the case of transfer of base production history base shall be adjusted as specified in § 1065.96 (a).

(2) The average daily milk deliveries of a producer in any calendar year that is part of his production history period prior to any net disposal of Class I base by transfers since January 31 of the preceding year or any underdelivery causing reduction of Class I base, shall be reduced in proportion to the net change in Class I base. For the purpose of this subparagraph disposal of base in January shall be treated as if disposed of in the preceding December.

(3) If the average daily milk deliveries of the producer in the preceding year are less than 90 percent of the Class I base assigned to such producer in the preceding year as adjusted for hardship and less any net disposal of base by transfer, then the producer's Class I base shall be reduced by the amount of the difference between such average daily milk deliveries and such Class I base as adjusted for hardship and disposal of base by transfer, and the production history base of such producer shall be reduced in the same proportion as the reduction of Class I base: *Provided,* That this subparagraph shall not apply in any year in which total producer milk is 135 percent or more of the Class I disposition described in § 1065.95(a)(1).

(4) If the net effect of all adjustments for any period is a reduction greater than the production history base or average daily deliveries prior to adjustment, then the resulting amount shall be zero and such period shall not be a production history period.

(b) Effective February 1, 1974, the market administrator shall update the production history base of each producer who has a production history period of 1 year or more as follows: Add (1) the average daily milk deliveries of such producer during the year 1973 and (2) twice the production history base previously assigned to such producer as adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the production history base previously assigned to such producer as adjusted pursuant to paragraph (a) of this section, then such previous production history base as adjusted shall be the effective production history base.

(c) Effective February 1, 1975, and February 1 in each year thereafter the market administrator shall update the production history base for specified producers as follows:

(1) For each producer who has a 3-year production history period, add (i) the average daily milk deliveries during the preceding calendar year and (ii) the average daily milk deliveries during each of the second and third preceding calendar years (or portion of a year) reduced by any adjustment pursuant to paragraph (a) of this section, and divide such total by 3. If such result is less than the production history base assigned to such producer on or after February 1 of the preceding year as adjusted pursuant to paragraph (a) of this section then such previously assigned production history base, as adjusted, shall be the effective production history base.

(2) For each producer who has a 2-year production history period who did not acquire Class I base by transfer add (i) the average daily milk deliveries in the preceding year, (ii) the average daily milk deliveries in the second preceding year reduced by any adjustment pursuant to paragraph (a) of this section, and (iii) the initial production history base assigned to (or computed for) such producer pursuant to § 1065.92 (c) or (d) or § 1065.93(c) adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the production history base assigned to such producer on or after February 1 of the preceding year as adjusted pursuant to paragraph (a) of this section, then such previously assigned production history base, as adjusted, shall be the effective production history base.

(3) For each producer who has a 1-year production history period add (i) the average daily milk deliveries of such producer during such 1-year period and (ii) twice the initial production history base assigned to (or computed for) such producer pursuant to § 1065.93(c) adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the initial production history base assigned to (or computed for) such producer as adjusted pursuant to paragraph (a) of this section, then such initial production history base, as adjusted, shall be the effective production history base.

(4) For each producer who has a 2-year production history period and who has acquired Class I base by transfer, add (i) the average daily milk deliveries of such producer during the preceding year and (ii) twice the production history base assigned to such producer on or after February 1 of the preceding year adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the production history base previously assigned to such producer as adjusted pursuant to paragraph (a) of this section, then such previously assigned production history base, as adjusted, shall be the effective production history base.

(d) For a producer who is assigned an initial history of production pursuant to § 1065.92 (e), (f), (g) and § 1065.93 the market administrator shall update his history of production from year to year in the manner applicable to a producer delivering to a pool plant as provided in paragraphs (b) and (c) of this section.

§ 1065.95 Computation of Class I base for each producer.

On the effective date of this provision and on February 1, 1974, and February 1 of each subsequent year the market administrator shall assign a Class I base to each producer who has a production history base. Class I bases shall be assigned to producers described in § 1065.93 when they are issued production history bases. On February 1 of each year Class I bases shall be computed as follows:

(a) Compute a "Class I base percentage" as follows:

(1) Determine the sum of Class I dispositions during the preceding calendar year specified in subdivisions (i), (ii), and (iii) of this subparagraph:

(i) Class I producer milk pursuant to § 1065.46;

(ii) The Class I disposition of plants during the period when they were nonpool plants, if such plants were pool plants in the preceding December; and

(iii) The Class I disposition of a person who was a producer-handler during a portion of the year and who held producer status in the preceding December.

(2) Multiply the quantity computed pursuant to subparagraph (1) by 1.20 and divide such result by the number of days in such year.

(3) Divide the quantity computed pursuant to subparagraph (2) of this paragraph by a quantity which is the total of production history bases computed pursuant to §§ 1065.91, 1065.93, and 1065.94, whichever is applicable. The result shall be converted to a percentage by multiplying by 100 and rounding to the third decimal place. Such percentage shall be known as the "Class I base percentage."

(b) The Class I base of each producer with a production history base shall be determined by multiplying his production history base by the "Class I base percentage" and rounding the result to the nearest pound: *Provided,* That with respect to a producer with a production history period of less than 3 years beginning after the effective date of this provision, 20 percent shall be subtracted from the result of the preceding calcu-

lation, and: *Provided further*, That such 20 percent reduction shall be effective continuously with respect to a producer for a period not exceeding 36 months from the beginning of such production history period. With respect to a producer who has acquired production history base by transfer, such 20 percent reduction shall apply only to base exclusive of that acquired by transfer.

§ 1065.96 Transfer of bases.

Production history base and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the disposal of Class I base and production history base by a transferor and the associated acquisition of Class I base and production history base by transferee. Disposal of base means disposal of Class I base and disposal of a proportionate amount of the production history base held by the transferor. Acquisition of base means the acquisition of Class I base and an amount of production history base which is the quantity of Class I base acquired multiplied by the reciprocal of the Class I base percentage. A transfer may be made only to a person who is a dairy farmer. The amount of Class I base credited to the transferee shall be two-thirds of the Class I base disposed of by the transferor: *Provided*, That such one-third reduction shall not apply to:

(1) An intrafamily transfer (including transfer to an estate and from an estate to a member of the immediate family);

(2) The division of base except as provided pursuant to paragraph (h) of this section; and

(3) The combining of bases of two or more producers for purpose of joint enterprise operated by such producers.

(b) A person receiving base by transfer must notify the market administrator in writing of the name of the producer transferring the base, the effective date of the transfer and the amount of base to be transferred. Application for transfer must be made to the market administrator on forms approved by the market administrator and signed by the transferor, his heirs, executor, or trustee and by the person to whom such base is to be transferred;

(c) Subject to paragraphs (a) and (k) of this section, transfers of an entire base or transfers other than pursuant to paragraph (d) of this section may not be made except in the case of:

(1) Death of the baseholder;

(2) Intrafamily transfers;

(3) Termination of the dairy enterprise of base holder;

(4) The baseholder entering the armed services;

(5) Transfer to a partnership or corporation in which the transferor has a material management interest; and

(6) Transfers allowed as a hardship adjustment.

(d) Subject to paragraphs (a) and (k) of this section, a producer may transfer a portion of his Class I base, in multiples of 150 pounds, as follows:

(1) Not more than the larger of 150 pounds or 30 percent of the Class I base assigned to a producer on the most recent of the effective date, February 1 of any year, or the initial assignment of base to such producer, may be disposed of by transfer prior to the February 1 following.

(2) A jointly held base may be divided among individuals engaged in a joint enterprise.

(e) Subject to paragraph (k) of this section a transfer of an entire base may be made effective on any day of the month if application for such transfer is filed with the market administrator within 5 days thereafter. Otherwise such transfer shall be effective on the first day of the month following that in which application is made;

(f) A transfer of a portion of a base shall be effective the first day of the month following that in which application for which such transfer is made to the market administrator;

(g) A base which is jointly held or in a partnership may be transferred subject to limitations otherwise provided in this section only upon application signed by each joint holder or partner, his heirs, executors, or trustee and by the person to whom such base is to be transferred;

(h) A base which has been established by two or more persons operating a dairy farm jointly or as a partnership may be divided among the joint holders or partners if written notification of the agreed division of base signed by each joint holder or partner, his heirs, executor, or trustee, is filed with the market administrator prior to the first day of the month for which such division is to be effective: *Provided*, That, however, a one-third lapse of base shall apply to base to the extent it constitutes a transfer by a person leaving a joint enterprise of base held by such person as an individual not more than 12 months prior to leaving such enterprise.

(i) It must be established to the satisfaction of the market administrator that the conveyance of base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this section;

(j) In the case of an intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family), or any transfer not subject to the one-third lapse, all restrictions on transferring base applicable to the transferor producer shall also apply to the transferee;

(k) A producer who receives a base pursuant to § 1065.92 (c), (d), (e), (f), or (g) or § 1065.93 (a), (b), or (c) may not transfer such base, for 1 year from the date of receipt, provided, however, that such limitation shall not apply to:

(1) Intrafamily transfers; or

(2) The quantity of base such producer acquires by transfer.

(l) If a base is held by a corporation, a change in ownership of the stock which transfers control to a new person or persons other than a member of the immediate family of the person transferring such stock will be considered to result in a transfer of base and in this case compliance with all base rules affecting transfers will be required: *Provided*, That if the transferor(s) is the sole holder of the stock and transfers such stock to a member or members of the immediate family, there will be no lapse of base.

(m) A dairy farmer who has ceased deliveries of producer milk because he is delivering milk to a plant formerly a pool plant that no longer has pool plant qualification shall not be permitted to dispose of Class I base.

§ 1065.97 Miscellaneous base rules.

The following base rules shall be observed in the determination of bases.

(a) A person who discontinues delivery of producer milk for a period of 90 consecutive days after a Class I base is issued to him or fails to begin delivery of producer milk within 90 days of receipt of a Class I base by transfer shall forfeit his production history, together with any Class I base and production history base held pursuant to the provisions of this order, except that a person entering the military service may retain such production history, Class I base and production history base until 1 year after being released from active military service;

(b) As soon as production history bases and Class I bases are computed by the market administrator, notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk if the producer is not a member of a qualified cooperative association, and to the cooperative association of which the producer is a member;

(c) As a condition for designation as a producer-handler pursuant to § 1065.9, any person (including any member of the immediate family of such a person, any affiliate of such a person or any business of which such a person is a part) who has held Class I base any time during the 12-month period prior to such designation shall forfeit the maximum amount of Class I and production history base held at any time during such 12-month period; and

(d) In assigning Class I base to a producer, the market administrator shall round such base to the nearest pound.

§ 1065.98 Hardship provisions.

Requests of producers for relief from hardship or inequity arising under the provisions of §§ 1065.92 through 1065.97 will be subject to the following:

(a) After bases are first issued under this plan and after bases are issued on each succeeding February 1, a producer may request review of the following circumstances because of alleged hardship or inequity:

(1) He was not issued a Class I base;

(2) His production history base is not appropriate because of unusual conditions during the base-earning period such as loss of building, herds, or other facilities by fire, flood or storms, official quarantine, disease, pesticide residue, condemnation of milk, military service of the producer or his son;

(3) Loss or potential loss of Class I base pursuant to § 1065.97(a);

(4) Loss or potential loss of Class I base because of underdeliveries pursuant to § 1065.94(a)(3).

(5) Inability to transfer base.

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after notice pursuant to § 1065.97(b) with respect to requests pursuant to paragraph (a) (1) or (2) of this section, or not later than 45 days after the occurrence with respect to request pursuant to paragraph (a) (3), (4), or (5) of this section, setting forth:

(1) Conditions that caused the alleged hardship or inequity;

(2) The extent of the relief or adjustment requested;

(3) The basis upon which the amount of adjustment requested was determined; and

(4) Reasons why the relief or adjustment should be granted.

(c) One or more producer base committees shall be established and function as follows:

(1) Each producer base committee shall consist of five producers appointed by the market administrator;

(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.

(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:

(i) With respect to requests pursuant to paragraph (a) (1), (3), (4), or (5) of this section, grant or adjust production history bases and average daily producer milk deliveries for prior years where it appears appropriate, delay forfeiture of Class I base, restore forfeited base or reduced average daily producer milk deliveries where appropriate, and permit transfer of base not otherwise possible under the order provisions.

(ii) With respect to requests pursuant to paragraph (a)(2) of this section, either reject the request or provide adjustment in the form of additional production history base and average daily producer milk deliveries for prior years where it appears appropriate and the effective date thereof of such adjustment. In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:

(*a*) Loss of milk due to mechanical failure of farm tank or other farm equipment; and

(*b*) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a producer who entered into military service directly from employment in milk production;

(4) Recommendation of the producer base committee shall:

(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the Director; Dairy Division, within 45 days after such notification; or

(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmitted.

(5) Committee members shall be reimbursed by the market administrator from the funds collected under § 1065.86 for their services at $30 per day or portion thereof, plus necessary travel and subsistence expense incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

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[7 CFR Part 1133]

[Docket No. AO 275-A25]

MILK IN INLAND EMPIRE MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Inland Empire marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Spokane, Wash., on September 12, 1972, pursuant to notice thereof issued on August 22, 1972 (37 F.R. 17855).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on October 6, 1972 (37 F.R. 21539), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issues on the record relate to:

1. Diversion of produced milk.
2. Pricing point for diverted milk.
3. Pool plant definition.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Diversion of producer milk.* The diversion provisions of the order should be revised to provide that during the months of September through March the quantity of producer milk diverted in any of these months may not exceed 50 percent of the producer milk received at pool plants (including that diverted), and that during the months April through August, such diversion may not exceed 70 percent of the producer milk received at pool plants (including that diverted). Also, the order should provide that with respect to the diversion of producer milk to nonpool plants, at least 2 days' production must be delivered to pool plants in any of the months of September through November to be eligible for diversion during such months.

Currently, the order provides seasonal limitations on the quantity of producer milk that may be diverted. The present provisions have been effective since 1968 and provide that the quantity of milk that may be diverted in any month shall not exceed 50 percent (April through August), 30 percent (December through March), and 20 percent (September through November) of the total producer milk received at pool plants in any month or diverted therefrom. The order provides also that to be eligible for diversion at least 6 days' production of each producer must be received at a pool plant in any of the months of September through November.

Diversion of milk directly from the farm to a nonpool manufacturing plant is a method by which a handler may efficiently dispose of the reserve milk that is a necessary part of his regular supply. In order to be assured of an adequate supply every day, a handler procuring his own milk supply must arrange to purchase sufficient milk to allow for variations in production and in his daily needs for fluid processing. Production of milk varies seasonally and, accordingly, producers furnishing a sufficient supply for the low production season will produce more than an adequate supply in high production months. Handlers' daily milk requirements also vary, chiefly because fluid milk packaging is not carried on all days of the week.

A cooperative association supplying the market proposed that the proportion of producer milk that may be diverted in any month be increased to 50 percent in any of the months of September through March and be unlimited in all other months. Proponent proposed also that to be eligible for diversion at least 2 days' production of each producer should be physically received at pool plants in any of the months of September through November to be eligible for diversion during such months.

Another cooperative supplying the market concurred with the proposals except to propose that for each of the months of April through August the proportion of producer milk that may be diverted should be increased to 70 percent in any of such months and should not be unlimited as proposed by proponent. In its brief, proponent concurred in this change.

No testimony was received at the hearing in opposition to increasing the percentage of producer milk that may be

diverted, or to changing the minimum delivery requirements for individual producers.

The chief reasons put forth by both associations for making the proposed changes are that (1) the present provisions no longer accommodate the orderly disposition of the reserve supplies of milk for the market, and (2) the construction of a nonfat dry milk plant in the market has resulted in larger quantities of reserve milk being handled as diverted milk rather than as transfers from pool plants to nonpool plants, as previously the case.

Proponent is a qualified cooperative association under the order. It represents 39 percent of the producers supplying the market and handles about 87 percent of the Class III disposition. It carries the major burden of handling reserve supplies of milk for the market.

The association sells milk to every handler regulated by the order. Some of the handlers buy their full supply from the association while other handlers utilize the association to balance their own supply of producer milk. During certain days of the week, months of the year, or at times when they might obtain bids to supply school or government contracts, the handlers call upon the reserve supplies of milk handled by the association.

The present order provisions concerning the diversion of producer milk to nonpool plants do not facilitate the orderly and economical disposal of milk that is in excess of the fluid needs of the market. The problems of handling excessive producer milk supplies have been such that in 1970, 1971, and currently, it has been necessary to suspend the diversion limits for the months September through November.

Annual receipts of producer milk in the market have increased steadily without a corresponding increase in the Class I utilization of such milk. Between 1970 and 1971 producer receipts increased 9.9 percent while producer milk in Class I increased 3 percent. For the months January through July 1972, producer receipts increased 6.8 percent over the same months of 1971, while Class I utilization increased 6 percent. While Class I utilization increased for the period January through July 1972, as compared with a year earlier, the problem of increased production relative to Class I utilization stems from changes in previous years and is expected to continue.

As indicated previously, proponent association assumes the responsibility of handling and disposing of its member milk that is in excess of its sales for fluid uses. During the months of seasonally high production this burden becomes greater as those handlers being supplied in part by proponent rely on their regular producer supplies for their fluid requirements. In 1971, proponent diverted 55.5 percent of its total member milk. In July of that year (the peak month for diversion) it diverted 66.6 percent of its member milk to nonpool plants. In July 1972, 73.4 percent of such milk was so diverted. This relatively large increase over the previous year results from increased production by producers regularly associated with the market, and has caused larger quantities of reserve milk to be diverted to the newly constructed nonfat dry milk plant in the market. The chronic condition of increased need to divert relative to the diversion limits provided in the order is what has encouraged review of the diversion provisions at this time. As previously indicated, a part of such need is that some milk previously transferred from pool plants to distant manufacturing plants is now being diverted to the nonpool nonfat dry milk plant at Spokane, Washington.

The order provides that two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers. In the past this has aided proponent in diverting milk within the limits provided by the order. Under current marketing conditions the provision may no longer be adequate in the near future within the limits presently provided. As indicated earlier, suspension actions have been taken in the months of low production to accommodate the necessary diversion of milk. In July 1972, diversion of milk was 49.4 percent of the combined receipts of the cooperative associations, and for the future is expected to exceed the present diversion limits provided by the order. It is evident from the data introduced into evidence that the present diversion provisions may no longer be adequate in any month of the year.

In developing order provisions to pool those milk supplies that serve the fluid markets regularly, it is necessary to include provisions that will not also pool supplies that do not serve the fluid market. The level of the percentage limits provided herein for the months of September through March will accommodate the quantity of milk that proponent must divert in handling the increasing reserve supplies of the market without jeopardizing the producer status of dairy farmers who regularly have supplied milk for the fluid needs of the market.

The higher percentage limit provided herein for the remaining months of April through August recognizes the seasonally greater production of milk and the consequent need during that period for diverting a larger proportion of the total producer milk supply. The present order provisions already reflect this to a degree but need to be revised under current marketing conditions.

The diversion limits provided herein require specific performance by each producer. He must deliver to pool plants at least 2 days' production in any of the months September through November when Class I utilization for the market is highest in relation to production. Also, the diversion privilege would continue to apply in other months only to the milk of those dairy farmers who have previously attained producer status through shipment to a pool plant. The order presently provides that to be eligible for diversion at least 6 days' production of a producer must be delivered to pool plants in any of the months of September through November. However, under present supply conditions for the market it is apparent that the present provisions may require uneconomic movements of milk to qualify producers whose milk needs to be diverted more frequently than the milk of other producers. For the most part, distributing plants in the market are located at the market center. The supply area, particularly for proponent, is located throughout most of the eastern half of the State of Washington.

Proponent regularly brings producer milk to the center of the market from farms in excess of 200 miles from Spokane. The farms are widely scattered, and under present marketing conditions of full supply it would be more economic to provide fewer days' production that individual producers must deliver milk to pool plants to have their milk qualify for diversion to nonpool plants. For example, producers whose farms are located in the Idaho panhandle (in the vicinity of Bonners Ferry) can have their milk diverted to a nonpool manufacturing plant at Sand Point, Idaho, instead of having a substantial portion of it hauled all the way to a Spokane pool plant to qualify for diversion.

The uneconomic movement of milk of producers who are regularly associated with the market then would be avoided.

In view of the aforementioned considerations, it is concluded that the diversion limits proposed herein should be adopted. Such limits will enhance orderly marketing by assuring that only milk of producers regularly supplying the market share in the proceeds of the market, but yet permitting flexibility to handle efficiently milk not needed for fluid use.

The diversion provisions of the order now provide that the operator of a pool plant may divert the milk of any producer member of a cooperative association that is commingled with milk of nonmember producers on a tank truck at the time of delivery from the farm. This provision has not been used since its inception in 1965, and it is not likely to be useful in the future because the cooperatives transport their member milk. Accordingly, the provision is not included as part of the revised diversion provisions.

2. *Pricing point on diverted milk.* The order should be amended to provide that, for purposes of pricing only, milk diverted from a pool plant to a nonpool plant, either for the account of a handler as the operator of a pool plant or for the account of a cooperative association in its capacity as a handler, shall be treated as a receipt at the plant to which diverted.

The change was requested by a cooperative association supplying the market. The representative of another cooperative association supplying the market testified at the hearing in favor of the proposal. No opposition to the proposal was expressed either at the hearing or in briefs.

Most of the producer milk in excess of Class I requirements is diverted to a non-

pool plant in the base price zone where no location adjustment is applicable. Thus, a change in the point of pricing on this milk will not affect the pool obligation of most of the diverting handlers, or the uniform price received by most producers.

When diverted milk is priced at the plant from which diverted, there is always the incentive for association of distant milk with local plants in the market even though such milk is not needed for fluid use, is not a part of the market's regular supply, and is intended for manufacturing uses. If dairy farmers relatively distant from the market have their milk diverted to a nonpool plant near their farms and receive a uniform price based on the location of a pool plant in the marketing area, such farmers are compensated as if their milk had incurred the expense of delivery all the way to the market center.

We find no reason why milk diverted from a pool plant to a nonpool plant at any particular location under usual circumstances should draw a higher return from the market pool than milk received at a pool plant at the same location.

3. *Pool plant definition.* The introductory language to the pool plant definition should be changed to provide that if a portion of a plant is physically separated from the Grade A portion of such plan, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant.

The change was proposed by the cooperative association that is now operating a new nonfat dry milk plant in the market. The need for the provisions stems from the operation of the plant.

The plant is operated by proponent in space leased from another cooperative supplying the market and operating a distributing pool plant under the same roof. While the two operations are conducted under one roof they are entirely separated from each other by immovable partitions and walls. No milk or cream product lines extend from one plant into the other.

The manufacturing plant was built exclusively for the manufacture of nonfat dry milk. It is currently designated as a nonpool plant under the order. It is not licensed or inspected by the authority having jurisdiction over Grade A distribution in the marketing area, although all the milk processed in the plant is Grade A reserve milk for the market. The plant comes under the jurisdiction of the Washington Department of Agriculture, which is the licensing agency for plants engaged in the manufacture of nonfat dry milk and other manufactured dairy products.

By changing the order as proposed, the pool plant definition will provide explicitly that the manufacturing portion of the facility should be distinguished from the distributing pool plant portion of the facility, and should be designated separately as a nonpool plant as long as it meets the requirements of the provision. In such instance, the manufacturing portion of the plant would not be supplying the fluid milk needs of the market by means of Grade A milk sales to other handlers and would appropriately be distinguished from the distributing pool plant with which it shares, in common, land and a building and might otherwise be designated as a single plant under the order.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings, and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusion set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

No exceptions were received.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Inland Empire marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

August 1972 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Inland Empire marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on October 30, 1972.

Richard E. Lyng,
Acting Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in the Inland Empire Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Inland Empire marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Inland Empire marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on October 6, 1972, and published in the FEDERAL REGISTER on October 12, 1972 (37 F.R. 21539), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. In § 1133.8, the introductory text is revised to read as follows:

§ 1133.8 Pool plant.

"Pool plant" means any plant described in paragraph (a) or (b) of this section, other than the plant of a producer-handler or a plant with respect to which the handler is exempt pursuant to § 1133.61, which is approved by an appropriate health authority for the receiving of milk qualified for distribution as Grade A milk in the marketing area. If a portion of such plant is physically separated from the Grade A part of such plant, is operated separately, and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

* * * * *

2. In § 1133.12, paragraph (c) is revised to read as follows:

§ 1133.12 Producer milk.

* * * * *

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account, under paragraph (b)(1) of this section, the milk of any member-producer eligible for diversion. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March, and 70 percent in any of the months of April through August, of its total member milk received at all pool plants or diverted therefrom during the month. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed in writing with the market administrator a request for such computation;

(2) A handler operating a pool plant may divert for his account under paragraph (a)(2) of this section, milk of any producer eligible for diversion, other than a member of a cooperative association which diverts milk under subparagraph (1) of this paragraph. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March and 70 percent in any of the months of April through August, of the milk received at or diverted from such pool plant during the month from producers who are not members of a cooperative association that diverts milk under subparagraph (1) of this paragraph;

(3) Milk diverted in excess of the limits specified shall not be considered as producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler;

(4) Producers eligible for diversion are those whose milk has been received at the pool plant prior to diversion from such plant (but not necessarily in the current month). Producers eligible for diversion in the months of September, October, or November must in addition have at least 2 days' production received at a pool plant in the respective month; and

(5) For the purpose of location adjustments pursuant to §§ 1133.53 and 1133.81, diverted milk shall be considered to have been received at the location of the plant to which diverted.

3. In § 1133.81, paragraph (a) is revised to read as follows:

§ 1133.81 Location adjustments to producers and on nonpool milk.

(a) In making payments pursuant to § 1133.80 the market administrator shall reduce the uniform price computed pursuant to § 1133.71 by the location adjustment applicable at the plant where the milk was first physically received from producers, and the uniform price of producer milk diverted to a nonpool plant according to the location of the nonpool plant, each at the rates set forth in § 1133.53.

* * * * *

[FR Doc.72-18828 Filed 11-2-72;8:49 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 775]

WAREHOUSE STORED RESEAL LOAN PROGRAM FOR THE 1973–74 STORAGE PERIOD

Storage Period for Various Crops of Feed Grains and Wheat

Notice is hereby given that the Secretary of Agriculture under authority of the Agricultural Act of 1949, as amended, proposes to make determinations and issue regulations relative to extending the maturity date for outstanding loans secured by various crops of feed grain such as corn, grain sorghum, barley and oats and various crops of wheat under the extended warehouse storage reseal loan program. Determinations relating to the need for such a program are based on such factors as, but not limited to, the need to isolate stocks of these commodities from the market, to stabilize, support and protect farm income and prices, assist farmers to get a fair share of the market for their commodities and to maintain a commodity reserve to meet changing world conditions.

Detailed regulations concerning commodity eligibility requirements, storage requirements and related requirements necessary to carry out this program are also being considered. Provisions of this kind under the current program may be found in the regulations governing loans, purchases, and other operations for grains and similarly handled commodities which appear in Title 7, Part 1421 of the Code of Federal Regulations.

Prior to making any of the foregoing determinations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Grain Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than 15 days 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 Director during regular business hours (8:15 a.m. to 4:45 p.m.).

This determination was inadvertently omitted from the notice of proposed determinations relative to the 1973 feed grain set-aside program, 1973 crop feed grain loan and purchase program, and reseal program for the 1973–74 storage period published in the FEDERAL REGISTER on October 7. Since this decision is important to producers in planning their operations it is considered impractical and contrary to the public interest to allow 30 days for submission of views and recommendations.

Signed at Washington, D.C., on October 30, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-18879 Filed 11-2-72;8:53 am]

Commodity Credit Corporation

[7 CFR Part 1421]

WAREHOUSE STORED RESEAL LOAN PROGRAM FOR 1973–74 STORAGE PERIOD

Storage Period for Various Crops of Feed Grains and Wheat

CROSS REFERENCE: For a document pertaining to the storage period for vari-

ous feed grain and wheat crops under the warehouse stored reseal loan program for the 1973–74 storage period, see F.R. Doc. 72–18879, Agricultural Stabilization and Conservation Service, *supra*.

[7 CFR Part 1464]

FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO

Notice of Advance Grade Rates for Price Support on 1972 Crop

Correction

In F.R. Doc. 72–17535 appearing at page 21956 of the issue for Tuesday, October 17, 1972, in § 1464.17 *1972 crop—Virginia Fire-cured tobacco, Type 21—advance schedule*, the first figure in the left-hand column, now reading "A2F," should read "A1F."

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Proposed Revocation of Use of Morpholine

An order published in the FEDERAL REGISTER of June 30, 1962 (27 F.R. 6232), provided for morpholine to be added to boiler water in the preparation of steam that will contact food. Subsequent orders were published (1) in the FEDERAL REGISTER of July 20, 1962 (28 F.R. 6878), to provide for the use of morpholine and its salts of fatty acids derived from animal or vegetable oils, as corrosion inhibitors for steel or tinplate intended for food-contact use and (2) in the FEDERAL REGISTER of November 30, 1962 (28 F.R. 11799), to provide for the use of morpholine as the salt(s) of one or more of the fatty acids meeting the requirements of § 121.1070, as a component of protective coatings applied to fruits and vegetables.

Since the establishment of the regulations cited above, questions have been raised about the safety of morpholine. It has been shown that under acid conditions, it is possible for this substance at significant levels to combine with nitrite, forming nitrosomorpholine that may be a health hazard. In view of this information, the above listed uses of morpholine and its salts, can no longer be regarded as having been shown to be safe as required by section 409 of the Federal Food, Drug, and Cosmetic Act.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 409, 701(a), 72 Stat. 1785–1788, as amended, 52 Stat. 1055; 21 U.S.C. 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes to amend Part 121, as follows:

1. In § 121.1088 *Boiler water additives* by deleting the item "morpholine" from the substances listed in paragraph (d).

2. By revoking § 121.1105 *Morpholine.*

3. In § 121.2551 *Corrosion inhibitors used for steel or tinplate* by deleting the item, "morpholine and its salts of fatty acids derived from animal or vegetable oils" from the "List of substances" in paragraph (b)(1).

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 1, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–18906 Filed 11–2–72;8:53 am]

[21 CFR Part 121]

FOOD ADDITIVES

Use of Sodium Nitrite, Sodium Nitrate, Potassium Nitrite, and Potassium Nitrate

Recent information indicates that under some conditions nitrites may react with secondary and tertiary amines, which occur naturally in many foods, to form nitrosamines in food and perhaps that nitrites may also react with such amines in man's gastrointestinal tract to form nitrosamines. Certain nitrosamines have been found to be carcinogenic in test animals, and are, therefore, potentially hazardous to human health.

Nitrite is normally present in human saliva. Nitrates occur naturally in many foods, including vegetables, meat, poultry, fish, and water and may be reduced to nitrite by harmless microorganisms present in such food and the human intestinal tract.

Nitrites and nitrates have long been used in the curing of meat and poultry, such use predating the Food Additives Amendment of 1958. Nitrites prevent red meat from turning brown and are responsible for the familiar red color of cured meats. The unique organoleptic qualities of cured meats are often the result of the use of nitrites. At the present time the use of nitrites and nitrates (insofar as nitrates are converted to nitrites) is essential in the production of certain staple foods in maintaining the characteristics of color, taste, and texture which the consumer through long exposure has come to associate with and demand of such foods. For example, without nitrite bacon is salt pork, frankfurters are bratwurst and ham is salty roast pork.

The appreciation of the critical importance of nitrites in retarding growth and toxin development of *Clostridium botulinum* has grown over the last 40 years. *C. botulinum* is a microorganism that is ordinarily quite harmless and which is naturally present in the soil, in the sea, and in the food supply. *C. botulinum* becomes a source of concern only when it grows in food because it then produces a toxin which, when ingested, causes botulism, an acute food poisoning marked by a high mortality rate. Nitrites are essential to inhibit the growth of *C. botulinum* in canned ham, bacon, and in some processed meat, poultry, and fish products.

There have been no outbreaks of botulism attributable to commercially prepared foods which have been treated with nitrites or nitrates. On the other hand, there have been a number of fatalities due to botulism associated with consumption of commercially prepared foods prior to use of nitrite as a preservative. There is need, therefore, to consider with extreme care any changes in regulations governing the use of these substances. From a public health standpoint, the choice to be made is between the risk of the possibility of a chronic illness (cancer) and a very real and more immediate hazard (botulism).

Regulations promulgated by the Food and Drug Administration permit the use of nitrites and nitrates in certain foods as follows:

An order published in the FEDERAL REGISTER of September 23, 1961 (26 F.R. 8972), permitted sodium nitrite to be used as a preservative and color fixative in canned pet food containing meat or fish (21 CFR 121.223).

An order published in the FEDERAL REGISTER of September 23, 1961 (26 F.R. 8973), permitted sodium nitrate and sodium nitrite, respectively, to be used as preservatives and color fixatives in smoked cured salmon. The regulations were amended by orders published in the FEDERAL REGISTER of (1) March 3, 1962 (27 F.R. 2090), to permit the additives to be used in meat-curing preparations for the home curing of meat and meat products, (2) July 31, 1963 (28 F.R. 7776), to permit the use of the additives in smoked cured shad, and (3) November 5, 1964 (29 F.R. 14985), to permit the use of the additives in smoked cured sablefish. The order published in the FEDERAL REGISTER of September 23, 1961 (26 F.R. 8973), also permitted sodium nitrite to be used as a color fixative in smoked cured tuna fish products (21 CFR 121.1063, 121.1064).

An order published in the FEDERAL REGISTER of July 26, 1963 (28 F.R. 7594), permitted potassium nitrate to be used as a curing agent in the processing of cod roe (21 CFR 121.1132).

An order published in the FEDERAL REGISTER of August 26, 1969 (34 F.R. 13659), permitted sodium nitrite to be used in combination with salt (NaCl) to aid in inhibiting the outgrowth and toxin formation from *Clostridium botulinum* type E in the processing of smoked chub in accordance with prescribed conditions of manufacturing and storage of the finished product. The regulation was

amended by an order published in the FEDERAL REGISTER of March 25, 1970 (35 F.R. 5034), to revise the cooling parammeters after cooking (21 CFR 121.1230).

Nitrite and nitrate also have prior sanction for use as curing agents in meat and meat and poultry products. These uses were first sanctioned under the Meat Inspection Act of 1907 and the Federal Food and Drug Act of 1906 and are currently recognized under regulations of the U.S. Department of Agriculture (9 CFR 318.7, 381.147).

The Commissioner of Food and Drugs concludes that, in view of the possible health hazard of nitrosamines, the use of nitrites and nitrates in food should be limited to only those uses which are essential in inhibiting the growth of *C. botulinum* and for obtaining the essential characteristics of cured meats at this time. Thus he proposes to amend the Food Additive Regulations to delete the following non-essential uses:

1. Sodium nitrite in canned pet food containing meat or fish. These products are fully retorted and require no further preservation.

2. Sodium nitrate in smoked cured sablefish, salmon, and shad. Sodium nitrite (together with the use of salt, cooking, and refrigeration) is sufficient to control *C. botulinum*, and there is no need for the sodium nitrate as well. Although the available information indicates that there is no need for the use of sodium nitrate in smoked cured salmon, Nova Scotia salmon which is lightly salted (NaCl) may be a possible exception and the Food and Drug Administration will give careful consideration to any data or other information regarding such use that interested persons may wish to submit to the Hearing Clerk.

3. Sodium nitrite in smoked tuna fish products. The only function of the additive is to fix the color of the fish.

4. Potassium nitrate in cod roe. The additive is used as a curing agent. There are no data indicating its usefulness in inhibiting *C. botulinum*. It appears that this inhibition is accomplished by the use of a high percentage of sodium chloride in the cure.

In the FEDERAL REGISTER of August 12, 1972 (37 F.R. 1640), the Commissioner proposed to expand Subpart E under Part 121, within which would be established regulations governing all prior sanctioned direct and indirect food ingredients known to the Commissioner. As set forth below, the Commissioner proposes that two new sections, § 121.2007 *Sodium or potassium nitrite* and § 121.2008 *Sodium or potassium nitrate* be added to Subpart E of Part 121 as proposed at 37 F.R. 1640. The limitations proposed are the prior sanctions known to the Commissioner. Documented evidence of additional or different prior sanctions for these ingredients may be submitted in comments.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409, 701, 72 Stat. 1785–1788, as amended, 52 Stat. 1055; 21 U.S.C. 348, 371) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Part 121 as follows:

§ 121.223 [Revoked]

1. By revoking § 121.223 *Sodium nitrite.*

§ 121.1063 [Amended]

2. Paragraph (a) of § 121.1063 *Sodium nitrate* is amended by deleting subparagraph (1), relating to the use of sodium nitrate in smoked cured sablefish, salmon, and shad, and by deleting the words "and color fixative" from subparagraph (2).

§ 121.1064 [Amended]

3. Paragraph (a) of § 121.1064 *Sodium nitrite* is amended by deleting subparagraph (1), relating to the use of sodium nitrite in smoked tuna fish products, and by deleting the references that relate to the use of sodium nitrate in smoked cured sablefish, salmon, and shad in subparagraph (2), and by deleting the words "and color fixative" from subparagraphs (2) and (3).

§ 121.1132 [Revoked]

4. By revoking § 121.1132 *Potassium nitrate.*

5. By adding §§ 121.2007 and 121.2008 to Subpart E as follows:

§ 121.2007 Sodium or potassium nitrite.

Sodium and potassium nitrite are subject to prior sanctions for use as curing agents, with or without sodium or potassium nitrate, in meat and meat products and in poultry products in the following amounts: 2 pounds to 100 gallons of pickle at 10 percent pump level; 1 ounce to 100 pounds of meat (dry cure) or poultry product (dry cure); ¼ ounce to 100 pounds of chopped meat and/or chopped meat by product or chopped poultry meat. Sodium and potassium nitrite used in food shall comply with the specifications contained in the Food Chemicals Codex. The use of nitrites, nitrates, or any combination thereof shall not result in more than 200 parts per million of nitrite in the finished product.

§ 121.2008 Sodium or potassium nitrate.

Sodium and potassium nitrate are subject to prior sanctions for use as sources of nitrite in the production of cured meat and meat products and cured poultry products in the following amounts: 7 pounds to 100 gallons of pickle; 3½ ounces to 100 pounds of meat (dry cure) or poultry product (dry cure); 2¾ ounces to 100 pounds of chopped meat or chopped poultry meat. Sodium and potassium nitrate used in food shall comply with the specifications contained in the Food Chemicals Codex. The use of nitrites, or nitrates, or any combination thereof shall not result in more than 200 parts per million of nitrite in the finished product.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 1, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18905 Filed 11-2-72;8:53 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 12]

[CGD 72-204P]

CERTIFICATION OF SEAMEN

Proposed Firefighter Endorsement

The Coast Guard is considering amending its rules for the certification of seaman to add a "firefighter" endorsement.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed rule to the U.S. Coast Guard (GCMC), 400 Seventh Street SW., Washington, DC 20590. The comments should refer to this notice number CGD 72–204P and should give the reasons upon which any recommended changes are based, any specific wording recommended, and the name, address, and organization, if any, of the commenter.

All written comments received on or before December 8, 1972, will be considered before final action is taken on this proposal. The proposed rule may be changed in the light of comments received.

Copies of all written comments received will be available for examination in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC both before and after the closing date for receipt of written comments.

The endorsement as "firefighter" is being proposed to recognize those seamen who have attended a formal training course and to identify those seamen who have had special training in firefighting techniques. This proposal conforms to the Intergovernmental Maritime Consultative Organization resolution (A. 124(V)) dated October 25, 1967, which recommends that each member State should aim at training all its seafarers in fire prevention and firefighting to an extent appropriate to their function on board ship.

Following a disaster in the Adriatic Sea, the Greek Government has announced that after April 15, 1972, no Greek seaman will be allowed to embark in any ship flying the Greek flag unless he has taken a special course in firefighting. Although at the present time the United States does not intend to require

all U.S. seamen to take a special firefighting course, it is known that many seamen have not had basic firefighting training. Those seamen who have not had basic firefighting training may not know the capabilities of firefighting equipment found on board ship or how to use it effectively in that many shipboard drills do not teach all the details. With the advent of reduced manning requirements due to technological advances, it is incumbent that the remaining personnel be more highly trained. By giving Coast Guard recognition with the endorsement as "firefighter," an interest in firefighting training should be stimulated which will serve to implement the recommendation of the Intergovernmental Maritime Consultative Organization.

The U.S. Maritime Administration is the agency of the Federal Government charged with the training of seamen and that agency presently has ongoing firefighting training courses given at the U.S. Navy facilities at Bayonne, N.J., and Treasure Island, Calif. If the regulation proposed in this document is adopted, the Maritime Administration has informed the Coast Guard that consideration will be given to expanding the firefighting training by offering courses at a port on the coast of the Gulf of Mexico and the Great Lakes.

In consideration of the foregoing, it is proposed to amend Part 12 of Title 46, Code of Federal Regulations by adding a new § 12.25–40 to follow § 12.25–35 to read as follows:

§ 12.25–40 Firefighter.

A holder of a Merchant Mariner's document who completes a training course after January 1, 1971, in shipboard firefighting techniques accepted by the U.S. Maritime Administration and presents an authorized certificate of completion of the course to the Coast Guard, may have the endorsement "firefighter" placed on that document.

This amendment is proposed under the authority of 46 U.S.C. 375, 416, 672; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).

Dated: October 27, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72–18842 Filed 11–2–72;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72–NW–09]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Redmond, Oreg. transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. 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 amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The alteration to the transition area would provide controlled airspace for the proposed VOR/DME Runway 34R approach to the City-County Airport, Madras, Oreg.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (37 FR 2143) the description of the Redmond, Oreg. transition area is amended as follows:

In line 3, after, "* * * 5 miles south of the VORTAC," insert, "within 4 miles each side of the Redmond VORTAC 014° radial, extending from 15 miles north of the VORTAC to 35 miles north." In addition, amend by adding to the end of the description, "* * * and that airspace north of Redmond VORTAC bounded on the west by the east side of V25, and on the north by an arc of a 32 mile radius arc centered on the Redmond VORTAC, and on the northeast by the northwest edge of V536."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Wash., on October 24, 1972.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.72–18797 Filed 11–2–72;8:46 am]

[14 CFR Part 91]

[Docket No. 12326, Notice 72–28]

LARGE AND TURBINE-POWERED MULTIENGINE AIRPLANES

Charge for Certain Operations

Correction

In F.R. Doc. 72–18276, appearing at page 22798, in the issue of Wednesday, October 25, 1972, after the sixth line of the fourth paragraph, insert, "there is a lack of clarity in the rule with respect to what was intended to be in-".

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[14 CFR Part 105]

[Docket No. 12336; Notice 72–29]

PARACHUTE JUMPING

Proposed Authorization

The Federal Aviation Administration is considering an amendment to Part 105 that would require any person conducting an intentional parachute jump in any controlled airspace to obtain an authorization from ATC and give prior notice to ATC before making that jump. In addition, the time during which lights are required for a parachute jump would be changed to conform with the time specified in § 91.73 of the flight rules. Other changes, nonsubstantive in nature, would be made as more fully described herein.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC–24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before March 5, 1973, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

As defined in § 105.1, "a parachute jump" means the descent of a person to the surface from an aircraft in flight, when he intends to use, or uses, a parachute during all or part of that descent. In the case of sport parachuting or other parachute jumping operations that do not involve an inflight emergency, Part 105 requires the individual parachute jumper (or parachute jumping organization that represents a group of jumpers) to comply with the requirements of that part. These requirements include an authorization for the jump and a notice of the jump, depending upon the type of airspace or area to be used. For example, §§ 105.15, 105.19, and 105.21 now require an FAA authorization for a parachute jump conducted over or into certain congested areas or open air assemblies of persons, control zones with functioning control towers operated by the United States, or positive control areas. For the use of "other airspace," § 105.23 requires a notice to be given to ATC at least 1 hour before the jump is conducted. This notice may be given for a single jump or a "series of jumps" to be made over a specified period of time not to exceed 12 months.

The proposed § 105.19 would require an FAA authorization for the use of the airspace for a parachute jumping operation

(single or series) conducted in any controlled airspace. It would no longer be limited in its application to those parachute jumping operations conducted in airspace designated as a control zone or a positive control area. This extension of the requirement of an authorization for the use of all controlled airspace is considered necessary in order for the FAA to properly provide for the safe and efficient utilization of that airspace by both the jumpers and aircraft. Accordingly, since § 105.21 would no longer be appropriate it would be deleted under this proposal.

In order to apply the foregoing requirement for an airspace authorization with a minimum burden upon the parachute jumpers and the pilots of the aircraft used for those jumps, it is also proposed that an authorization for the use of the airspace may be issued for a single jump or a series of jumps conducted over a period not to exceed 12 months. In addition, an individual, or a parachute jumping organization representing a group of jumpers would be allowed to make application for and be eligible to receive the FAA authorization. We believe these changes would provide the assurance for the use of a particular segment of the airspace that is needed for those clubs that wish to enter into long term agreements for the lease or purchase of real estate and facilities for their jumping activities.

Proposed § 105.19(b) would provide that an application for an authorization must be made in writing and submitted to the FAA not less than 15 days before the parachute jumping operation begins. Although it would be desirable for the application to be submitted to the ATC facility exercising control over the airspace in which the jumping operation is to be conducted, the rule permits the application to be submitted to any FAA facility or office which would then forward the application to the ATC facility. This will relieve the jumper or the jumping organization from the necessity of determining the appropriate ATC facility for the particular jumping operation. The proposed requirement for filing the application at least 15 days before the jumping operation is conducted is the time that the FAA considers is reasonably necessary to effect coordination between the appropriate ATC facility and the individual or organization conducting the parachute jumping operation. In appropriate cases it will also permit time for the selection of an alternate airspace site, if the one selected by the applicant cannot be authorized by ATC. In addition, the 15-day period would permit the FAA to disseminate appropriate safety information concerning the jump by means of Notices to Airmen. In the case of an authorization covering an extended period of time, information would also be published in the Airman's Information Manual and distributed for publication in aeronautical charts.

Unless otherwise authorized by ATC, the individual or organization to whom an authorization is issued to use an area in controlled airspace for a parachute jump would also be required to give notice to ATC at least 1 hour before the jump is to be made. If the authorization is for the use of controlled airspace for a series of jumps, or for an extended period of time, notice would be required to be given in accordance with the provisions of the authorization.

The proposed amendment to § 105.33 merely changes the term "night" to "the period between sunset and sunrise." This change would bring the lighting requirements for parachute jumping in conformity with the aircraft lighting requirements of § 91.73. The amendment would also take into account the special visibility conditions in the State of Alaska.

In the event that the amendments proposed herein are adopted, the title and the provisions of § 105.23 would also be amended so that the notice to ATC required by that section would only be applicable to parachute jumping operations conducted in uncontrolled airspace. This nonsubstantive amendment would clarify the applicability of that section.

The amendment to the information requirements of § 105.25 is also nonsubstantive. The introductory paragraph would be amended to include the name of the individual, club or other organization requesting an authorization for the use of controlled airspace, or submitting a notice for the use of uncontrolled airspace. For convenient reference the provisions of present paragraph (b) requiring a notice of the cancellation or postponement of a parachute jump have been incorporated in proposed §§ 105.19 and 105.23.

The proposed paragraph (b) of § 105.25 would require the applicant for an authorization to make a jump in controlled airspace to inform ATC if that jump is to be made over or onto an airport. If the jump is to be made in or into a congested area or open air assembly of persons that information must be given regardless of whether the jump is made in controlled or uncontrolled airspace.

Paragraph (b) of § 105.15 would be amended to avoid the necessity of making application to both an FAA District Office and an FAA air traffic control facility when the jump is to be conducted over a congested area or open air assembly of persons and within controlled airspace. As proposed, a single application for that jump may be made to the nearest FAA office.

It is to be noted that for a parachute jump over or onto an airport, prior approval of the airport management would still be required regardless of whether the airport is located within controlled or uncontrolled airspace.

In consideration of the foregoing, it is proposed to amend Part 105 of the Federal Aviation Regulations as follows:

1. By amending § 105.15(b) to read as follows:

§ 105.15 Jumps over or into congested areas or open air assembly of persons.

* * * * *

(b) Unless otherwise authorized by ATC, an application for a certificate of authorization required under the provisions of paragraph (a) of this section is submitted to the nearest FAA office. It must be submitted in writing at least 15 days before the initial use of the airspace in which the parachute jump is to be made and include the information specified in § 105.25.

* * * * *

2. By revising § 105.19 to read as follows:

§ 105.19 Jumps in or into controlled airspace.

(a) No person may make a parachute jump, and no pilot in command of an aircraft may allow a parachute jump to be made from that aircraft, in or into controlled airspace, without or in violation of an authorization issued under this section for the airspace used for that jump.

(b) Unless otherwise authorized by ATC, an application for an authorization for the use of controlled airspace for the purpose of conducting a single parachute jump, or a series of parachute jumps, is submitted to the FAA air traffic control facility exercising control over the airspace in which the parachute jumping is to be conducted, or to any other FAA office. It must be submitted in writing at least 15 days before the initial use of the airspace in which the parachute jump is to be made and include the information specified in § 105.25.

(c) Unless otherwise authorized by ATC, no person may make a parachute jump, and no pilot in command of an aircraft may allow a parachute jump to be made from that aircraft, under an authorization issued under this section, unless the ATC facility that issued the authorization is notified of the jump by telephone or radio at least 1 hour before the parachute jump is made but not more than 24 hours before the jump is completed. If the authorization is for a series of parachute jumps or for an extended period of time, the notice shall be given as specified in that authorization.

(d) Unless otherwise authorized by ATC, each applicant for, or holder of, an authorization issued under this section, shall promptly notify the FAA air traffic control facility that issued the authorization when the parachute jump or series of parachute jumps requested or authorized is canceled, postponed, or completed.

(e) An authorization issued under this section is valid for the period specified in that authorization, unless it is sooner canceled by the holder, or suspended or revoked by the Administrator.

(f) Each holder of a certificate of authorization issued under this section shall present that certificate for inspection upon request of the Administrator, or any Federal, State, or local official.

§ 105.21 [Deleted]

3. By deleting § 105.21.

4. By amending § 105.23 to read as follows:

§ 105.23 Jumps in or into uncontrolled airspace.

(a) No person may make a parachute jump, and no pilot in command may allow a parachute jump to be made from

that aircraft, in or into uncontrolled airspace, unless the FAA Air Traffic Control facility or FAA Flight Service Station nearest to the place where the jump is to be made has been notified of that jump in accordance with the provisions of paragraph (b) of this section.

(b) The notice required by paragraph (a) of this section must be given by telephone or in writing at least 1 hour before the jump is made, but not more than 24 hours before the jump is completed, and contain the information specified in § 105.25.

(c) Each person who submitted a notice of a proposed parachute jump to an FAA Air Traffic Control facility or FAA Flight Service Station, shall promptly notify that facility or station when the proposed jump or series of jumps are canceled, postponed, or completed.

5. By amending the section heading of § 105.25, the introductory paragraph of paragraph (a) of that section, and the provisions of paragraph (b) of that section to read as follows:

§ 105.25 Information required.

(a) Each person applying for an authorization for the use of airspace under § 105.15 or § 105.19, and each person submitting a notice under § 105.23, must specify the name of the individual, club, or other organization conducting the jump and include the following information:

* * * * *

(b) Each person requesting an authorization to conduct a parachute jump over or onto an airport in controlled airspace, or over or into a congested area or open air assembly of persons located in controlled or uncontrolled airspace, shall include that information in his application or notice.

6. By amending § 105.33 to read as follows:

§ 105.33 Parachute jumps at night.

(a) No person may make a parachute jump, and no pilot in command of an aircraft may allow any person to make a parachute jump from that aircraft, during the period from sunset to sunrise (or, in Alaska during the period a prominent unlighted object cannot be seen from a distance of 3 statute miles or the sun is more than 6° below the horizon), unless that person is equipped with a means of producing a light that is visible for at least 3 miles.

(b) Each person making a parachute jump during the period specified in paragraph (a) of this section shall display the required light from the time his canopy opens until he reaches the surface.

(Secs. 307, 313, 601, Federal Aviation Act of 1958, 49 U.S.C. 1348, 1354, 1421; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 27, 1972.

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

[FR Doc.72-18796 Filed 11-2-72;8:46 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 69-18; Notice 12]

LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Turn Signal and Hazard Warning Signal Flashers

The purpose of this notice is to propose an amendment to 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, reflective devices, and associated equipment*, that would amend requirements for turn signal and hazard warning signal flashers effective January 1, 1973.

The requirements proposed are those established by an amendment published on August 28, 1971 (36 F.R. 13743), and deleted on October 3, 1972 (37 F.R. 20695), pursuant to the decision of the U.S. Court of Appeals (Wagner Electric Corp. v. Volpe, No. 71-1976 (3d Cir. 1972)).

The Court stated in its opinion in that case:

> Our holding, then, is limited to setting aside the order of August 28, 1971, because it was adopted without observance of the notice procedure required by law, 5 U.S.C. section 706(2)(D), and to remanding the matter to the National Highway Traffic Safety Administration for a new rulemaking proceeding on adequate notice. In that new proceeding we urge that the Administrator make clear, if it adopts a standard which eliminates sampling provisions, whether it does so because that action is compelled by the Act, or as an informed policy judgment pursuant to 15 U.S.C. section 1392.

The action hereby proposed is based on an informed policy judgment pursuant to 15 U.S.C. section 1392. In the judgment of this agency, permissible failure rates raise difficult problems of interpretation and enforcement, and in any event are not in accordance with the need for motor vehicle safety with respect to these items of motor vehicle equipment.

In consideration of the foregoing, it is proposed that 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, be amended as follows:

1. The reference in the first sentence of paragraph S4.1.1 to "S4.1.1.16" would be changed to "S4.1.1.—."

2. A new paragraph S4.1.1.– would be added to read "In addition to the equipment required by Table I or Table III, each passenger car, multipurpose passenger vehicle, truck, and bus shall be equipped with a turn signal flasher and a hazard warning signal flasher, and each motorcycle shall be equipped with a turn signal flasher that meets the requirements of paragraph S4.6 of this standard."

3. In Tables I and III, "Turn signal flasher" and "Vehicular hazard warning signal flasher" would be deleted as items of equipment under Column 1. Corresponding deletions would be made under Columns 2, 3, and 4 of Table I, and Columns 2, 3, 4, and 5 of Table III.

4. Paragraph S4.4.2 would be deleted.

5. Paragraph "S4.6" would be renumbered "S4.5.8."

6. A new paragraph S4.6 would be adopted to read as follows:

S4.6 *Turn signal flashers; hazard warning signal flashers.* Each turn signal flasher and hazard warning signal flasher shall meet the following performance and durability requirements when tested in accordance with SAE Standard J823b, "Flasher Test Equipment," April 1968. The design load used in testing each flasher used as original motor vehicle equipment shall be the design current of the motor vehicle on which the flasher is installed. The design load used in testing each fixed-load flasher used as replacement motor vehicle equipment shall be stated by the flasher manufacturer as a single design load. The design load used in testing each variable-load flasher used as replacement motor vehicle equipment shall be stated by the flasher manufacturer as minimum and maximum design loads. The maximum design load shall be used to determine voltage drop (S4.6.1.2 and conformance to durability requirements (S4.6.2). The minimum and maximum design loads shall both be used to determine starting time (S4.6.1.1) and percent current "on" time (S4.6.1.3).

S4.6.1 *Performance requirements.*

S4.6.1.1 *Starting time.* When tested under the following conditions, the time required for closed contacts to open (on a flasher with normally closed contacts) or for open contacts to close and open again (on a flasher with normally open contacts) shall not exceed 2 seconds for a turn signal flasher, and 3 seconds for a hazard warning signal flasher.

(a) Ambient temperature is 75° F.

(b) Measurement of time starts when the voltage is initially applied.

(c) The design load is connected in the standard test circuit with the power source adjusted as specified in SAE Standard J823b.

(d) The test is run three times, each of which is separated by a cooling interval of 5 minutes, and the results are averaged to determine starting time.

S4.6.1.2 *Voltage drop.* When tested under the following conditions, the lowest voltage drop across a flasher shall not exceed 0.8 volt.

(a) Ambient temperature is 75° F.

(b) The design load is connected in the standard test circuit with the power source adjusted as specified in SAE Standard J823b.

(c) The voltage drop is measured between the input and the load terminals at the flasher and during the "on" period after the flasher has completed at least five consecutive cycles.

S4.6.1.3 *Flash rate and percent current "on" time.* The flash rate and the percent current "on" time of normally closed type flashers shall be within the unshaded portion of Figure 1 and those for normally open type flashers shall be within the entire rectangle of Figure 1, including the shaded areas.

Each flasher shall meet these requirements under the following conditions:

(a) The flash rate and percent current "on" time are measured after the flasher has been operating for five con-

secutive cycles, and is calculated upon an average of not less than three consecutive cycles.

(b) For turn signal flashers, the operating tolerances apply over the combinations of bulb voltages and temperatures listed below as applicable:

(i) 12.8 or 6.4 volts; 75° F.
(ii) 12.0 or 6.0 volts; 0° F.
(iii) 15.0 or 7.5 volts; 0° F.
(iv) 11.0 or 5.5 volts; 125° F.
(v) 14.0 or 7.0 volts; 125° F.

(c) For hazard warning signal flashers, the operating tolerances apply over the combinations of bulb voltages and ambient temperatures listed below as applicable:

(i) 12.8 or 6.4 volts; 75° F.
(ii) 11.0 or 5.5 volts; 0° F.
(iii) 13.0 or 6.5 volts; 0° F.
(iv) 11.0 or 5.5 volts; 125° F.
(v) 13.0 or 6.5 volts; 125° F.

S4.6.2 *Durability requirements.*

S4.6.2.1 *Turn signal flashers.* Each turn signal flasher shall operate continuously for not less than 25 hours with the design load connected in the standard test circuit with the power source adjusted to apply 14 volts or 7 volts to the input terminals of the circuit. Each flasher shall then meet the requirements of paragraphs S4.6.1.1, S4.6.1.2, and S4.6.1.3 under the conditions of S4.6.1.-3(a) and (b)(i). The ambient temperature for the durability test is 75° F.

S4.6.2.2 *Hazard warning signal flashers.* Each hazard warning signal flasher shall operate continuously for not less than 12 hours with the design load connected in the standard test circuit with the power source adjusted to apply 13 volts or 6.5 volts to the input terminals of the circuit. Each flasher shall then meet the requirements of paragraphs S4.6.1.1, S4.6.1.2, and S4.6.1.3 under the conditions of S4.6.1.3(a) and (c)(i). The ambient temperature for the durability test is 75° F.

S4.6.3 *Combination flashers.* Each combination turn signal and hazard warning signal flasher shall meet the requirements of paragraphs S4.6.1 and S4.6.2 when tested in the following sequence:

(a) For performance as a turn signal flasher pursuant to paragraph S4.6.1;

(b) For performance as a hazard warning signal flasher pursuant to paragraph S4.6.1;

(c) For durability as a turn signal flasher pursuant to paragraph S4.6.2.1; and

(d) For durability as a hazard warning signal flasher pursuant to paragraph S4.6.2.2.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on December 4, 1972, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rule making action may proceed at any time after the date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Proposed effective date: January 1, 1973.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on October 31, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

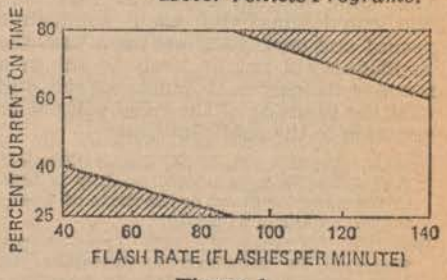

Figure 1

[FR Doc.72-18961 Filed 11-1-72;4:37 pm]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

NOTICE OF GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding 1 year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Adams, Francis P., 509 South Mission, Wenatchee, WA, convicted on July 2, 1964, in the Superior Court of the State of Washington for Chelan County.

Blanford, Terrance J., 1309 Lyon Street, Waterloo, IA, convicted on September 26, 1958, in the Black Hawk County, Iowa, District Court.

Bleeker, Raymond A., 1846 Stafford Avenue SW., Grand Rapids, MI, convicted on July 12, 1953, in the Coconino County Superior Court, Division No. 1, Flagstaff, Ariz.; October 24, 1955, in the Superior Court of Grand Rapids, Mich.; and on September 21, 1956, in the Circuit Court of Kent County, Mich.

Brandes, Frank C., 5431 Kinston Avenue, Culver City, CA, convicted on January 27, 1950, in the Oklahoma County District Court, Oklahoma City, Okla.

Breazeal, Irma L., Post Office Box 13, Wilsonville, OR, convicted on December 19, 1951, in the Superior Court of the State of California for the County of Los Angeles.

Breeden, Melvin Ray, Route 1, Box 212–B, Orange, VA, convicted on September 25, 1957, in a general court-martial, convened at Headquarters, 82 D Airborne Division, Fort Bragg, N.C.

Breeland, Lucius J., Route 1, Box 109–A, Varnado, LA, convicted on August 26, 1966, in the U.S. District Court, Eastern Judicial District of Louisiana.

Buckley, Michael J., 3059 Island Crest Way, Mercer Island, WA, convicted on June 10, 1966, in the Superior Court of the State of California in and for the county of Sacramento.

Caramela, Theordore C., Box 531, Bentleyville, PA, convicted on March 9, 1970, in the Washington County, Pa., Court of Common Pleas.

Carlisle, Kenneth L., Rural Route 3, Box 379, Grand Rapids, MN, convicted on May 17, 1957, in the Ramsey County District Court, St. Paul, Minn.

Cassavaugh, Herbert G., 21 Lock Street, Baldwinsville, NY, convicted on December 9, 1929, in the Franklin County Court, Malone, N.Y.

Chamberlain, Herbert Leslie, 40 Madison Street, Providence, RI, convicted on May 6, 1965, in the Providence, R.I., Superior Court.

Chittenden, Curtis M., 6711 Kingswood Lane NE, Cedar Rapids, IA, convicted on January 10, 1968, in the Polke County, Iowa, District Court.

Clark, James, 174 Schenectady Avenue, Brooklyn, NY, convicted on May 18, 1936, in the Circuit Court of Southampton County, Va.

Collins, Willie D., 647 Holbrook, Detroit, MI, convicted on May 19, 1941, in the Harlan County Circuit Court, Ky.

Conrade, Hartley Edwin, 566 Walnut Drive, Milpitas, CA, convicted on or about March 29, 1963, in the Santa Clara County Superior Court, San Jose, Calif.

Cooper, Charles B., Post Office Box 725, Copalis Crossing, WA, convicted on February 26, 1971, in the Superior Court of the State of Washington in and for Grays Harbor County.

Davidson, Carl S., 1005 South Paula, Springfield, MO, convicted on December 18, 1959, in the Circuit Court of Greene County, Mo.

Dorr, Robert W., Pickens Street, Lakeville, Mass., convicted on June 9, 1967, in the Fourth District Court of Plymouth, Mass.

Ellis, David Leon, 44 La Grand Drive, Sunnyvale, CA, convicted on June 17, 1966, in the Superior Court of the State of California, County of San Diego.

Fenton, William Lee, Rural Route 1, Harrisburg, Mo., convicted on December 9, 1970, in the Missouri Circuit Court, Montgomery County, Mo.

Folster, Gerald E., 12 High Street, Brewer, ME, convicted on November 23, 1954, in a general court-martial, Fort Campbell, Ky.; and on March 29, 1957, in the Superior Court, Bangor, Maine.

German, Walter Edward, 335 B Street, Ashland, OR, convicted on September 13, 1948, in the Superior Court of California for the County of Alameda.

Giebeler, William H., 4444 Northeast 80th Avenue, Portland, OR, convicted on February 18, 1969, in the Multnomah County Circuit Court, Portland, Oreg.

Gray, Robert E., 2015 Hazelwood Street, Saginaw, MI, convicted on July 29, 1960, in the Warren County, Miss., Circuit Court.

Hale, John G., 308 South Michigan, Aberdeen, WA, convicted on February 10, 1931, and on December 5, 1933, in the Superior Court of the State of Washington, in and for the County of Pierce.

Hamilton, Levoy E., Route 1, Box 180, Kingston MI, convicted on March 17, 1969, in the Circuit Court for the County of Sanilac, Sandusky, Mich.

Hargrave, Lonnie D., 9361 Pinyon Tree Lane, Apt. 146, Dallas, TX, convicted on December 1, 1965, in the 124th Judicial District Court of Gregg County, Tex.; and on November 8, 1967, in the U.S. District Court, Northern District of Texas.

Hayes, Ronald Edward, 1009 13th Avenue, Greeley, CO, convicted on April 7, 1969, in the Linn County District Court, Cedar Rapids, Iowa.

Hensley, Charles I., 22005 Grant Avenue, Torrance, CA, convicted on February 23, 1965, in the Superior Court of the State of California for the County of Los Angeles.

Hill, Loring F., 517 Highgate Road, Norristown, Pa., convicted on February 20, 1970, in the Court of Common Pleas, West Chester, County of Chester, Pa.

Hopkinson, Richard L., 11½ Charbonneau Street, Hudson, NH, convicted on April 23, 1957, in the Middlesex County Court, Cambridge, Mass.

Jetton, Walt C., 9949 Pool Drive, St. Helen, MI, convicted on September 6, 1960, in the Circuit Court for the County of Saginaw, Mich.

Kelley, Donald J., Post Office Box 585, Newberry, FL, convicted on December 8, 1967, in the Circuit Court of Okaloosa County, Fla.; and on April 25, 1968, in the U.S. District Court for the Middle District of Alabama.

Kennison, James H., 2808 Northeast 185th Street, Seattle, WA, convicted on October 16, 1962, in the Superior Court of the State of Washington for King County.

Kleinbaum, Jack I., 1100 23d Avenue N., St. Cloud, MN, convicted on November 10, 1941, in the District Court, Fifth Judicial District of Minnesota.

Kraft, George F., 3429 Pardee, Dearborn, MI, convicted on June 29, 1938, in the Detroit Recorder's Court, Mich.

La Valley, Almer C., R.F.D. 7, Spring Road, Augusta, Maine, convicted on February 10, 1959, and on October 31, 1963, in the Kennebec County, Maine, Superior Court.

Leyden, Frederick J., 1806 Vanderbilt Avenue, Redondo Beach, CA, convicted on January 17, 1957, in the Criminal Court of Record, Dade County, Fla.

Licata, Giuseppe A., 963 East 54th Street, Brooklyn, N.Y., convicted on or about August 30, 1928, in the Brooklyn Criminal Court; and on October 21, 1931, in the District Court of Douglas County, Nebr.

Lopez, Rudy, 1397 Franklin Avenue, Bronx, N.Y., convicted on May 8, 1961, in the Columbia County Court, N.Y.

Lucas, Paul Howard, 1009 21st Street, Ogden, UT, convicted on May 18, 1970, in the District Court of the Second Judicial District, Weber County, UT.

McAlexander, William H., Route 3, Ferrum, Va., convicted on March 5, 1962, in the Patrick County Circuit Court, Stuart, Va.

McIntyre, Ralph E., State Route 414, R.D. 2, Beaver Dams, N.Y., convicted on or about June 29, 1960, in the Wayne County, Ohio, Court of Common Pleas.

Metz, Donald Frey, 3427 61st Street SW., Seattle, WA, convicted on April 11, 1961, in the King County Superior Court, State of Washington.

Molnar, Ernest Leo, 12020 Lake Avenue, Lakewood, OH, convicted on May 3, 1949, in the Cuyahoga County Court of Common Pleas, Cleveland, Ohio.

Mondor, Joseph K., 1753 Hillview Road, St. Paul, MN, convicted on November 18, 1965, in the St. Croix County Court, Hudson, Wis.

Morehart, Richard Lee, 220 Plumb Street, Milton, WI, convicted on January 22, 1945, in the Winnebago County Circuit Court, Rockford, Ill.

Paul, Dennis B., 5603 Heathdale, Warren, MI, convicted on December 31, 1963, in the Circuit Court for the County of Clare, Mich.; and on July 20, 1967, in the Circuit Court for the County of Genesee, Flint, Mich.

Peterson, Stanley A., 2502 Southwest 334th Street, Federal Way, Washington, convicted on October 14, 1949, and on February 27, 1957, in the Spokane County Superior, Court, Spokane, Wash.

Poitras, Robert Russell, 16605 123d Avenue SE., Renton, WA, convicted on May 2, 1958, in the District Court of the Third Judicial District, Ada County, Idaho; and on June 4, 1959, and January 15, 1962, in the Superior Court, King County, Wash.

Poole, George Russell, Rural Route 1, Rougemont, N.C., convicted on April 8, 1958, and on March 23, 1964, in the U.S. District Court, Durham, N.C.

Quinn, Bunyan, Route 2, Box 94, Ferrum, Va., convicted on July 1, 1946, and November 10, 1959, in the District Court for the Western Judicial District of Virginia, Roanoke, Va.; and on October 14, 1959, in the Circuit Court for Franklin County, Va., Rocky Mount, Va.

Ramirez, David J., 1507 Prasch Avenue West, Yakima, WA, convicted on June 4, 1964, in the Klickitat County Superior Court, Goldendale, Wash.

Richardson, J. D., 413 Cypress Street, Vidalia, LA, convicted on March 30, 1970, in the U.S. District Court for the Western District of Louisiana.

Setounis, James, 151 Sturges Street, Medford, MA., convicted on October 21, 1963, in the Salem District Court, Salem, Mass.; and on October 15, 1964, in the Essex Superior Court, Salem, Mass.

Shellman, Gene W., 1410 York Avenue, Apartment 1-C, New York, NY, convicted on or about May 12, 1931, in the Bronx County, New York, Court; and on or about November 20, 1931, in the Queens County, New York, Court.

Sherman, Morton, 197 Gardner Road, Brookline, MA, convicted on January 11, 1957, in the U.S. District Court of Massachusetts, Boston, Mass.

Siegel, Darrel J., Route 4, Box 204, Grand Rapids, MN, convicted on May 5, 1967, in the District Court, Ninth Judicial District for the county of Itasca, Grand Rapids, Minn.

Simmons, Marvin W., 4237 North Wishon, Fresno, CA, convicted on November 16, 1971, in the U.S. District Court for the Eastern District of California.

Snyder, James, 128-08 Liberty Avenue, Richmond Hill, NY, convicted on January 5, 1938, in the County Court, Queens County, N.Y.

Steinhardt, Ronald F., 69-27 53d Road, Maspeth, NY, convicted on or about October 5, 1966, in the Superior Court, Fourth Judicial District, Onslow County, Jacksonville, N.C.

Tomlinson, Earl Emery, 705 North Broadway, Riverton, WY, convicted on January 27, 1971, in the U.S. District Court for the District of Wyoming.

Turcotte, Richard P., 90 New Britain Avenue, Hartford, CT, convicted on May 19, 1961, December 3, 1965, and on June 21, 1968, in the Hartford County Superior Court.

Turner, Robert D., 2627 Byron Center Avenue SW., Grand Rapids, MI, convicted on November 11, 1935, in the U.S. District Court, Western District, Southern Division of Michigan.

Wagner, Stanley Andrew, 949 North Elmer Street, Griffith, IN, convicted on August 3, 1965, in the Criminal Court of Lake County, Ind.

Williams, Albert L., Post Office Box 124, Blacksprings, NE, convicted on August 25, 1939, in the Dallas County, Tex., District Court; and on December 4, 1945, in the Superior Court, Los Angeles County, Calif.

Wilson, Charles L., 622 South 19th Avenue, Yakima, WA, convicted on November 16, 1967, in the Superior Court of the State of Washington in and for Yakima County.

Wilson, Laverne E., Star Route, Ball Club, Minn., convicted on January 7, 1969, in the Ninth Judicial District Court, Grand Rapids, Minn.

Wooten, Dennis E., 90 Northwest 11th Court, Sherwood, OR, convicted on February 5, 1965, in the Multnomah County Circuit Court, Portland, Oreg.

Zebley, Louis E., Post Office Box 167, Mount Braddock, PA, convicted on February 7, 1968, and on February 19, 1969, in the U.S. District Court for the Western District of Pennsylvania.

Signed at Washington, D.C., this 26th day of October 1972.

[SEAL] REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.72-18884 Filed 11-2-72;8:53 am]

Bureau of Customs

CARBON STEEL PLATES AND HIGH-STRENGTH STEEL PLATES FROM MEXICO

Notice of Countervailing Duty Proceedings

On October 4, 1972, a "Notice of Countervailing Duty Proceedings" was published in the FEDERAL REGISTER (37 F.R. 20875, F.R. Doc. 72-17096), with respect to carbon steel plates and high-strength steel plates from Mexico.

That notice is hereby amended by extending the time period from 30 days to 45 days within which written submissions of relevant data, views, or arguments with respect to the existence or nonexistence and the net amount of a bounty or grant must be received by the Commissioner of Customs.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: November 1, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-18987 Filed 11-2-72;9:25 am]

Fiscal Service

[Dept. Circ. 570, 1972 Rev., Supp. No. 6]

PROGRESSIVE MUTUAL INSURANCE COMPANY

Surety Company Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of title 6 of the United States Code. An underwriting limitation of $586,000 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated:

The Progressive Mutual Insurance Company
Cleveland, Ohio

Ohio

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: October 31, 1972.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.72-18883 Filed 11-2-72;8:53 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

AREA MANAGERS

Redelegations of Authority Regarding Notices of Public Meetings

Redelegations of Authority published in the FEDERAL REGISTER on July 6, 1968 (33 F.R. 9784) and amended on September 13, 1968 (33 F.R. 12974), February 21, 1969 (34 F.R. 2508), August 9, 1969 (34 F.R. 12955), September 18, 1969 (34 F.R. 14534), May 1, 1971 (36 F.R. 8266), June 8, 1971 (36 F.R. 11047), July 24, 1971 (36 F.R. 13799), November 27, 1971 (36 F.R. 22689), May 6, 1972 (37 F.R. 9245), and July 13, 1972 (37 F.R. 13721) are further amended by adding section 10.19 as follows:

10.19 *Public meetings—paid announcements.* Area managers may authorize the publication of advertisements or notices of BPA public meetings and authorize payment therefor. (205 DM 5.1)

DONALD PAUL HODEL,
Acting Administrator.

OCTOBER 26, 1972.

[FR Doc.72-18792 Filed 11-2-72;8:46 am]

National Park Service

GREAT SMOKY MOUNTAINS NATIONAL PARK, N.C. AND TENN.

Notice of Intention to Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Great Smoky Mountains National Park, proposes to issue a concession permit to Smokemont Riding Stables, Inc., authorizing it to provide horse rental service for the public in the Smokemont area, for a period of 5 years from January 1, 1973, through December 31, 1977.

The foregoing concessioner has performed its obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after publication date of this notice.

Interested parties should contact the Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tenn. 37738, for information as to the requirements of the proposed permit.

Dated: September 26, 1972.

GILBERT W. CALHOUN,
Acting Superintendent, Great Smokey Mountains National Park.

[FR Doc.72-18832 Filed 11-2-72;8:49 am]

GREAT SMOKY MOUNTAINS NATIONAL PARK, N.C. AND TENN.

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Great Smoky Mountains National Park, proposes to issue a concession permit to Smoky Mountain Riding Stables, Inc., authorizing it to provide horse rental service for the public in the area, for a period of 5 years from January 1, 1973, through December 31, 1977. The foregoing concessioner has performed its obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after publication date of this notice.

Interested parties should contact the Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tenn. 37738, for information as to the requirements of the proposed permit.

Dated: September 26, 1972.

GILBERT W. CALHOUN,
Acting Superintendent, Great Smoky Mountains National Park.

[FR Doc.72-18833 Filed 11-2-72;8:49 am]

[Order 1]

ASSISTANT SUPERINTENDENT ET AL., OLYMPIC NATIONAL PARK

Delegation of Authority Regarding Execution of Contracts for Construction, Supplies, Equipment, or Services

SECTION 1. *Assistant Superintendent.* The Assistant Superintendent may execute and approve contracts not in excess of $100,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and availability of appropriated funds.

SEC. 2. *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $50,000 for construction supplies, equipment, and services in conformity with applicable regulations and statutory authority and availability of appropriated funds.

SEC. 3. *Assistant Administrative Officer.* The Assistant Administrative Officer may execute and approve contracts not in excess of $50,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and availability of appropriated funds.

SEC. 4. *Supply Assistant.* The Supply Assistant may issue purchase orders not in excess of $2,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 5. *Revocation.* This order supersedes all previous delegations of authority issued by the Superintendent of Olympic National Park.

(National Park Service Order No. 66 (36 F.R. 21218) as amended; 37 F.R. 4001 dated February 25, 1972; Pacific Northwest Region Order No. 3, 37 F.R. 6325)

Dated: September 29, 1972.

ROGER W. ALLIN,
Superintendent, Olympic National Park.

[FR Doc.72-18834 Filed 11-2-72;8:49 am]

[Order 5, Amdt. 1]

TREE WORK FOREMAN

Delegation of Authority

Midwest Region Order No. 5, approved March 1, 1972, and published in the FEDERAL REGISTER of March 28, 1972 (37 F.R. 6324), set forth in section 2, Delegation of Authority.

Section 2 is hereby amended by adding paragraph (e) to read as follows:

(e) *Tree Work Foreman.* The Tree Work Foreman may issue purchase orders not in excess of $300 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Dated: October 12, 1972.

J. LEONARD VOLZ,
Director, Midwest Region.

[FR Doc.72-18835 Filed 11-2-72;8:49 am]

Office of the Secretary

[INT DES 72-108]

LOWER MOOVALYA RECREATIONAL DEVELOPMENT

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on a proposed project to dredge sufficient area for a kilo speedboat racing course and to use the spoil to make 83 acres of marshy area suitable for resort, residential, and commercial development. The project is located on the Colorado River Indian Reservation and has the purpose of assisting economic growth on the reservation. Written comments are invited within 45 days of this notice. Comments may be directed to the Regional Director, Bureau of Reclamation, at the address listed below.

Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone 202—343-4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225, telephone 303—234-3007.

Office of the Regional Director, Bureau of Reclamation, Post Office Box 427, Boulder City, NV 89005, telephone 702—293-8527.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: October 26, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-18840 Filed 11-2-72;8:56 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

SALINE & QUACHITA VALLEY COMMISSION CO., ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act,

1921, as amended (7 U.S.C. et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility number, name, location of stockyard, and date of posting

ARKANSAS

AR—147 Saline & Quachita Valley Commission Company, Warren, Aug. 28, 1972.

KENTUCKY

KY—157 Wayne County Feeder Pig Auction, Monticello, Sept. 19, 1972.

MISSOURI

MO—227 Potosi Livestock Market, Potosi, Oct. 21, 1972.

TEXAS

TX—297 Fort Worth Horse and Mule Commission Company, Fort Worth, Sept. 27, 1972.

TX—298 Longview Livestock Commission Company, Longview, Sept. 18, 1972.

TX—299 Tyler Livestock Marketing Company, Tyler, Sept. 9, 1972.

Done at Washington, D.C., this 30th day of October 1972.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.72-18880 Filed 11-2-72;8:53 am]

Office of the Secretary

VERMONT

Designation of Areas for Emergency Loans

It has been determined that property loss or damage or injury in certain counties in Vermont has resulted from natural disasters caused by excessive rains and flooding from April through August 1972 and cold weather during January, February, and March 1972. The following counties of Vermont are affected by such natural disasters:

Addison	Lamoille
Bennington	Orange
Caledonia	Orleans
Chittenden	Rutland
Essex	Washington
Franklin	Windham
Grand Isle	Windsor

It has further been determined that in the above counties of Vermont a general need for credit exists. Therefore, these counties are declared eligible for low-interest rate disaster loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Laws 91-606 and 92-385. Applications for such loans must be received by this Department prior to July 1, 1973, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans.

The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 30th day of October, 1972.

EARL L. BUTZ,
Secretary.

[FR Doc.72-18825 Filed 11-2-72;8:48 am]

DEPARTMENT OF COMMERCE

Maritime Administration

UNITED STATES TRUST COMPANY OF NEW YORK

Notice of Approval of Applicant as Trustee

Notice is hereby given that United States Trust Company of New York, with offices at 45 Wall Street, New York, NY, has been approved as trustee pursuant to Public Law 89-346 and 46 CFR 221.21-221.30.

Dated: October 26, 1972.

BURT KYLE,
Chief, Office of Domestic Shipping.

[FR Doc.72-18882 Filed 11-2-72;8:53 am]

National Oceanic and Atmospheric Administration

[Docket No. C-374]

BRENT BIXLER AND NANCY BIXLER

Notice of Loan Application

OCTOBER 27, 1972.

Brent Bixler and Nancy Bixler have applied for a loan from the Fisheries Loan Fund to aid in the purchase of a used wood vessel, about 54 feet in length, to engage in the fishery for tuna and bottom fish off the coasts of California, Oregon, Washington, Mexico, and Canada.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-18836 Filed 11-2-72;8:49 am]

[Docket No. C-373]

IVAN D. DAVIS AND STAN D. DAVIS

Notice of Loan Application

OCTOBER 27, 1972.

Ivan D. Davis and Stan D. Davis have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used steel vessel, about 44 feet in length, to engage in the fishery for salmon, tuna, Dungeness crab, and sablefish off the coasts of California, Oregon, Washington, and Mexico.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-18837 Filed 11-2-72;8:49 am]

[Docket No. S-590]

LOUIS D. KNORI

Notice of Loan Application

OCTOBER 27, 1972.

Louis D. Knori, 2594 Portland Street, Eugene, OR 97405, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used-wood vessel, about 36 feet in length, to engage in the fishery for salmon and albacore off the coasts of California, Oregon, and Washington.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National

Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-18838 Filed 11-2-72;8:50 am]

Office of Import Programs

CITY COLLEGE OF THE CITY UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00553-33-46070. Applicant: City College of the City University of New York, 138th Street and Convent Avenue, New York, N.Y. 10031. Article: Scanning electron microscope, Model S4. Manufacturer: Cambridge Scientific Instruments, Ltd., United Kingdom. Intended use of article: The article is intended to be used to examine and record (in micrographs) the surface contours of biological materials. Specific purposes include the following:

(1) Determination of morphological characteristics of a variety of fresh water and deep sea organisms;

(2) Investigation of surface features such as integument, mouth parts, and appendages of several invertebrates;

(3) Study of the specializations of parasite surfaces and host-tissue damage sites stemming from parasitic infections; and

(4) Exploration by microsurgical probing or with a laser probe of a variety of nerve cells; including cells grown in isolation, that specialize in the production of neurohormones. The teaching materials and information derived from the use of this instrument will be used in a variety of courses at the City College including: Biology of the invertebrates, cell physiology, vertebrate histology, and biological oceanography. The article may be used by other disciplines within the College of Liberal Arts and Sciences, such as the Department of Geology, and is related to their academic programs by supporting graduate students studying for the master's and doctoral degrees.

Comments: Comments dated June 28, 1972, have been received from the Advanced Metals Research Corp. (AMR) which state inter alia "the AMR Model 900 provides a domestic source for this type of instrumentation which is fully competitive, if not superior to, the foreign made instrument in the areas of scientific capability, routine performance, availability of accessories, etc."

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The Department of Health, Education, and Welfare (HEW) in its memorandum dated September 18, 1972, advises that a vacuum system utilizing separate pumps on the column and chamber is pertinent to the applicant's studies of host tissue parasite damage sites, parasite organs, and secretions of damage; also surface and probed undersurface morphology of fresh and salt water organisms. The foreign article satisfies this pertinent specification by providing a two diffusion pump system. The AMR 900 has a single diffusion pump system. In its comments, AMR pointed out that the single diffusion pump system of the AMR 900 is equipped with a manifold with two separate high vacuum valves dividing the pumping conductance such that the specimen chamber is pumped independently of the column so that either both the chamber and column, either section alone or neither section may be pumped along in full automatic operation. As to this HEW advises that the single pump system provided in the AMR Model 900 does not fully match the control provided by the system of the article. HEW cites as a precedent its prior recommendation relating to Docket No. 72-00032-36-46070 which conforms in essential particulars to this application.

For these reasons we find that the Model AMR-900 scanning electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18848 Filed 11-2-72;8:50 am]

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, DC.

Docket No. 72-00479-33-46040. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Electron microscope, Model JEM 100B. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in a wide variety of investigations being conducted in the biology department. Notable among these are the investigation of the growth and development of tumor viruses, the growth of malignant human cells, and the genetic control of virus structure.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated October 6, 1972, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intened to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18847 Filed 11-2-72;8:50 am]

UNIVERSITY OF CALIFORNIA

Notice of Applications for Duty-Free Entry of Scientific Articles; Correction

In the Notice of Application for Duty-Free Entry of Scientific Articles appearing at page 20340 in the FEDERAL REGISTER of Friday, September 29, 1972, the following correction should be made.

In Docket No. 73-00143-00-46040, Intended use of article: should read as follows:

Intended use of article: The articles are components for an existing electron microscope being used for structural studies of purified bacterial viruses, intracellular viruses, and protein crystals. The article will also be used in the courses: Microbiology—Biology 233a, 233b, Electron Microscopy, Microbiology—Biology—Chemistry 599, Dissertation Research to demonstrate principles of image analysis by varying the tilt angle of the specimen and provide the possibility of specimen tilt for various dissertation research projects.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18847 Filed 11-2-72; 8:50 am]

UNIVERSITY OF CALIFORNIA ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribed the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00011-00-46040. Applicant: University of California, San Francisco, 1438 South 10th Street, Richmond, CA 94804. Article: Measuring drives for Elmiskop 101 electron microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The articles are accessories to an existing electron microscope currently being used for investigation of the molecular arrangement of protein and lipids in membranes, mainly photoreceptor membranes of higher animals and bacteria. Model systems consisting of synthetic lipids and photoreceptor protein extracted from natural membranes are also used. Application received by Commissioner of Customs: July 5, 1972.

Docket No. 73-00181-90-61195. Applicant: National Bureau of Standards, B360 Building 224, Washington, D.C. 20234. Article: I.G.T. Printability Tester, Universal Model. Manufacturer: Rudolph-Meinjen's, Inc. The Netherlands. Intended use of article: The article is being used by the applicant in investigations conducted in cooperation with other laboratories to standardize the testing of the printability of printing papers by each participant and thereby provide results which can be meaningfully compared. Application received by Commissioner of Customs: October 4, 1972.

Docket No. 73-00182-01-01100. Applicant: University of Illinois, Biochemistry Department, Urbana, Ill. 61801. Article: Sequence analyzer, JAS-47K. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to sequence small peptides using the subtractive Edman-Dansyl method of detection in determining the sequential arrangement of the amino acids involved in the active binding site of these immunoglobulins. Application received by Commissioner of Customs: October 11, 1972.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18850 Filed 11-2-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

FOOD STANDARDS FOR CERTAIN TYPES OF EDIBLE OILS

Notice of Opportunity for Review and Informal Comment on Recommended International Standards

Correction

In F.R. Doc. 72-16646, appearing at page 21123, in the issue of Thursday, October 5, 1972, the following changes should be made:

1. On page 21123, Column 2, directly above the heading "Recommended International Standard for Edible Soya Bean Oil" insert:

[CAC/RS 20-1969]

2. On page 21123, in the fifth line of 3.1 *Colours*, the word "receive" should read "deceive."

3. On page 21123, in 3.1.6, under the heading *Maximum level of use*, insert the word "Do.".

4. On page 21123, in 3.4.5, after "Phosphoric acid," insert a footnote 1 reference.

5. In the first column on page 21124, the symbol in the parenthesis in 7.4 *Determination of iodine value (I)*, should read "(I_T)."

6. In the third column on page 21124, in 3.2 *Flavours.*, the word "atoxic" in the third line, should read "a toxic."

7. Directly above the heading "Recommended International Standard for Edible Cottonseed Oil," in the first column on page 21126, insert:

[CAC/RS 22-1969]

8. In the third column on page 21126, in the paragraph directly below 7.6 *Halphen test*, insert "as" between "expressed" and "a."

9. On page 21127, under the heading "Selected Bibliography," in the seventh line, "1953," should read "1958."

10. On page 21127, in the first column, directly above the heading "Recommended International Standard for Edible Sunflowerseed Oil," insert:

[CAC/RS 23-1969]

11. On page 21127, in the first column, under the heading "Description," the Latin phrase *"Helianthus annuus,"* should read *"Helianthus annuus L."*

12. In the first column of page 21128, in 7.3 *Determination of saponification value*, in the fifth line, the symbol after the word "value" should read "(I_S)."

13. On page 21128, in the first column, in 7.6 *Determination of acid value*, in the fifth line after "II.D.", insert "1.".

14. On page 21128, in the third column, directly above the heading "Recommended International Standard for Edible Rapeseed Oil," insert:

[CAC/RS 24-1969]

15. On page 21128, in the third column, in the second line of 3.2 *Flavours.*, the word "synethic," should read "synthetic."

16. In the first column of page 21129, in 4.2, under the heading *Maximum level*, the figure "0.5 percent m./m.", should read "0.05 percent m./m.".

17. In the first column of page 21129, in the second line of 6.1.1, the word "rayison," should read "ravison."

18. In the first column on page 21130, directly above the heading "Recommended International Standard for Edible Maize Oil," insert:

[CAC/RS 25-1969]

19. In the first column on page 21130, in the second line under "Description," the Latin phrase *"Zea mays,"* should read *"Zea mays L."*

20. On page 21130, in the second column, transpose "4.3 thru 4.7" above footnote 1 and transpose "5. Hygiene thru 6.2.1" above "6.2.2."

21. On page 21131, in the first column, under 7.7, the symbol "(IP)," in the first line, should read "(I_P)."

22. On page 21132, in the first column, under 7.4, in the fifth line, the reference to "II.D.7.7," should read "II.D.7.3.".

23. On page 21132, in the first column, transpose 7.6.1 and the paragraph after it to appear directly below 7.6 *Identification of sesameseed oil.*

24. On page 21133, in the second column under 7.4 *Determination of iodine value,* the symbol directly after "value", reading "(II)," should read "(I_I)."

25. On page 21133, in the second column under 7.6 *Determination of acid value,* the symbol "(IA)," in the first and fifth lines, should read "(I_A)."

26. In the second column of page 21133, under 7.7 *Determination of peroxide value,* the symbol "(IP)" after the word "value" in the first line should read "(I_P)."

27. On page 21134, in the third column, in the paragraph below 7.2 *Determination of refractive index,* the formula in the parenthesis in the second line should read "(n_D 40° C.)."

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing Production and Mortgage Credit

[Dockets Nos. N–72–103, N–72–109, N–72–110]

SAN FRANCISCO, LOS ANGELES, AND ATLANTA AREA OFFICES AND PHOENIX AND MEMPHIS INSURING OFFICES

Notice of Extension of Experimental Change in Procedures for Application for Approval of Projects for Mortgage Insurance and Reduction of Required Fees

Notice is hereby given of extended continuation of the experimental change in procedures and reduction of fees made applicable to letters of feasibility/conditional commitments in the area offices in San Francisco, Calif., on August 9, 1971 (36 F.R. 15678, August 17, 1971), Los Angeles, Calif., on March 1, 1972 (37 F.R. 6417, March 29, 1972), and Atlanta, Ga., on March 6, 1972, and the insuring offices in Phoenix, Ariz., on February 14, 1972, and Memphis, Tenn., on March 13, 1972, and continued in effect in such offices through October 31, 1972 (37 F.R. 6417, March 29, 1972). Accordingly, such changes in procedures and fees will continue in effect through and including January 31, 1973. Comment and public procedure with respect to this temporary change have been determined to be impracticable.

Issued at Washington, D.C., October 27, 1972.

JOHN L. GANLEY,
Deputy Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration), Department of Housing and Urban Development.

[FR Doc.72–18867 Filed 11–2–72;8:52 am]

Office of the Secretary

[Docket No. D–72–208]

ATTESTING OFFICERS

Designation and Delegation of Authority To Cause Department Seal To Be Affixed and To Authenticate Copies of Documents

The designation and delegation of authority to affix the Department seal and authenticate documents published December 15, 1971, in the FEDERAL REGISTER (36 F.R. 23835) is amended as follows to reflect changes in position, titles and responsibilities:

(a) Revise Item 5 to read:

5. Interstate Land Sales Administrator.

(b) Revise Item 6 to read:

6. Deputy Administrator, Office of Interstate Land Sales Registration.

(c) Revise Item 7 to read:

7. Federal Insurance Administrator, Federal Insurance Administration.

(d) Revise Item 8 to read:

8. Assistant Administrator (Program Development) Federal Insurance Administration.

(e) Redesignate present Items 7 through 13 as Items 9 through 15.

(Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d))

Effective date. This delegation of authority is effective upon publication in the FEDERAL REGISTER (11–3–72).

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.72–18799 Filed 11–2–72;8:46 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50–324, 50–325]

CAROLINA POWER AND LIGHT CO.

Notice of Consideration of Issuance of Facility Operating Licenses and Opportunity for Hearing; Notice of Hearing

In the matter of Carolina Power and Light Co. (Brunswick Steam Electric Plant Units 1 and 2).

The Atomic Energy Commission (the Commission) will consider the issuance of facility operating licenses to the Carolina Power and Light Co. (the applicant) which would authorize the applicant to possess, use, and operate the Brunswick Steam Electric Plant, Units 1 and 2, two boiling water nuclear reactors (the facilities), located on the Cape Fear River, near Southport, N.C. at steady-state power levels not to exceed 2,436 megawatts thermal each in accordance with the provisions of the license and the technical specifications appended thereto. The licenses would be issued upon the completion of a favorable safety evaluation of the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, the receipt of a report on the applicant's application for facility operating licenses by the Advisory Committee on Reactor Safeguards, and a finding by the Commission that the application for the facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facilities was authorized by Construction Permit Nos. CPPR–67 and CPPR–68 issued by the Commission on February 7, 1970. Construction of Unit 2 is anticipated to be completed by December 1, 1973, and Unit 1 by December 1, 1974.

Prior to issuance of each operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the construction permit. In addition, the licenses will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

In addition to the above, the facilities are subject to the provisions of section B of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits or operating licenses were issued in the period January 1, 1970–September 9, 1971. These provisions require that a hearing be held to consider whether the construction permits should be continued, modified, terminated, or appropriately conditioned to protect environmental values. With respect to this consideration, notice is hereby given, pursuant to the Act and the regulations in 10 CFR Part 2, "Rules of Practice," and Appendix D to 10 CFR Part 50, "Implementation of the National Environmental Policy Act of 1969," that a hearing will be held in the captioned proceeding by an Atomic Safety and Licensing Board (Board) at a time and place to be fixed by subsequent order of the Board to consider and make determinations on the matters set forth below.

1. In the event that this proceeding is not a contested proceeding as defined by 10 CFR 2.4(n) of the Commission's "Rules of Practice," the Board will without conducting a de novo evaluation of the application determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.

2. In the event that this proceeding is a contested proceeding, the Board will decide any matters in controversy among the parties within the scope of Appendix D to 10 CFR Part 50, with regard to whether, in accordance with the requirements of Appendix D to 10 CFR Part 50,

the construction permits should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

3. Regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (a) determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D to 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward 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 construction permits should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

The Board will be designated by the Atomic Energy Commission. Notice as to its membership will be published in the FEDERAL REGISTER.

Within thirty (30) days from the date of publication of this present notice in the FEDERAL REGISTER, the applicant may file a request for a hearing with respect to issuance of the facility operating licenses and any person whose interest may be affected by this proceeding may file a petition for leave to intervene (1) with respect to the issuance of the facility operating licenses; or (2) with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permits should be continued, modified, terminated, or appropriately conditioned to protect environmental values. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene 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 following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. 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 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 on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, DC 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

If a request for a hearing or petition for leave to intervene with respect to the issuance of facility operating licenses is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

Any person who does not wish to, or is not qualified to become a party to this proceeding concerning continuation, modification, termination, or conditioning the construction permits may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. 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. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

In the event that this proceeding concerning continuation, modification, termination, or conditioning the construction permits is not contested, the Board will convene a prehearing conference of the parties within sixty (60) days after this notice of hearing or such other time as may be appropriate, at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding concerning continuation, modification, termination, or conditioning the construction permits becomes a contested proceeding, the Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference and within sixty (60) days after discovery has been completed, or within such other time as may be appropirate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

Notices of the dates and places of the special prehearing conference, the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated May 30, 1972, as amended, and the applicant's Environmental Report dated November 8, 1971, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, NC 28461. As they become available, the following documents also will be available at the above locations: (1) Safety Evaluation prepared by the Directorate of Licensing; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the proposed technical specifications, which will be attached to the proposed facility operating licenses. Copies of items (1), (3), (4), and (5) may be obtained by request to Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

With respect to this proceeding concerning continuation, modification, termination, or conditioning the construction permits, the Commission will delegate to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission will establish the Appeal Board pursuant to 10 CFR 2.785 and will make the delegation pursuant to subparagraph (a)(1) of that section. The Appeal Board will be composed of a chairman, and two other members to be designated by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 27th day of October 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-18754 Filed 11-2-72;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 21828; Order 72-10-98]

AMERICAN-TRANS CARIBBEAN MERGER CASE

Order on Petition and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of October, 1972.

On April 26, 1972, James Matthiesen, a former pilot of Trans Caribbean Airways, Inc., who is now employed by American Airlines, filed a petition with the Board requesting an order to compel American Airlines to arbitrate his claim for a displacement allowance pursuant to the labor protective provisions imposed by the Board in the American-Trans Caribbean Merger Case, Order 70-12-161, December 31, 1970. An answer to the petition was filed by American Airlines. Subsequently, motions for leave to file a response to American's answer were filed by the Trans Caribbean Airways Master Executive Counsel (TCA-MEC) and the petitioner. These responses are directly relevant to this proceeding and we will grant leave to file them. Similarly, we will grant the request of certain American pilots formerly employed by Trans Caribbean who have displacement allowance claims under the labor protective provisions that they be allowed to file a "statement of position" vis-a-vis American's answer. Petitioner thereafter filed a motion for expedited treatment.

Petitioner claims that for the 12 months preceding the merger of American and Trans Caribbean he earned an average of $4,015.01 per month, but that during the 10-month period immediately following the date of his displacement from a Trans Caribbean captaincy, his average monthly compensation by American Airlines was $1,751.65. For the 10-month period this amounts to a gross differential of $22,633.60. Petitioner filed a claim for a displacement allowance with American on May 25, 1971, to which the airline replied it could not directly respond. Subsequently, on July 30, 1971, purportedly acting on the advice of the Allied Pilots Association he mailed a "grievance letter" to American protesting the carrier's alleged violation of the labor protective provisions by its failure to provide the prescribed displacement allowance. On October 6, American denied the petitioner's claim, but proposed that the dispute might be presented to the AA-APA System Board of Adjustment, with a neutral referee for a fifth member of the board. On December 2, 1971, American wrote to petitioner and invited him to participate in proceedings before the System Board sitting with a neutral member which would make final and binding findings on all claims. Petitioner alleges he was offered no opportunity to participate in the selection of the neutral and that the System Board is comprised of two representatives from American, two from APA and the neutral, named by American, but that the panel does not include any representative of the former Trans Caribbean pilots. This panel was unsatisfactory to petitioner.[1] Moreover, after retention of an attorney it was determined by petitioner that the dispute under the labor protective provisions was not within the jurisdiction of the American/APA System Board because it does not arise from the terms of the American/APA collective bargaining agreement.

On February 23, 1972, petitioner's attorney wrote American and requested a written response to the displacement allowance claim and "withdrew" the "grievance" filed July 30, 1971. Petitioner alleges that subsequent communication with American's attorney was also fruitless and that the carrier was not prepared to pay the allowance absent arbitration of the matter. It is therefore urged that the Board issue an order (a) declaring that, by its delay and failure to respond to or process petitioner's claim, American has violated both the letter and spirit of the labor protective provisions; (b) directing American to respond within 10 days to an arbitration proposal previously made by petitioner, and absent acceptance of this proposal directing that the dispute may be referred by either party to an arbitrator chosen by a specifically set out procedure; (c) directing that the salary and expenses of the arbitrator so selected, together with all related expenses of arbitration, shall be borne solely and fully by American; (d) directing that the arbitrator's decision be final and binding on all parties; (e) requiring American to reimburse and make whole the petitioner for all costs and expenses, including attorneys fees and expenses, incurred in obtaining both the Board's order and the arbitration award; and (f) directing that American act promptly and process all claims filed by former Trans Caribbean employees under the labor protective provisions.

American's answer asserts that there has been, and is, no reluctance on American's part to arbitrate Captain Matthiesen's claim. Indeed, American states that the petitioner's claim was duly included in the displacement allowance claims pending before Mr. Leverett Edwards (former Chairman of the National Mediation Board) sitting as the neutral member of the American/APA System Board of Adjustment. The carrier claims that after receipt of the February 23, 1972, letter from petitioner's attorney, American proposed that Matthiesen's displacement allowance claim be included among the issues heard in the Board-ordered arbitration of the flight crew seniority list integration dispute,[2] for which the various parties had agreed that Prof. Russell Smith should act as arbitrator. Moreover, the airline asserts, it is the petitioner, acting through his attorney, who has refused to arbitrate the displacement claim as described above, but instead has attempted to withdraw unilaterally from an arbitration already agreed upon.[3]

American urges that in deciding what to do, a number of factors should be taken into account. First, it asserts that petitioner's claim is not a matter of simple mechanical calculations from known figures, for it involves a number of questions of interpretation and application of labor protective provisions in light of conditions existing at Trans Caribbean prior to the merger. Second, issues involved in petitioner's displacement allowance claim are related, and perhaps intertwined with, issues before Arbitrator Smith in the arbitration of seniority list integration. Third, fairness, consistency of result, and practical convenience to everyone point to having one arbitration covering all displacement allowance claims growing out of the American-Trans Caribbean merger.

American concludes that the Board need not issue any further order, but can rely on normal processes of accommodation to produce arbitration of petitioner's claim. It urges that, if we disagree, we should interpret our previous order directing arbitration of the seniority list dispute to include arbitration of displacement allowance claims and all other flight-crew claims that may arise out of the American-Trans Caribbean merger. It urges that there is no basis to sustain petitioner's additional requests for relief.[4]

In his reply to America's answer, petitioner rejects the carrier's suggestion that the petitioner's claim is related to or

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[1] There is an outstanding dispute between the APA and the former Trans Caribbean flight personnel concerning integration of seniority lists which is currently the subject of an arbitration proceeding ordered by the Board.

[2] See Order 71-5-30, served May 7, 1971, and Order 71-6-71, served June 14, 1971, both aff'd. American Airlines v. C.A.B. 445 F.2d 891 (C.A. 2, 1971), cert. denied 92 S. Ct. 681 (1972).

[3] American states that petitioner's specific proposals concerning an arbitration are unacceptable to it.

[4] American claims that the new section 13(a) of the labor protective provisions adopted by the Board in the Allegheny-Mohawk merger, Orders 72-4-31/32, in its procedure for alternately striking names contemplates only a two-party dispute. The procedure outlined is readily adaptable to a multiparty dispute, and clearly the provisions were intended to be applicable whether two or more parties are involved. Moreover, if it should be determined that a list of seven names is not sufficient to permit all the parties to participate in the selection of an arbitrator, the parties under section 13(b) may increase or decrease the number to resolve their difficulty.

intertwined with the issues before Arbitrator Smith. To the contrary, he urges that the displacement allowance claim is separate from and unrelated to the matters which have been before the arbitrator in the seniority integration case for the past 6 months. It is urged that in contrast to the thorny issues in that proceeding, the claim here involves the difference between petitioner's average premerger earnings, and his average postmerger earnings. Moreover, the seniority integration arbitration is a prolonged, four-party proceeding, while the dispute here involves only Matthiesen and American. It is urged that, in view of these circumstances it would be unfair to the petitioner to require him to undertake the time and expense of becoming a party to the seniority list integration proceeding and to have resolution of his claim delayed until a decision is rendered in that case.

The TCA-MEC reply similarly opposes consolidation of this claim with the seniority list arbitration because it feels such action can only delay the seniority arbitration which has already been delayed too long. Further, TCA-MEC urges that while American urges that consolidation would eliminate duplication, it in reality is seeking a "free ride" and under section 13 of the labor protective provisions "would be obligated to defend rejection of these claims in any event." Also, of the parties to the Smith arbitration proceeding, only American is a party to this dispute. Finally, it urges that American's claim that a separate arbitration may be unfair to employees is undercut by the fact that numerous other employees do not wish to have their claims tied to the seniority list arbitration. The reply of American pilots formerly employed by Trans Caribbean who also have displacement allowance claims against American urges that they are presently attempting to negotiate the entire matter of their claims with American and that under no circumstances do they want to be included in the seniority list dispute.

Upon consideration, we have determined to deny both the request by American that this dispute be included in the present seniority arbitration, and the specific relief requested by the petitioner. In this connection, the Board wishes to emphasize its concern that the procedures for resolution of labor disputes by negotiation with ultimate recourse to arbitration, provided for in section 13 of the labor protective provisions, have been repeatedly frustrated by both the airlines and the employees petitioning the Board for modifications which, presumably, it is hoped would further their cause. As the Board has repeatedly stated,[5] it does not possess peculiar expertise in labor matters. It is for this reason that the arbitration provisions of the labor conditions are designed specifically to provide resolution of disputes in a fair and impartial manner without submission of the controversy to the Board. Moreover, the Board perceives no reason why carriers should delay in responding to requests for arbitration or if they do, why the employee should not resort to the more expeditious remedy of requesting a court to direct arbitration rather than directing the request to the Board (as opposed to requesting the Board to impose sanctions upon the carrier for its failure to comply with the arbitration requirement). Our recent revision in the Allegheny-Mohawk Merger (Order 72–4–31/32) of the arbitration provisions is designed to facilitate the arbitration procedures, as well as their enforcement.

With this in mind, we turn to the specific contentions of the parties in this proceeding. American argues that this dispute should be included in the pending seniority arbitration. We find no justification for such a procedure. To interject this nonpriority and largely tangential matter into the pending seniority proceeding would only serve to further complicate and delay that arbitration proceeding, which has already been delayed far too long. There has been no showing of any necessary relationship between this matter and the pending seniority list dispute.

Moreover, we are becoming increasingly concerned over the repeated failure of American to arrange for prompt presentation of these relatively minor issues to an arbitration procedure. In this connection, we wish to serve notice that we do not anticipate that further reliance on the Board will be necessary to implement the carrier's obligation to submit such disputes for impartial consideration by arbitration. In order to insure that there will be no grounds for future delay on the basis of failure of the parties to agree upon appropriate arbitration procedures, we propose to amend section 13 of the arbitration procedures applicable to the American-TCA merger to provide (but solely with respect to future arbitration proceedings (inclusive of the one at issue) and not with respect to any pending arbitration proceeding), the specific arbitration procedures adopted in the Allegheny-Mohawk Merger, Order 72–4–31/32. That provision reads as follows:

> Section 13(a). In the event that any dispute or controversy (except as to matters arising under section 9) arises with respect to the protection provided herein, which cannot be settled by the parties within 20 days after the controversy arises, it may be referred by any party to an arbitrator selected from a panel of seven names furnished by the National Mediation Board for consideration and determination. The parties shall select the arbitrator from such panel by alternately striking names until only one remains, and he shall serve as arbitrator. Expedited hearings and decisions will be expected, and a decision shall be rendered within 90 days after the controversy arises, unless an extension of time is mutually agreeable to all parties. The salary and expenses of the arbitrator shall be borne equally by the carrier and (i) the organization or organizations representing the employee or employees, or (ii) if unrepresented, the employee or employees or group or groups of employees. The decision of the arbitrator shall be final and binding on the parties.
>
> (b) The above condition shall not apply if the parties by mutual agreement determine that an alternative method for dispute settlement or an alternative procedure for selection of an arbitrator is appropriate in their particular dispute. No party shall be excused from complying with the above condition by reason of having suggested an alternative method or procedure, unless and until that alternative method or procedure shall have been agreed to by all the parties.

We also propose to provide that within 10 days of selection of the arbitrator in all future disputes arbitrated in accordance with the amended provisions, the arbitrator's identity shall be reported to the Board by American. Thereafter when final decision by an arbitrator is rendered, American shall provide the Board with copies of such decision within 10 days of its issuance.

With respect to the various specifications of relief sought by the petitioner, we again take this opportunity to express the Board's concern over the growing tendency of employee groups and individuals following mergers, to attempt to invoke the Board's limited jurisdiction[6] over labor disputes, rather than to seek relief from the courts or through an administrative enforcement proceeding. We wish to advise all carriers subject to the Board's labor protective provisions that the Board views the enforcement provisions of the statute, including the penalty provisions, as being fully applicable to a failure to comply with the arbitration provisions.

Accordingly, it is ordered:

1. That American Airlines, Inc., and any other interested person be and they hereby are directed to show cause, within 7 days after the date of this order:

(a) Why the Board should not amend section 13 of the labor protective provisions imposed in Order 70–12–161, to substitute therefor, effective upon the date of this order, section 13 of the labor protective provisions imposed by the Board in the Allegheny-Mohawk Merger Case, Order 72–4–31/32, with a proviso that the substitution shall not be deemed to affect any arbitration proceeding pending on the date of this order;

(b) Why the Board should not direct American, with respect to all future arbitrations subject to the labor protective provisions imposed by Order 70–12–161 as modified in accordance with (a) above,

(i) To file in this docket within 10 days after the selection of an arbitrator a report indicating the identity of the individual selected; and

(ii) To file two (2) copies of any arbitration decision with the Board immediately upon its issuance.

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[5] See, e.g., American Airlines v. C.A.B., 445 F. 2d 891 (C.A. 2, 1971), cert denied, 92 S. Ct. 681 (1972); Outland v. C.A.B., 284 F. 2d 224 (D.C. Cir., 1960).

[6] The Board has jurisdiction to enter orders to implement the labor protective conditions (Order 71–5–30) and specifically reserves jurisdiction to make such amendments, modifications and additions to the protective labor conditions as circumstances may require. See Order 70–12–161.

2. That, except to the extent granted, the petition of James Matthiesen and all other requests herein be and they hereby are denied.

3. That this order shall be served upon American Airlines, Inc., the petitioner, the persons responding to the petition, and all labor parties in Docket 21828.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-18865 Filed 11-2-72;8:51 am]

[Docket Nos. 23424 etc.]

BRITISH OVERSEAS AIR CHARTER LTD. ET AL.

Notice of Oral Argument Regarding Air Carrier Permit Applications

British Overseas Air Charter Ltd., Docket 23424; Condor Flugdienst G.m.b.H., Docket 23404; Balair, Ltd. Air Charter Company of Switzerland, Docket 23766; Finnair oy, Docket 24167; Kar-Air oy, Docket 24168; Aviacion y Comercio, S.A., Docket 24264; Foreign Air Carrier Permit Applications.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceedings is assigned to be held before the Board on December 13, 1972, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., October 31, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72-18866 Filed 11-2-72;8:52 am]

CIVIL SERVICE COMMISSION

COST OF LIVING COUNCIL

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Cost of Living Council to fill by noncareer executive assignment in the excepted service the position of Deputy General Counsel, Pay Board, Office of the General Counsel.

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

[FR Doc.72-18808 Filed 11-2-72;8:47 am]

DEPARTMENT OF THE AIR FORCE

Notice of Revocation of Authority To Make Noncareer Executive Assignments

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9120), the Civil Service Commission revokes the authority of the Department of the Air Force to fill by noncareer executive assignment in the excepted service the position of Deputy for Overseas Operations, Office, Secretary of the Air Force.

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

[FR Doc.72-18818 Filed 11-2-72;8:48 am]

DEPARTMENT OF THE AIR FORCE

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Air Force to fill by noncareer executive assignment in the excepted service the position of Deputy Under Secretary (International Affairs), Office, Secretary of the Air Force.

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

[FR Doc.72-18819 Filed 11-2-72;8:48 am]

DEPARTMENT OF THE ARMY

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Director of Facilities, Office, Secretary of the Army to Deputy for Installations and Housing, Office, Secretary of the Army.

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

[FR Doc.72-18811 Filed 11-2-72;8:47 am]

DEPARTMENT OF COMMERCE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of Strategic Business Studies, Assistant Secretary for Domestic and International Business.

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

[FR Doc.72-18804 Filed 11-2-72;8:47 am]

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Assistant Secretary for Economic Development, Economic Development Administration, Office of the Assistant Secretary for Economic Development.

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

[FR Doc.72-18817 Filed 11-2-72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary (Executive Secretary to the Department) Office of the Secretary.

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

[FR Doc.72-18802 Filed 11-2-72;8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Title Change in Noncareer Executive Assignment

By notice of March 9, 1972, F.R. Doc. 72-3620 the Civil Service Commission authorized the Department of Housing and Urban Development to fill by noncareer executive assignment the position of Director, Office of Community Goals and Standards, Assistant Secretary for Community Planning and Management. This is notice that the title of this position is now being changed to Director, Office of Community and Environmental Standards, Office of the Assistant Secretary for Community Planning and Management.

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

[FR Doc.72-18814 Filed 11-2-72;8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of New Communities Development, Office of the Assistant Secretary for Community Planning and Management.

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

[FR Doc.72-18815 Filed 11-2-72;8:48 am]

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Associate Solicitor (Mineral Resources), Office of the Secretary.

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

[FR Doc.72-18806 Filed 11-2-72;8:47 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Associate Director, Office of Water Resources Research, Office of the Secretary.

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

[FR Doc.72-18816 Filed 11-2-72;8:48 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary, Office of the Secretary.

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

[FR Doc.72-18801 Filed 11-2-72;8:46 am]

DEPARTMENT OF LABOR

Notice of Title Change in Noncareer Executive Assignment

By notice of August 16, 1969, F.R. Doc. 69-9704 the Civil Service Commission authorized the Department of Labor to fill by noncareer executive assignment the position of Associate Manpower Administrator, U.S. Training and Employment Service. This is notice that the title of this position is now being changed to Associate Manpower Administrator, U.S. Employment Service.

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

[FR Doc.72-18813 Filed 11-2-72;8:48 am]

DEPARTMENT OF LABOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Assistant Secretary for Manpower, Office of the Secretary.

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

[FR Doc.72-18820 Filed 11-2-72;8:48 am]

ENVIRONMENTAL PROTECTION AGENCY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Director, Office of Operations Coordination, Office of the Administrator.

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

[FR Doc.72-18800 Filed 11-2-72;8:46 am]

FEDERAL HOME LOAN BANK BOARD

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Home Loan Bank Board to fill by noncareer executive assignment in the excepted service the position of General Counsel, Office of the General Counsel.

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

[FR Doc.72-18807 Filed 11-2-72;8:47 am]

SMALL BUSINESS ADMINISTRATION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Small Business Administration to fill by noncareer executive assignment in the excepted service the position of Special Assistant and Director, Office of Equal Employment Opportunity and Compliance.

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

[FR Doc.72-18803 Filed 11-2-72;8:47 am]

U.S. TAX COURT

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the U.S. Tax Court to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Chief Judge, Office of the Chief Judge.

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

[FR Doc.72-18805 Filed 11-2-72;8:47 am]

ASSOCIATE DIRECTOR, OFFICE OF WATER RESOURCES RESEARCH, DEPARTMENT OF THE INTERIOR

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission has found effective September 19, 1972, that there is a manpower shortage for the single position of Associate Director, Office of Water Resources Research, Department of the Interior. The appointee may be paid for the expense of travel and transportation to his first post of duty.

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

[FR Doc.72-18809 Filed 11-2-72;8:47 am]

DEPUTY DIRECTOR, NATIONAL CENTER FOR HEALTH STATISTICS, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission has found effective September 11, 1972, that there is a manpower shortage for the single position of Deputy Director, National Center for Health Statistics, Health Sciences, and Mental Health Administration, Department of Health, Education, and Welfare. The appointee may be paid for the expense of travel and transportation to his first post of duty.

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

[FR Doc.72-18810 Filed 11-2-72;8:47 am]

TARIFF COMMISSION

[TEA-F-45 and TEA-W-160]

ARKWRIGHT MILLS

Firm and Workers' Petition for Determinations; Notice of Investigations and Hearing

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of Arkwright Mills, Spartanburg, S.C., and its former workers, the U.S. Tariff Commission, on October 27, 1972, instituted investigations under sections 301(c)(1) and 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements articles like or directly competitive with woven fabrics of cotton and of manmade fibers (of the types provided for in items 320.11–320.17, 321.11–321.17, 322.11–322.17, 327.11–327.17, 328.11–328.17, and 338.30 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause serious injury to such firm, and/or the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

A public hearing in connection with this investigation will be held beginning at 10 a.m., e.s.t., on December 1, 1972, in the Hearing Room, U.S. Tariff Commission Building, Eighth and E Streets NW., Washington, DC. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure.

The petitions filed in this case are available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: October 30, 1972.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-18841 Filed 11-2-72;8:45 am]

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

RESTORATION OF HISTORIC LOW FLOW DIVERSION TO ARROYO COLORADO, LOWER RIO GRANDE FLOOD CONTROL PROJECT

Notice of Completion of and Availability of Environmental Statement

Pursuant to the National Environmental Policy Act of 1969, notice is hereby given that this agency has completed a final statement which discusses environmental considerations relating to the proposed restoration of historic low flow diversion to Arroyo Colorado, Lower Rio Grande Flood Control Project, in Hidalgo and Cameron Counties, Tex. A copy of the final statement, along with copies of comments received from other agencies and interested groups, is being placed in the Office of the Country Director for Mexico, Room 3906-A, Department of State, 21st Street and Virginia Avenue NW., Washington, DC, in the office of the Project Superintendent, U.S. Section, International Boundary and Water Commission, 208 South F Street, Harlingen, TX, and in the office of the U.S. Section, Chief of Planning and Reports, 809 Southwest Center, El Paso, TX. The environmental analysis statement was prepared as a part of the study of the necessary improvements to the existing flood control project being undertaken by the United States and Mexico.

Copies of the final statement, dated October 19, 1972, along with copies of comments received from other agencies and interested groups, can be obtained from the U.S. Department of Commerce, National Technical Information Service, Springfield, Va. 22151.

Dated at El Paso, Tex., this 20th day of October 1972.

FRANK P. FULLERTON,
Special Legal Assistant.

[FR Doc.72-18789 Filed 11-2-72;8:46 am]

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL IMPACT STATEMENTS

Availability of Agency Comments

Appendix I contains a listing of draft environmental impact statements which the Environmental Protection Agency (EPA) has reviewed and commented upon in writing during the period from October 1, 1972, to October 15, 1972, as required by section 102(2)(C) of the National Environmental Policy Act of 1969 and section 309 of the Clean Air Act, as amended. The listing includes the Federal agency responsible for the statement, the number assigned by EPA to the statement, the title of the statement, the classification of the nature of EPA's comments, and the source for copies of the comments.

Appendix II contains definitions of the four classifications of EPA's comments. Copies of EPA's comments on these draft environmental impact statements are available to the public from the EPA offices noted.

Appendix III contains a listing of the addresses of the sources for copies of EPA comments listed in Appendix I.

Copies of the draft environmental impact statements are available from the Federal department or agency which prepared the draft statement or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Dated: October 25, 1972.

SHELDON MEYERS,
Director,
Office of Federal Activities.

APPENDIX I.—ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN OCTOBER 1, 1972, AND OCTOBER 15, 1972

Responsible Federal Agency	Title and identifying number	General nature of comments	Source for copies of comments
Corps of Engineers	D-COE-35035-06: Maintenance dredging of Pawtuxet Cove, R.I.	3	B
Do	D-COE-32381-02: Beaver Brook Lake project, Kenne, N.H.	3	B
Do	D-COE-50108-23: J. Percy Priest Bridge and Hobson Pike, Tenn.	2	F
Do	D-COE-32367-21: Channel from Apalachicola to Two-Mile and Break Water at Two-Mile Apalachicola Bay, Fla.	2	F
Do	D-COE-32369-29: East Fork Lake, Little Miami River, Ohio.	2	F
Do	D-COE-32380-34: Removal of log jam, Guadalupe, Tex.	1	G
Do	D-COE-30042-35: Grand Isle, La. and vicinity, hurricane protection, Louisiana.	1	G
Do	D-COE-30041-35: New Orleans to Venice, La., hurricane protection, Louisiana.	2	G
Do	D-COE-36144-00: River bank protection, Garrison Dam, Oahe Lake.	2	I
Do	D-COE-32398-46: Debris basin construction and channel improvement, Palm Springs, Calif.	2	I
Department of Agriculture	D-DOA-82050-00: Use of herbicide in eastern regions	2	A
Do	D-DOA-82051-34: Control of pocket gofer, Texas	2	G
Do	D-DOA-36159-00: Georgetown Creek Watershed Plan	1	K
Department of the Interior	D-DOI-84012-26: Fish control laboratory, La Crosse County, Wis.	2	F
Do	D-DOI-84013-26: Fishery rehabilitation—Rock River, Dane, Dredge, etc., Counties, Wis.	2	F
Do	D-DOI-60055-00: Ellis Unit—Smoky Hill division, Kans.	2	F
Do	D-DOI-61079-54: Snake River Island Wilderness Area, Wash.	1	K
Department of Transportation	D-DOT-41496-07: County Road 65C, Bridge Street, Johnsonville, N.Y.	2	C
Do	D-DOT-41492-07: Route 9A from Route 119 to Old Country Road and Ramp, N.Y.	1	C
Do	D-DOT-41491-08: Construction of drainage trunk line serving Routes 20, Freeway, and I-80, Paterson, N.J.	1	C
Do	D-DOT-41449-08: Widening of River Road from Landing Lane to I-287, Piscataway Township, Middlesex County, N.J.	4	C
Do	D-DOT-41486-16: I-95 center leg, Washington, D.C.	3	D
Do	D-DOT-41470-14: Tompkins Crossing Bridge, Kanawha County, W. Va.	1	D
Do	D-DOT-41492-11: L.R. 1003, Section 3, Erie County, Pa.	2	D
Do	D-DOT-41465-21: Florida State Road 15, Putnam County, Fla.	2	E
Do	D-DOT-41446-36: T.H. 59 and T.H. 529, Stevens County, Minn.	1	F
Do	D-DOT-41497-27: F.A. 171 Belvidere Bypass, Boone County, Ill.	1	F
Do	D-DOT-41453-29: State Route 30 (Relocation), Crawford and Richland Counties, Ohio.	1	F
Do	D-DOT-41463-31: Carlsbad Cavern National Park, proposed pollution abatement project, N. Mex.	1	G
Do	D-DOT-41507-36: Merna-Broken Bow, Custer County, Nebr.	1	H
Do	D-DOT-41502-39: Route 36, Linn County, Mo.	1	H
Do	D-DOT-41479-36: N-12 Brocksburg-Neper Highway, Nebr.	1	H
Do	D-DOT-41483-41: Mandaree to Twin Buttes, N. Dak.	1	I
Do	D-DOT-41427-43: Highway project, Albany County, Wyo.	2	I
Do	D-DOT-51185-56: Challis Airport, Challis, Idaho	1	K
Do	D-DOT-41506-34: State Highway 71: Fayette County Line to I-10, Tex.	2	G
Federal Power Commission	D-FPC-89106-04: Holyoke Water Power Co.—Application to expand fish facilities, Massachusetts.	1	B
Department of Housing and Urban Development.	D-HUD-81102-39: River Bend Apartments, St. Louis, Mo.	2	H
Do	D-HUD-85096-01: Forest Glen Apartments, Stoughton, Maine.	2	B

APPENDIX II

DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

(1) *General agreement/lack of objections.* The Agency generally:

(a) Has no objections to the proposed action as described in the draft impact statement;

(b) Suggests only minor changes in the proposed action or the draft impact statement; or

(c) Has no comments on the draft impact statement or the proposed action.

(2) *Inadequate information.* The Agency feels that the draft impact statement does not contain adequate information to assess fully the environmental impact of the proposed action. The Agency's comments call for more information about the potential environmental hazards addressed in the statement, or ask that a potential environmental hazard be addressed since it was not addressed in the draft statement.

(3) *Major changes necessary.* The Agency believes that the proposed action, as described in the draft impact statement, needs major revisions or major additional safeguards to adequately protect the environment.

(4) *Unsatisfactory.* The Agency believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the safeguards which might be utilized may not adequately protect the environment from the hazards arising from this action. The Agency therefore recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

APPENDIX III

SOURCES FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, Room 847, 26 Federal Plaza, New York, NY 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street NE., Atlanta, Ga. 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 1 North Wacker Drive, Chicago, IL 60606.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, TX 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, MO 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, Room 916, 1860 Lincoln Street, Denver, CO 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, CA 94102.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

[FR Doc.72-18711 Filed 11-2-72;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI73-283]

ANADARKO PRODUCTION CO.

Notice of Application

OCTOBER 31, 1972.

Take notice that on October 18, 1972, Anadarko Production Co. (Applicant), Post Office Box 9317, Fort Worth, TX 76107, filed in Docket No. CI73-283 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 Panhandle Eastern Pipe Line Co. (Panhandle) in Seward County, Kans., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell Panhandle pursuant to a letter agreement dated September 25, 1972, volumes of natural gas up to 20,000 Mcf per day for a term limited of 1 year after the first day of the month following the date of initial delivery within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to charge Panhandle a rate of 35 cents per Mcf, adjusted for heat value at 14.65 p.s.i.a. for such gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 12, 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.72-18885 Filed 11-2-72;8:53 am]

[Docket No. CI73-299]

PERRY R. BASS

Notice of Application

OCTOBER 31, 1972.

Take notice that on October 26, 1972, Perry R. Bass, individually and as agent for Bass Enterprises Production Co. (Applicant), Fort Worth National Bank Building, Fort Worth, Tex. 76102, filed in Docket No. CI73-299 an application pursuant to section 7(c) of the Natural Gas Act for a certification of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Natural Gas Act for a certificate of public contural) from acreage in Eddy County, N. Mex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 5,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a., plus upward B.t.u. adjustment, for 12 months from the date of initial delivery under the requested authorization within the contemplation of section 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 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.72-18846 Filed 11-2-72;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 620]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

OCTOBER 30, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

734–C2–P–(2)–73—Pacific Northwest Bell Telephone Co. (KOA246), for additional facilities to operate on 454.600 and 454.650 MHz at a new site described as location No. 2: Sentinel Hill, near Southwest Fairmount Boulevard, Portland, Oreg., and change the antenna system for existing facilities at location No. 1: 3035 Northwest Monte Vista Terrace, Portland, Oreg.

2684–C2–P–73—Alco Telephone Answering Service of Greenville, Miss., Inc. (New), for a new one-way station to be located at 218 Washington, Greenville, MS, to operate on 158.70 MHz.

2685–C2–P–73—Oden Communications Co. (New), for a new two-way station to be located on Highway No. 77, 1.5 miles south of Fremont, Nebr., to operate on 152.18 MHz.

2711–C2–ML–73—New England Telephone & Telegraph Co. (KA9446), to add frequencies 152.84 and 158.10 MHz for signaling only. (Developmental) (three units) in any temporary location within the States of Massachusetts, Maine, Rhode Island, New Hampshire, and Vermont.

2712–C2–MP–(4)–73—Mobilfone (KKA401), change the antenna system operating on 454.075, 454.175, 454.275, and 454.350 MHz at location No. 2: 1200 East Britton Road, Oklahoma City, OK.

2713–C2–P–(2)–73—Airsignal of California, Inc. (KMA267), replace transmitters operating on 454.200 and 454.300 MHz at location No. 3: 3 miles east of Auberry, Calif.

2714–C2–P–(4)–73—Pacific Telephone & Telegraph Co. (KMA614), replace transmitters, change the antenna system and relocate facilities operating on 152.51 and 152.63 MHz at location No. 3 to: 6.8 miles north of Chualar, Calif., and replace the transmitter and transmission line for test facilities operating on 43.38, 157.77, and 157.89 MHz at 340 Pajaro Street, Salinas, CA.

2715–C2–P–(2)–73—Mobilfone Radio System (KEA254), add standby facilities to operate on 152.21 MHz at location No. 1: First National City Bank Building, New York, N.Y., and 454.350 MHz at location No. 2: Chemical Bank Building, New York, N.Y.

2717–C2–ML–73—Pacific Telephone & Telegraph Co. (KA4326), to reduce number of mobile units from 43 to 23 and for the renewal of Developmental license expiring October 10, 1972. Terms: October 10, 1972 to October 10, 1973.

2718–C2–P–73—Chawilla, Inc. (New), for a new two-way station to be located 3.2 miles southwest of Palatka, Fla., to operate on 152.120 MHz.

2719–C2–P–73—Buckeye Communications Co. (KLF570), for additional facilities to operate on 454.250 MHz at 50 West Broad Street, Columbus, OH.

Correction

8265–C2–P–72—The Diamond State Telephone Co. (KGA471), correct to read: Additional facilities to operate on 157.73, 157.86, and 158.04 MHz test. For other particulars see PN dated September 25, 1972.

POINT-TO-POINT MICROWAVE RADIO SERVICE

2679–C1–MP–73—Nebraska Consolidated Communications Corp. (WOH62), station 4 miles southeast of Greenwood, Nebr., latitude 40°54′54″ N., longitude 96°22′10″ W. Modification C.P. to change azimuth toward Lincoln to 242°11′.

2680–C1–MP–73—Same (WOH63), modification C.P. to change station location to 3240 South 10th Street, Lincoln, NE, latitude 40°46′47″ N., longitude 96°42′20″ W. Change azimuths toward Seward and Greenwood to 295°51′ and 61°58′, respectively.

2681–C1–MP–73—Same (WOH64), station 0.5 mile east of Seward, Nebr., latitude 40°54′56″ N., longitude 97°04′36″ W. Modification C.P. to change azimuth toward Lincoln to 115°36′.

2682–C1–MP–73—Same (WOH43), station at 18th and Farnam, Omaha, Nebr., latitude 41°-

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

15′28″ N., longitude 95°56′24″ W. Modification C.P. to add frequency 6226.9V toward Avoca, azimuth 194°11′.

2683–C1–MP–73—Same (WOH82), station 1.5 mile south-southeast of Avoca, Nebr., latitude 40°46′42″ N., longitude 96°05′58″ W. Modification C.P. to add frequency 5974.8V toward Omaha, azimuth 14°05′.

2708–C1–MP–73—Nebraska Consolidated Communications Corp. (WOH58), 4.5 miles southwest of DeKalb, Ill., latitude 41°52′44″ N., longitude 88°48′31″ W. M.P. to delete 6226.9H toward Elgin, Ill., and add 6226.9H toward Lily Lake, Ill., azimuth 68°54′.

2709–C1–MP–73—Same (WOH59), M.P. to change station location from Elgin, Ill., to 1.8 miles north of Lily Lake, Ill., latitude 41°58′28″ N., longitude 88°28′30″ W. Change azimuths of 6137.9V toward DeKalb to 249°07′ and 5974.8H toward Glendale to 103°52′.

2710–C1–MP–73—Same (WOH60), 1.5 miles northwest of Glendale, Ill., latitude 41°54′24″ N., longitude 88°06′39″ W. M.P. to delete 6197.2V toward Elgin, Ill., and add 6197.2V toward Lily Lake, Ill., azimuth 284°07′.

2720–C1–P–73—United Video, Inc. (New), 0.5 mile north of High Ridge, Mo., latitude 38°-28′21″ N., longitude 90°32′18″ W. C.P. for a new station on frequency 6226.9H MHz toward Labadie, Mo.; frequency 6226.9H MHz toward St. Louis, Mo.

2721–C1–P–73—Same (New), 106 West 11th, Kansas City, Mo., latitude 39°06′04″ N., longitude 94°35′03″ W. C.P. for a new station on frequency 11,015.0V MHz toward Raytown, Mo.

2722–C1–P–73—United Video, Inc. (New), 2 miles south of Odessa, Mo., latitude 38°58′18″ N., longitude 93°57′03″ W. C.P. for a new station on frequency 5945.2H MHz toward Warrensburg, Mo.; frequency 5974.8H MHz toward Raytown, Mo.

2723–C1–P–73—Same (New), 6 miles east of Warrensburg, Mo., latitude 38°45′35″ N., longitude 93°37′39″ W. C.P. for a new station on frequency 6226.9H MHz toward Iola, Mo.; frequency 6197.2V MHz toward Odessa, Mo.

2724–C1–P–73—Same (New), 1 mile northwest of Ionia, Iola, Mo., latitude 38°33′48″ N., longitude 93°17′05″ W. C.P. for a new station on frequency 6034.2H MHz toward Warsaw, Mo.; frequency 5945.2V MHz toward Warrensburg, Mo.

2725–C1–P–73—Same (New), 3 miles east of Warsaw, Mo., latitude 38°14′17″ N., longitude 93°19′05″ W. C.P. for a new station on frequency 6286.2V MHz toward Urbana, Mo.; frequency 6226.9V MHz toward Iola, Mo.

2726–C1–P–73—Same (New), 3 miles northwest of Urbana, Mo., latitude 37°52′16″ N., longitude 93°11′25″ W. C.P. for a new station on frequency 6004.5H MHz toward Lebanon, Mo.; frequency 5974.8H MHz toward Warsaw, Mo.

2727–C1–P–73—Same (New), 2 miles south of Miami, Okla., latitude 36°50′12″ N., longitude 94°53′13″ W. C.P. for a new station on frequency 6034.2H MHz toward Centralia, Okla.; frequency 6004.5V MHz toward Joplin, Mo.

2728–C1–P–73—Same (New), 4 miles south of Centralia, Okla., latitude 36°44′28″ N., longitude 95°21′32″ W. C.P. for a new station on frequency 6286.2H MHz toward Nowata, Okla.; frequency 6197.2H MHz toward Miami, Okla.

2729–C1–P–73—Same (New), 2.5 miles north of Sand Springs, Okla., latitude 36°11′16″ N., longitude 96°06′06″ W. C.P. for a new station on frequency 6004.5V MHz toward Avant, Okla.

2731–C1–P–73—Southern Pacific Communications Co. (New), C.P. for a new fixed station to be located on Monte Bello Ridge, 3.5 miles west-southwest of Monta Vista, Calif., latitude 37°18′25″ N., longitude 122°07′40″ W., for frequency 6375.2H MHz on azimuth 344°15′ toward Oakland, frequency 11,665H MHz on azimuth 344°52′ toward Redwood City, and frequency 11,465H on azimuth 75°57′ toward San Jose.

2732–C1–P–73—Same (New), C.P. for a new fixed station to be located at Seventh and Bay Streets, Oakland, Calif., at latitude 37°48′26″ N., longitude 122°18′20″ W., for frequency 6123.1V MHz on azimuth 164°09′ toward Monte Bello Ridge.

2736–C1–P–73—Eastern Microwave, Inc. (KYZ74), Highland Lakes, 1.6 miles west-southwest of Highland Lakes, N.J., latitude 41°10′01′ N., longitude 74°30′12″ W. C.P. to add frequency 6360.3V MHz toward High Knob, Pa., on azimuth 286°02′.

2737–C1–P–73—Same (KYZ75), High Knob, 1.5 miles west of Pecks Pond, Pa., latitude 41°-18′00″ N., longitude 75°07′31″ W. C.P. to add frequency 6108.3V MHz toward Elk Hill, Pa., on azimuth 321°49′.

2738–C1–P–73—Same (KGO27), Elk Hill, 4.25 miles north of Dundaff, Pa., latitude 41°52′54″ N., longitude 75°33′42″ W. C.P. to add frequency 6360.3V MHz toward Ingraham Hill, N.Y., on azimuth 320°10′.

2739–C1–P–73—Same (KEM35), Ingraham Hill, 2.3 miles south of Binghamton, N.Y., latitude 42°03'43" N., longitude 75°57'03" W. C.P. to add frequency 10,815.0H MHz toward Binghamton, N.Y., on azimuth 36°00'.

Informative: Eastern proposes to transmit CATV originated programing to CATV systems serving Binghamton, N.Y. The program material will be provided by Columbia Cable Systems, Inc. A waiver of § 21.701(i) FCC rules is requested by Eastern.

2740–C1–P–73—Racom, Inc. (KYZ85), Mount Washington, N.H., latitude 44°16'13" N., longitude 71°18'13" W. C.P. to add frequency 5960.0V MHz toward Norway, Maine, on azimuth 96°45'.

Informative: Racom proposes to deliver the signal of WSBK–TV of Boston, Mass., to Nor-Par Cablevision in Norway-South Paris, Maine.

2741–C1–P–73—American Television & Communications Corp. (New), Orlando, Fla., latitude 28°36'25" N., longitude 81°19'35" W. C.P. for a new station—frequencies 6256.5H MHz and 6375.2H MHz toward Orange City, Fla., on azimuth 05°50'.

2742–C1–P–73—Same (New), 1 mile northeast of Orange City, Fla., latitude 28°58'08" N., longitude 81°16'32" W. C.P. for a new station—frequencies 5945.2H MHz and 6063.8H MHz toward Daytona Beach, Fla., latitude 29°08'55" N., longitude 80°59'50" W., on azimuth 53°37'.

Informative: ATC proposes to provide the signals of WTOG–TV and WCIX–TV of Tampa and Miami, Fla., respectively, to Halifax Cable TV, Inc., in Daytona Beach, Fla. A waiver of § 21.701(i) FCC rules is requested by ATC.

2743–C1–P–73—KHC Microwave Corp. (WDD97), 2.5 miles south of Labelle, Tex., latitude 29°50'25" N., longitude 94°09'41" W. C.P. to add frequency 6315.9V MHz toward Port Neches, Tex., on azimuth 55°18'.

2744–C1–P–73—KHC Microwave Corp. (WDE80), 2 miles east-southeast of Port Neches, Tex., latitude 29°58'45" N., longitude 93°55'50" W. C.P. (a) To add frequency 6152.8V MHz toward Cameron Farms, Tex., on azimuth 73°03', and (b) to add frequencies 5974.8H MHz, 6034.2H MHz, and 6152.8H MHz toward new point of communication at Port Arthur, Tex., latitude 29°56'16" N., longitude 93°56'23" W., on azimuth 190°55'.

2745–C1–P–73—Same (WDE81), Cameron Farms, 7 miles south-southeast of Venton, La., latitude 30°05'07" N., longitude 93°31'40" W. C.P. to add frequency 6404.8H MHz toward Lake Charles, La., on azimuth 71°21'.

Informative: KHC proposes: (a) To provide the signals of KVRL, KHTV, and KUHT, all of Houston, Tex., to Port Arthuf, Tex., and (b) to provide the signal of KVRL to LVO Cable, Inc., in Lake Charles, La. A waiver of § 21.701(i) FCC rules is requested by KHC.

2746–C1–P–73—American Television & Communications Corp. (New), Jackson, Miss., latitude 32°22'24" N., longitude 90°09'10" W. C.P. for a new station—frequency 5945.2H MHz toward Orange Hill, Miss., on azimuth 285°30'.

2747–C1–P–73—Same (New), 3 miles west-southwest of Orange Hill, Miss., latitude 32°-27'37" N., longitude 90°31'29" W. C.P. for a new station—frequency 6286.2H MHz toward Vicksburg and Yazoo City, Miss., on azimuths 247°01' and 18°17', respectively.

Informative: ATC proposes to provide the signal of WGNO–TV, New Orleans, La., to CATV systems serving Vicksburg and Yazoo City, Miss. A waiver of § 21.701(i) FCC rules is requested by ATC.

2748–C1–P–73—Mountain Microwave Corp. (KBI24), Methodist Mountain, 5.5 miles south of Salida, Colo., latitude 38°27'25" N., longitude 106°01'02" W.: C.P. to change polarity to vertical for frequencies 6260.0 MHz and 6360.0 MHz toward existing points of communication at Leadville, Salida, Monte Vista, and Alamosa, all in Colorado.

2733–C1–MP–73—Pacific Telatronics, Inc. (KPQ99), Soda Mountain, 13 miles southwest of Ashland, Oreg., latitude 42°03'54" N., longitude 122°28'39" W. Modification of C.P. to change transmitters and to increase output power to 3 watts on frequencies 6308.4H and 6412.2H MHz toward Haymaker Mountain, Oreg.; frequencies 6308.4V and 6412.2V MHz toward King Mountain, Oreg.

2734–C1–MP–73—Same (KPN74), King Mountain, 8 miles east of Wolf Creek, Oreg., latitude 42°41'49" N., longitude 123°13'39" W. Modification of C.P. to change transmitters and to increase power output to 3 watts on frequencies 6130.5H, 6264.7H, and 6382.6H MHz toward Grants Pass, Oreg.; frequencies 6130.5H, 6264.7H and 6382.6H MHz toward Medford, Oreg.; frequencies 6130.5H, 6264.7H, and 6382.6H MHz toward Mount Nebo, Oreg.; frequenices 6130.5V and 6011.9V MHz toward Harness Mountain, Oreg.; frequency 6264.7H MHz toward Soda Mountain, Oreg.

2735–C1–MP–73—Pacific Telatronics, Inc. (KPQ92), Harness Mountain, 19 miles south of Cottage Grove, Oreg., latitude 43°31'28" N., longitude 123°05'39" W. Modification of C.P. to change transmitters and to increase output power to 3 watts on frequencies 6412.2V and 6293.6V MHz toward Roman Nose Mountain, Oreg.; frequencies 6412.2V and 6293.6V MHz toward Blanton Heights, Oreg.

Major Amendments

Informative: Applicant, United Video, Inc., is amending previously filed applications for authority to construct new specialized common carrier stations in the States of Missouri and Oklahoma. The applications now being amended originally appeared on public notice on April 13, 1970, and March 15, 1971. Earlier amendments appeared on public notice on July 12, 1971. These amendments are submitted to enable the Commission to sever and separately process the applications covering the St. Louis-Kansas City-Tulsa segment of the proposed data system.

5768–C1–P–70—United Video, Inc. (New), St. Louis, Mo. Change proposed station location to Fourth and Pine, St. Louis, Mo., at latitude 38°37'34" N., longitude 90°11'17" W. Correct frequency and azimuth to 5974.8H MHz on azimuth 240°56' toward High Ridge, Mo. Delete frequency 6404.8V MHz on azimuth 269°44' and 6226.9H MHz on azimuth 339°06'.

4852–C1–P–71—Same (New), Labadie, Mo. Change proposed station location to 1 mile north of Gray Summit, Mo., at latitude 38°30'29" N., longitude 90°48'30" W. Correct frequencies and azimuths to 5945.2V MHz on azimuth 244°12' toward Union, Mo., and 6034.2V MHz on azimuth 99°26' toward High Ridge, Mo. Delete frequencies 6019.3V and 6137.9V MHz on azimuth 89°29' and 6271.4H and 6390.0H MHz on azimuth 242°00'.

4853–C1–P–71—Same (New), Union, Mo. Change proposed station location to 6 miles west of Union, Mo., at latitude 38°23'39" N., longitude 91°06'24" W. Correct frequencies and azimuths to 6375.2V MHz on azimuth 257°53' toward Belle, Mo., and 6286.2V MHz on azimuth 64°01' toward Labadie, Mo. Delete frequencies 5960.0H and 6078.6H MHz on azimuth 61°49' and 6019.3V and 6049.0H MHz on azimuth 257°53'.

4854–C1–P–71—Same (New), Belle, Mo. Change proposed station location to 2 miles east of Belle, Mo., at latitude 38°17'33" N., longitude 91°41'54" W. Correct frequencies and azimuths to 5945.2V MHz on azimuth 191°45' toward Rolla, Mo., and 6123.1V MHz on azimuth 77°31' toward Union, Mo. Delete frequencies 6301.0V and 6360.3V MHz on azimuth 77°31' and 6271.4H and 6330.7H MHz on azimuth 191°44'.

4855–C1–P–71—Same (New), Rolla, Mo. Change proposed station location to 1 mile north of Rolla, Mo., at latitude 37°57'56" N., longitude 91°47'03" W. Correct frequencies and azimuths to 6197.2V MHz on azimuth 248°24' toward Waynesville, Mo., and 6286.2H on azimuth 11°41' toward Belle, Mo. Delete frequencies 6049.0H and 6108.3H MHz on azimuth 11°41' and 5960.0V and 6019.3V MHz on azimuth 247°19'.

4856–C1–P–71—United Video, Inc. (New), Waynesville, Mo. Change proposed station location to 2 miles east of Waynesville, Mo., at latitude 37°49'20" N., longitude 92°14'16" W. Correct frequencies and azimuths to 5974.8V MHz on azimuth 253°40' toward Lebanon, Mo., and 5945.2V MHz on azimuth 68°07' toward Rolla, Mo. Delete frequencies 6241.7V and 6360.3V MHz on azimuths 67°04' and 6271.4V and 6330.7V MHz on azimuth 254°10'.

4857–C1–P–71—Same (New), Lebanon, Mo. Change proposed station location to 2 miles northwest of Lebanon, Mo., at latitude 37°42'39" N., longitude 92°42'43" W. Correct frequencies to 6286.2V MHz on azimuth 200°44' toward Marshfield, Mo.; 6197.2H on azimuth 293°02' toward Urbana, Mo.; and 6226.9V MHz on azimuth 73°22' toward Waynesville, Mo. Delete frequencies 6049.0H and 6108.3H MHz on azimuth 73°51' and 5989.7H and 6078.6H MHz on azimuth 200°44'.

Major Amendments—Continued

4858-C1-P-71—Same (New), Marshville, Mo. Change proposed station location to one-fourth mile south of Marshfield, Mo., at latitude 37°19'32" N., longitude 92°53'40" W. Correct frequencies to 6034.2H MHz on azimuth 243°34' toward Springfield, Mo., and 6152.8H MHz on azimuth 20°37' toward Lebanon, Mo. Delete frequencies 6241.7H and 6301.0H MHz on azimuth 20°37' and 6271.4V and 6301.0H MHz on azimuth 243°36'.

4859-C1-P-71—Same (New), Springfield, Mo. Change proposed station location to 2½ miles south of Springfield, Mo., at latitude 37°08'57" N., longitude 93°20'08" W. Correct frequencies to 6404.8V MHz on azimuth 275°44' toward Phelps, Mo., and 6286.2H MHz on azimuth 63°18' toward Marshfield, Mo. Delete frequencies 6049.0V and 5960.0V MHz on azimuth 243°36' and 6019.3V and 6078.6V MHz on azimuth 275°43'.

4860-C1-P-71—Same (New), station location: 7 miles north of Stotts City, Mo., at latitude 37°11'43" N., longitude 93°55'39" W. Correct frequencies to 6004.5H MHz on azimuth 245°05' toward Joplin, Mo., and 6004.5V MHz on azimuth 95°23' toward Springfield, Mo. Delete frequencies 6241.7V and 6360.3V MHz on azimuth 95°21' and 6301.0V and 6390.0V MHz on azimuth 257°20'.

5783-C1-P-70—Same (New), Raytown, Mo. Change proposed station location to 2 miles east of Raytown, Mo., at latitude 39°01'46" N., longitude 94°24'19" W. Correct frequencies to 6226.9H MHz on azimuth 99°07' toward Odessa, Mo., and 11,625.0V MHz on azimuth 297°15' toward Kansas City, Mo. Delete frequencies 6226.9H MHz on azimuth 025°42' toward Smithville, Mo., and 6315.9H MHz on azimuth 208°42' toward Paola, Kans.

5790-C1-P-70—Same (New), Joplin, Mo. Change proposed station location to 6 miles southeast of Joplin, Mo., at latitude 37°00'59" N., longitude 94°24'19" W. Correct frequencies to 6197.2V MHz on azimuth 245°13' toward Miami, Okla., and 6315.9V MHz on azimuth 64°48' toward Philps, Mo. Delete frequencies 5960.0V and 6049.0V MHz on azimuth 76°57'.

5800-C1-P-70—Same (New), Nowata, Okla. Change proposed station location to 6 miles southwest of Nowata, Okla., at latitude 36°39'25" N., longitude 95°44'38" W. Correct frequencies to 6093.5V MHz on azimuth 229°49' toward Avant, Okla., and 5945.2V MHz on azimuth 74°41' toward Centralia, Okla. Delete frequencies 6093.5V MHz on azimuth 39°05' and 6123.1V MHz on azimuth 195°07'.

5801-C1-P-70—Same (New), Avant, Okla. Change proposed station location to 4 miles south of Avant, Okla., at latitude 36°26'27" N., longitude 96°03'36" W. Correct frequencies to 6345.5V MHz on azimuth 187°36' toward Sand Springs, Okla., and 6197.2V MHz on azimuth 162°36'.

4536-C1-P-70—Southern Pacific Communications Co. (New), Newhall Street and S.P. right-of-way. Delete frequencies 10,775V and 10,935V, on azimuth 164°43'. Delete Loma Prieta as a point of communication. Add frequency 11,175H on azimuth 256°05' and path length 18.8 km. toward new point of communication, Monte Bello Ridge.

4537-C1-P-70—Same (New), Marsh Road and S.P. right-of-way, Redwood, Calif. Delete frequencies 5945.2H and 6063.8H MHz on azimuth 143°09'. Delete Loma Prieta as a point of communication. Add frequency 10,975H on azimuth 164°50' and path length 19.7 km. toward new point of communication, Monte Bello Ridge.

[FR Doc.72-18779 Filed 11-2-72;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON MANPOWER AND EMPLOYMENT

Notice of Meeting and Agenda

The regular fall meeting of the Business Research Advisory Council's Committee on Manpower and Employment will be held on November 15, 1972, at 9:30 a.m. in Room 3560, of the New York Regional Office, 1515 Broadway, New York, NY. Agenda for the meeting follows:

1. Transfer of Manpower Administration Programs to BLS.
2. Budget.
3. Establishment Statistics Program.
4. State Manpower Projections.
5. Labor Force Topics.

For further information call: Kenneth Van Auken—Executive Secretary—BRAC 202—961-2559.

Signed at Washington, D.C., this 30th day of October 1972.

GEOFFREY H. MOORE,
Commissioner of Labor Statistics.

[FR Doc.72-18871 Filed 11-2-72;8:52 am]

Occupational Safety and Health Administration

PPG INDUSTRIES, INC.

Grant of Variance

I. *Background.* On November 5, 1971, PPG Industries, Inc., 1 Gateway Center, Pittsburgh, PA 15222, made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596) and 29 CFR 1905.11, for a variance, and for an interim order pending a decision on the application for a variance, from the national consensus standard prescribed in 29 CFR 1910.145 (a) through (e), concerning specifications for accident prevention signs and tags. Notice of the application for variance made by PPG Industries, Inc., and of the granting of an interim order pending a decision on the application, was published in the FEDERAL REGISTER on March 10, 1972 (36 F.R. 5198). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were permitted to request a hearing on the application for a variance. One letter expressing an opinion on the matter has been received; no request for a hearing has been received.

II. *Facts.* The request for a variance is limited to the following addresses of manufacturing and research facilities which the applicant states are directly affected by the application:

GLASS DIVISION—MANUFACTURING AND FABRICATING PLANTS

AIRCRAFT AND SPECIALTY PRODUCTS

Works 22, Post Office Box 2200, Huntsville, AL 25801.
Works 23, Post Office Box 617, Creighton, PA 15030.

FABRICATING PLANTS

Works 1, Post Office Box 617, Creighton, PA 15030.
Works 25, Huff Avenue, Greensburg, PA 15601.
Works 26, Lincoln Highway, Crestline, OH 44827.
Works 27, Tipton, PA 16684.

PLATE, FLOAT, AND SPECIAL GLASS PLANTS

Works 5, 500 Third Avenue, Ford City, PA 16226.
Works 7, Post Office Box 1356, Cumberland, MD 21502.
Works 8, Post Office Box 800, Meadville, PA 16335.
Works 9, 26 Mississippi Avenue, Crystal City, MO 63019.
Works 21, 1119 North Kickapoo Street, Lincoln, IL 62656.

WINDOW GLASS PLANTS

Works 10, McLaughlin Road, Henryetta, OK 74437.
Works 11, Post Office Box 71, Mount Vernon, OH 43050.
Works 12, Post Office Box 1869, Clarksburg, WV 26301.
Works 14, Post Office Box R, Mount Zion, IL 62549.
Works 15, Post Office Box 2748, Fresno, CA 93745.

RESEARCH CENTER

Post Office Box 11472, Guys Run Road, Harmar Township, Pittsburgh, PA 15238.

ARCHITECTURAL METALS DEPARTMENT

Post Office Box 930, Kokomo, IN 46901.

DISTRIBUTION AND FABRICATION CENTERS

4841 Massachusetts Boulevard, College Park, GA 30337.
4850 South Kilbourn Avenue, Chicago, IL 60632.
1421 North Industrial Boulevard, Dallas, TX 75207.
Post Office Box 302, East Rutherford, NJ 07073.

COATINGS AND RESINS DIVISION

FACTORIES

1377 Oakleigh Drive, East Point, GA 30044.
3221 Frederick Avenue, Baltimore, MD 21229.
Post Office Box 457, Circleville, OH 43113.
3800 West 143d Street, Cleveland, OH 44111.
Pittsburgh Road, Delaware, OH 43015.
6621 Liberty Road, Post Office Box 1329, Houston, TX 77001.
235 East Pittsburgh Avenue, Milwaukee, WI 53201.
29 Riverside Avenue, Post Office Box 268, Newark, NJ 07101.
125 Colfax Street, Springdale, PA 15144.
465 Crenshaw Boulevard, Torrance, CA 90509.

RESEARCH AND DEVELOPMENT CENTER

Post Office Box 127, Springdale, PA 15144.

CHEMICAL DIVISION

FACTORIES

Post Office Box 31, Barberton, OH 44203.
Post Office Box 4026, Corpus Christi, TX 78408.
Box 1000, Lake Charles, LA 70604.
Post Office Box 191, New Martinsville, WV 26155.

COLUMBIA CEMENT COMPANY

Post Office Box 37, Bellingham, WA 98225.
Post Office Box 1531, Zanesville, OH 43701.

HOUSTON CHEMICAL COMPANY

Post Office Box 3785, Beaumont, TX 77704.

FIBER GLASS DIVISION

FACTORIES

Works 50, 240 Elizabeth Street, Shelbyville, IN 46176.
Works 52, Route No. 4, Shelby, NC 28150.
Works 53, Post Office Box 847, Lexington, NC 27292.

PPG states that in 1968 a professionally developed accident prevention sign program for use primarily in the Company's manufacturing and research facilities was initiated. Although the accident prevention sign program was based substantially on the specifications in ANSI Z35.1–1969, Specifications for Accident Prevention Signs (substantially the source of § 1910.145 (a) through (e)), PPG determined that in some categories they could be improved.

In support of its application PPG states that in developing its accident prevention sign program it corrected alleged deficiencies in ANSI Z35.1–1969 and 29 CFR 1910.145 (a) through (e). The differences which it seeks in the variance application are related principally to the format of the signs. PPG states that the sizes of their signs and letters will be calculated according to a formula based on the viewing distance from which the sign is to be read. PPG also states that its sign program, which is set out in the PPG Corporate Sign Manual Bulletin No. 25, copyright 1970, and attached to the application as appendix A, includes such changes as the use of 100 percent color surface, the use of reflective signs, both interior and exterior, when clear legibility is needed at night, and a simpler format to improve readability and effectiveness.

In the one letter which was received, a signage designer and director of a signage and graphic design group wholeheartedly supports the request by PPG for a variance. The signage designer comments that the changes proposed by PPG will achieve a higher degree of legibility.

III. *Decision.* The primary purpose of the standard from which the variance is sought is to indicate and to define specific hazards of a nature such that failure to designate them may lead to accidental injury to workers. PPG has demonstrated, with information which is uncontroverted, credible, and, in fact, supported by a sign specialist, that the proposed sign program will satisfy this purpose at least as effectively as a sign program which complies with the standard. The technical staff of the Office of Standards, which has examined the PPG Corporate Sign Manual Bulletin No. 25, also has recommended the sign program proposed by PPG on the ground that it would result in more effective accident prevention than would the signs based on the Federal standard. The differences which PPG seeks in the variance application are necessary to permit the implementation of its proposed sign program.

Many of the changes which PPG proposes to make go beyond the specifications set out in § 1910.145 (a) through (e). For example, it proposes the use of reflective signs, both interior and exterior, when clear legibility is needed at night, while there is no such requirement in the Federal standard. PPG's proposal to use a 100-percent color surface renders the sign less cluttered than if it followed the Federal standard which requires that only 35 percent of the sign surface be color-coated. While the PPG sign program calculates its sign and letter sizes by a formula based on viewing distance, the Federal standard makes no reference to viewing distance, nor does it limit the size of the message to be printed on a particular size sign. Consequently, the PPG sign format is simpler and less confusing to read and understand.

In conclusion, it appears from the PPG application, the PPG Corporate Sign Manual Bulletin No. 25, and other supporting data, that the methods of design, format, construction, and use of the PPG accident prevention signs will provide employment and places of employment as safe and as healthful as those which would prevail if PPG were to comply with the requirements of 29 CFR 1910.145 (a) through (e). Therefore:

IV. *Order. It is ordered,* Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 and in Secretary of Labor's Order No. 12–71 (36 F.R. 8754), that PPG Industries, Inc. be, and it is hereby authorized, to use the methods of design construction and format for accident prevention signs in accordance with the specifications set forth in its PPG Corporate Sign Manual Bulletin No. 25, attached to the application as appendix A, in lieu of the requirements set forth in § 1910.145 (a) through (e), and in accordance with the following conditions:

(1) All accident and prevention signs shall be designed, constructed, and utilized in accordance with the specifications described in the PPG Corporate Sign Manual Bulletin No. 25, copyright 1970, submitted with the application. The Bulletin will be maintained in the Office of Standards, U.S. Department of Labor, Railway Labor Building, Room 500, 400 First Street NW., Washington, DC 20210, for reference and inspection;

(2) All standard symbols, including the radiation symbol, the slow-moving vehicle emblem, and the biohazard symbol, prescribed in 29 CFR 1910.145 shall be used where required; and

(3) PPG Industries, Inc. shall give notice to affected employees of the terms of this variance by the same means required to be used to inform them of the application for the variance.

Effective date. This order shall become effective on November 2, 1972, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 30th day of October 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-18870 Filed 11-2-72;8:52 am]

Office of the Secretary

OTTO GOEDECKE, INC.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of September 15, 1972, the U.S. Tariff Commission made a report on the results of its investigation (TEA-W-150) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted by the Textile Workers Union of America (AFL-CIO) on behalf of workers formerly employed by Otto Goedecke, Inc., Hallettsville, Tex. In this report the Commission found that articles like or directly competitive with certain cotton yarns and plain-woven fabrics produced by Otto Goedecke, Inc. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause or threaten to cause unemployment of a significant number or proportion of the workers of such firm.

Upon receipt of the Tariff Commission's affirmative finding, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 37 F.R. 2472; 20137). In the recommendation she noted that imports like or directly competitive with certain cotton yarns and fabrics produced by Otto Goedecke, Inc., increased substantially. As a result, the corporation cut back production. Employment levels and hours worked began to decline in early 1969 and 1970 and continued despite efforts to remain competitive. Unemployment and underemployment directly related to import competition began in March 1969 and January 1970. All production at Otto Goedecke, Inc. and its affiliates ended in April and July 1970, and the plants were closed. After due consideration, I make the following certifications:

All workers, hourly and salaried, of Otto Goedecke, Inc., Hallettsville, Tex., who were not engaged in raw cotton merchandising and who became unemployed or underemployed after January 7, 1970, and before August 5, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

All hourly and salaried workers of Otto Goedecke, Inc.'s affiliate, Lone Star Textile Cuero plant, Cuero, Tex., who became unemployed or underemployed after January 3, 1970, and before June 22, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

All hourly and salaried workers of Otto Goedecke, Inc.'s affiliate, Lone Star Textile Mexia plant, Mexia, Tex., who became unemployed or underemployed after January 3, 1970, and before July 20, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

All hourly and salaried employees of Otto Goedecke, Inc.'s affiliate, Red River Cotton Mills, Bonham plant, Bonham, Tex., who became unemployed or underemployed after March 15, 1969, and before April 27, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C. this 31st day of October, 1972.

JOEL SEGALL,
Deputy Under Secretary, International Affairs.

[FR Doc.72-18872 Filed 11-2-72;8:52 am]

STATE UNEMPLOYMENT COMPENSATION LAWS

Certification of States

The unemployment compensation laws of the States listed below, having been certified pursuant to paragraph (3) of section 3303(b) of the Internal Revenue Code of 1954 (26 U.S.C. 3303(b)(3)) and each of the States so listed having been certified by me to the Secretary of the Treasury for the taxable 10-month period ending October 31, 1972, as provided in section 3304 of the Internal Revenue Code of 1954 (26 U.S.C. 3304) are hereby certified, pursuant to paragraph (1) of section 3303(b) of the Internal Revenue Code of 1954 (26 U.S.C. 3303(b)(1)), to the Secretary of the Treasury for the taxable 10-month period ending October 31, 1972.

Alabama.
Alaska.
Arizona.
Arkansas.
California.
Colorado.
Connecticut.
Delaware
District of Columbia.
Louisiana.
Maine.
Maryland.
Massachusetts.
Michigan.
Minnesota.
Mississippi.
Missouri.
Montana.
Nebraska.
Nevada.
New Hampshire.
New Jersey.
New Mexico.
New York.
North Carolina.
North Dakota.
Florida.
Georgia.
Hawaii.
Idaho.
Illinois.
Indiana.
Iowa.
Kansas.
Kentucky.
Ohio.
Oklahoma.
Oregon.
Pennsylvania.
Rhode Island.
South Carolina.
South Dakota.
Tennessee.
Texas.
Utah.
Vermont.
Virginia.
Washington.
West Virginia.
Wisconsin.
Wyoming.

J. D. HODGSON,
Secretary of Labor.

OCTOBER 31, 1972.

[FR Doc.72-18873 Filed 11-2-72;8:52 am]

STATE UNEMPLOYMENT COMPENSATION LAWS

Certification of States

Pursuant to section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)) the unemployment compensation laws of the following States have heretofore been approved:

Alabama.
Alaska.
Arizona.
Arkansas.
California.
Colorado.
Connecticut.
Delaware.
District of Columbia.
Florida.
Georgia.
Hawaii.
Idaho.
Illinois.
Indiana.
Iowa.
Kansas.
Kentucky.
Louisiana.
Maine.
Maryland.
Massachusetts.
Michigan.
Minnesota.
Mississippi.
Missouri.
Montana.
Nebraska.
Nevada.
New Hampshire.
New Jersey.
New Mexico.
New York.
North Carolina.
North Dakota.
Ohio.
Oklahoma.
Oregon.
Pennsylvania.
Puerto Rico.
Rhode Island.
South Carolina.
South Dakota.
Tennessee.
Texas.
Utah.
Vermont.
Virginia.
Washington.
West Virginia.
Wisconsin.
Wyoming.

In accordance with the provisions of section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)) I hereby certify the foregoing States to the Secretary of the Treasury for the taxable 10-month period ending October 31, 1972.

J. D. HODGSON,
Secretary of Labor.

OCTOBER 31, 1972.

[FR Doc.72-18874 Filed 11-2-72;8:52 am]

INTERSTATE COMMERCE COMMISSION

[Notice 108]

ASSIGNMENT OF HEARINGS

OCTOBER 31, 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. No amendments will be entertained after the date of this publication.

MC-117940 Sub 66, Nationwide Carriers, Inc., MC-135873 Sub 1, KSS Transportation Corp., now being assigned hearing January 29, 1973 (1 day), at New York, N.Y., in a hearing room later to be designated.

MC-133095 Sub 33, Texas Continental Express, Inc., now bein assigned hearing January 30, 1973 (1 day), at New York, N.Y., in a hearing room later to be designated.

MC-115841 Sub 435, Colonial Refrigerated Transportation, Inc., now being assigned hearing January 31, 1973 (1 day), at New York, N.Y., in a hearing room later to be designated.

MC-113678 Sub 464, Curtis, Inc., now being assigned hearing February 1, 1973 (1 day), at New York, N.Y., in a hearing room later to be designated.

MC-C-7284, B&H Transfer, Inc., revocation of certificate, now being assigned hearing February 2, 1973 (1 day), at New York, N.Y., in a hearing room later to be designated.

MC 51146 Sub 248, Schneider Transport, Inc., now being assigned hearing January 15, 1973 (1 day), at Chicago, Ill., in a hearing room later to be designated.

MC 133922 Sub 6, William H. Nagel, doing business as Nagel Trucking, now being assigned hearing January 16, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 126039 Sub 18, Morgan Transportation System, Inc., Intl., now being assigned hearing January 17, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 123048 Sub 219, Diamond Transportation System, Inc., now being assigned hearing January 18, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 136428, Evanston Bus Co., now being assigned January 22, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC 117119 Sub 448, Willis Shaw Frozen Express, Inc., MC 124211 Sub 215, Hilt Truck Line, Inc., now being assigned continued hearing January 15, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 61231 Sub 68, Ace Lines, Inc., now being assigned hearing January 17, 1973 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 127777 Sub 17, Mobile Home Express, Inc., now being assigned hearing January 22, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC-133095 Sub 28, Texas Continental Express, Inc., now assigned November 15, 1972, at Washington, D.C., is cancelled and application dismissed.

I & S 8762, Transit on Edible Oils in the Southwest, now assigned November 15, 1972, at Washington, D.C., hearing is cancelled.

MC 115841 Sub 411, Colonial Refrigerated Transportation, Inc., MC 117883 Sub 159, Subler Transfer, Inc., now being assigned hearing January 15, 1973 (2 weeks), at Chicago, Ill., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18856 Filed 11-2-72;8:51 am]

[Ex Parte 241; Rule 19, Second Rev. Exemption 22]

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO. ET AL.

Exemption From Mandatory Car Service Rules

It appearing, that there are substantial movements of grain and grain products moving in plain, 40-foot, narrow-door boxcars between points on the following railroads:

The Atchison, Topeka and Santa Fe Railway Co.
Chicago, Rock Island and Pacific Railroad Co.
Missouri Pacific Railroad Co.
St. Louis-San Francisco Railway Co.
Union Pacific Railroad Co.

and that unlimited exchange of such cars among these railroads will increase car utilization by reductions in switching and other movements of empty cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC R.E.R. No. 385, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches or less and equipped with doors less than 9-feet wide owned by any of the aforementioned railroads and located empty on such lines, may be loaded with grain or grain products, as defined herein, to stations located on any of the aforementioned railroads. When so loaded, such cars shall be exempt from the provisions of Car Service Rules 1 and 2.

The term grain and grain products shall comprise the commodities specifically named in lists 1, 2, 5, 6, 7, and 8 published in Western Trunk Lines Freight Tariff 330-U, ICC A-4797, issued by Fred Ofcky, supplements thereto, or consecutive issues thereof.

Effective October 31, 1972.

Expires November 30, 1972.

Issued at Washington, D.C., October 26, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.72-18864 Filed 11-2-72;8:51 am]

[Ex Parte 241; Rule 19, Exemption 15, Amdt. 1]

EXEMPTION FROM MANDATORY CAR SERVICE RULES

Extension of Expiration Date

Upon further consideration of Exemption No. 15 issued July 27, 1972.[1]

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 15 to the mandatory car service rules ordered in Ex Parte No. 241, be, and it is hereby, amended to expire December 31, 1972.

This amendment shall become effective October 31, 1972.

Issued at Washington, D.C., October 26, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.72-18863 Filed 11-2-72;8:51 am]

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[1] Published at 37 F.R. 15962, August 8, 1972.

[Rev. S.O. 994; Rev. ICC Order 71, Amdt. 7]

RAILROADS OPERATING IN MARYLAND, DELAWARE, PENNSYLVANIA, AND NEW YORK

Rerouting or Diversion of Traffic

Upon further consideration of Revised ICC Order No. 71 (railroads operating in the States of Maryland, Delaware, Pennsylvania, and New York) and good cause appearing therefor:

It is ordered, That:

Revised ICC Order No. 71 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 15, 1972, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., October 31, 1972, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 27, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.72-18862 Filed 11-2-72;8:51 am]

[Notice 150]

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 specficially 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-35451. By order of October 18, 1972, the Motor Carrier Board approved the lease to G. M. Brown & Sons, Inc., Caldwell, Idaho, of Certificate No. MC-21142 issued September 19, 1960, under a lease agreement for a period of 1 year, issued to Oliver Freel and Dale Freel, doing business as Freel Bros., Adrian, Oreg., authorizing transportation of: General commodities, with the usual exceptions, between Adrian, Oreg., and 25 miles, on the one hand, and, on the other, specified counties in Idaho. F. L. Sigloh & Associates, Post Office Box 7651, Boise, ID 83707.

No. MC-FC-73923. By order entered October 19, 1972, the Motor Carrier Board approved the transfer to City Transfer of Kent, Inc., Kent, Wash., of the operating rights set forth in Certificate No. MC-11565, issued January 22, 1953, as amended March 21, 1966, to J. M. Anderson, J. B. Anderson, N. M. Anderson, D. R. Anderson, and Betsy A. Blair, a partnership, doing business as City Transfer, Kent, Wash., authorizing the transportation of general commodities, with the usual exceptions, over specified routes, between Kent, Wash., on the one hand, and, on the other, Seattle, Wash.; household goods as defined by the Commission, between Kent, Wash., and points within 10 miles thereof, on the one hand, and, on the other, points in Oregon; and fruits and vegetables, from points in King County, Wash., to Portland, Hillsboro, and Salem, Oreg. George H. Hart, 1100 IBM Building, Seattle, Wash. 98101, attorney for applicants.

No. MC-FC-73963. By order entered October 19, 1972, the Motor Carrier Board approved the transfer to Carrollton Truck Line, Inc., Canton, Ohio, of the operating rights set forth in Certificates Nos. MC-33782 and MC-33782 (Sub-No. 1), issued December 7, 1951, and November 16, 1966, as corrected, authorizing the transportation of general commodities, with the usual exceptions, over specified routes, between specified points in Ohio. Richard H. Brandon, 79 East State Street, Columbus, OH 43215, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18860 Filed 11-2-72;8:51 am]

[Notice 151]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 31, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-74050. By application filed October 25, 1972, BAY STATE TRANSFER & STORAGE COMPANY, INC., 60

Haynes Circle, Chicopee, MA 01021, seeks temporary authority to lease the operating rights of J. J. SULLIVAN THE MOVER, INC., 350 Pasco Road, Indian Orchard, MA 01050, under section 210a(b). The transfer to BAY STATE TRANSFER & STORAGE COMPANY, INC., of the operating rights of J. J. SULLIVAN THE MOVER, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18858 Filed 11-2-72;8:51 am]

[Notice 152]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 31, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-74052. By application filed October 25, 1972, FLATT'S TRANSPORT, INC., 132 North Potter, Condon, OR 97823, seeks temporary authority to lease the operating rights of LUMBER TRANSPORT, INC., Post Office Box 5, John Day, OR 97845, under section 210a (b). The transfer to FLATT'S TRANSPORT, INC., of the operating rights of LUMBER TRANSPORT, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18857 Filed 11-2-72;8:51 am]

[Notice 153]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 31, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-74062. By application filed October 27, 1972, MALBA TRUCKING, INC., 9-10 38th Street, Long Island City, NY 11101, seeks temporary authority of the operating rights of STEEL HAULAGE CORPORATION, 31-35 Borden Avenue, Long Island City, NY 11101, under section 210a(b). The transfer to MALBA TRUCKING, INC., of the operating rights of STEEL HAULAGE CORPORATION, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18859 Filed 11-2-72;8:51 am]

[Notice 144]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 30, 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 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 94350 (Sub-No. 320 TA), filed October 16, 1972. Applicant: TRANSIT HOMES, INC., Post Office Box 1628, at Haywood Road and Transit Drive, Greenville, SC 29206. Applicants representative: Mitchell King, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, mounted on wheeled undercarriages with hitchball connectors, from points of manufacture, from Charlotte, N.C., to points in Virginia, West Virginia, Kentucky, Tennessee, South Carolina, Mississippi, Alabama, Georgia, and Florida, for 180 days. Supporting shipper: Modular Corporation of America, Post Office Box 2756, Charlotte, NC 28201. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 111401 (Sub-No. 374 TA), filed October 3, 1972. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Enid, OK 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn flour*, in bulk, in tank vehicles, from Atchison, Kans., to Mapleton, Ill., for 180 days. Supporting shipper: Lincoln Grain, Inc., Box 436, Atchison, KS 66002. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 124774 (Sub-No. 57 TA), filed October 16, 1972. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 3200 Highway 75 N., Post Office Box 536, Sioux City, IA 51101. Applicant's representative: Patrick E. Quinn, 300 NSEA Building, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from York, Nebr., to Miami, Fla., for 180 days. Supporting shipper: Sunflower Beef Packers, Inc., York, Nebr. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 126291 (Sub-No. 21 TA), filed October 2, 1972. Applicant: QUIRION TRANSPORT, INC., Notre Dame, Mailing: 4516 Laval, Lac Mégantic, PQ, Canada, La Guadeloupe, Frontenac County, Quebec, Canada. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* (veneer) from ports of entry on the international boundary lines between the United States and Canada located at New York and Michigan to Mount Clemens, Mich., restricted to traffic originating at points in Frontenac County, Quebec, for 180 days. Supporting shipper: Megantic Manufacturing Co., Lac Mégantic, Quebec. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

No. MC 127962 (Sub-No. 3 TA) (Correction), filed September 11, 1972, published in the FEDERAL REGISTER issue of September 30, 1972, corrected and republished as corrected this issue. Applicant: J. W. POOLE, INC., Box 408, Wytheville, VA 24382. Applicant's representative: Howard Haynes, Washington, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal threaded screws, bolts, nuts and wire,*

[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.

from Norfolk, Va., to Elk Creek, Va., under contract with American Screw Co., for 180 days. Supporting shipper: American Screw Co., Wytheville, Va. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, VA 24011. NOTE: The purpose of this republication is to show that the destination point of Elk Creek is in the State of Virginia.

No. MC 135533 (Sub-No. 2 TA), filed October 4, 1972. Applicant: TRANSPORTES INTERNACIONALES DE BAJA CALIFORNIA, S.A., Apartado Postal 120, Mexicali, Baja California, Mexico. Applicant's representative: David P. Chritianson, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt products*, from points in Los Angeles County, Calif., to points of entry at the California-Mexican international boundary at or near Calexico or San Ysidro, Calif., for 150 days. Supporting shipper: Petroleos Mexiconos, Av. Marina Nacional No. 39, Mexico 17, D. F. Send protests to: John E. Nance, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 136904 TA, filed September 26, 1972. Applicant: WORSTER-MICHIGAN, INC., 664 54th Avenue, Mattawan, MI 49071. Applicant's representative: Joseph F. Mackrell, 23 West Tenth Street, Post Office Box 216, Erie, PA 16512. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and other commodities such as birdseed or gravel, cuttlebone, animal feed, or food, fishfood and buffing or polishing compounds* as are dealt in by the R. T. French Co., except commodities in bulk, in tank vehicles, from Springfield, Mo., to points in Florida, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, for 180 days. Supporting shipper: The R. T. French Co., 1 Mustard Street, Rochester, NY 14609. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 225, Federal Building, Lansing, Mich. 48933.

No. MC 138075 TA, filed October 10, 1972. Applicant: ARNOLD KEMPER, doing business as KEMPER TRUCK LINE, Post Office Box 181, Melrose, MN 56352. Applicant's representative: Richard W. Greeman, 4725 Excelsior Boulevard, Minneapolis, MN 55416. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal or poultry feed and feed ingredients*, from Sheldon, Iowa, to Melrose, Minn., for 150 days. Supporting shipper: Melrose Feed Mill, Melrose, Minn. 56352. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 138075 (Sub-No. 1 TA), filed October 3, 1972. Applicant: ARNOLD KEMPER, doing business as KEMPER TRUCK LINE, Post Office Box 181, Melrose, MN 56352. Applicant's representative: Richard W. Greeman, 4725 Excelsior Boulevard, Minneapolis, MN 55416. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, Wis., to Melrose, Minn., for 180 days. Supporting shipper: Spaeth Distributing Co., Melrose, Minn. 56252. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 138112 TA, filed October 16, 1972. Applicant: FRANK D. CORBIN, 1313 Ambrose Drive, Bloomery Star Route, Box 32, Winchester, VA 22601. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, MD 20910. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, printed forms, materials, equipment and supplies* (except commodities in bulk), between Hagerstown, Md., Franklin, Pa., Chicago, Ill., and Gastonia, N.C., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, North Carolina, Tennessee, Virginia, Kentucky, West Virginia, Indiana, Ohio, Michigan, Illinois, and Wisconsin, for 180 days. Supporting shipper: Arnold Graphic Industries, Inc., Hagerstown, Md. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 138114 TA, filed October 16, 1972. Applicant: PRICE TRANSPORT CORPORATION, 1946 Davis Street, San Leandro, CA 94577. Applicant's representative: Myron F. Tower, 1535 East 14th Street, San Leandro, CA 94577. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal store fixtures and related accessories*, from Paso Robles, Calif., to all points in the United States, for 180 days. Supporting shipper: Syndicate Glass, Inc., 3230 Riverside Avenue, Paso Robles, CA 93446. Send protests to: A. J. Rodriguez, Rate and Tariff Specialist, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18861 Filed 11-2-72;8:51 am]

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FRIDAY, NOVEMBER 3, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 213

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 is set forth below general Area Wage Determination Decisions Nos. AP–29, AP–356, AP–440, and AP–441 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 Arkansas, Illinois, and 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 (37 F.R. 21138) 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 without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable determination together with any modifications issued subsequent to this date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and supersedeas decisions to area wage determination decisions. Modifications and supersedeas decisions to area wage determination decisions for specified localities in the States of Arizona, Arkansas, Delaware, District of Columbia, Florida, Illinois, Kentucky, Louisiana, Maryland, Montana, New York, Pennsylvania, Texas, and Virginia.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM–1,721	Aug. 11, 1971.
AM–451	Aug. 20, 1971.
AM–5,967; AM–5,968; AM–5,972; AM–5,973.	Dec. 17, 1971.
AM–6,710	Mar. 24, 1972
AM–11,416	Apr. 28, 1972.
AM–11,424	June 16, 1972.
AM–8,625	June 23, 1972.
AM–9,699	June 30, 1972.
AP–300	July 7, 1972.
AP–400	July 14, 1972.
AP–302; AP–303	July 28, 1972.
AP–409; AP–411	Aug. 4, 1972.
AP–8(AP–28)	Aug. 11, 1972.
AP–222; AP–311; AP–312	Aug. 18, 1972.
AP–313(AP–355); AP–314 (AP–354); AP–315(AP–353); AP–318.	Aug. 25, 1972.
AP–229; AP–230	Sept. 1, 1972.
AP–239; AP–240	Sept. 22, 1972.
AP–343; AP–350	Sept. 29, 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 (37 F.R. 21138) 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 and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, 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. 553 is set forth in the document being modified.

Signed at Washington, D.C., this 27th day of October 1972.

HORACE E. MENASCO,
Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Arkansas COUNTY: Pulaski
DECISION NO.: AP-356 DATE: Date of Publication
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos Workers	$6.25	.15				
Air Conditioning Mechanics	5.00					
Bricklayers	5.545					
Carpenters	4.59					
Carpenters' Helpers	3.32					
Cement Masons	4.525					
Electricians	5.09					
Electricians' Helpers	2.93					
Glaziers	5.41					
Glaziers' Helpers	3.00					
Ironworkers, reinforcing	3.50					
Laborers:						
Laborers	2.91					
Mason Tender-	3.01					
Painters, brush	4.00					
Plumbers & Pipefitters	5.69					
Plumbers & Pipefitters' Helpers	3.50					
Roofers	4.00					
Sheet Metal Workers	4.355					
Soft Floor Layers	4.00					
Stonemasons	3.90					
Tile Setters	4.61					
Tile Setters' Helpers	2.84					
Truck Drivers	3.00					
Power Equipment Operators:						
Asphalt Finisher	4.85					
Asphalt Raker	3.265					
Backhoe	4.00					
Blade Grader	4.00					
Bulldozer	4.50					
Forklift	4.40					
Front End Loader	4.50					
Motor Patrol	3.50					
Pump	4.10					
Roller	3.935					
Scraper	3.50					
Tractor	4.00					

NEW DECISION

STATE: Illinois COUNTY: Cook
DECISION NUMBER: AP-29 DATE: Date of Publication
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$8.25	.40	.275		.05	
Boilermakers	8.35	.50	.75	2%	.01	
Boilermakers' helpers	8.25	.50	.75	2%	.01	
Carpenters & Soft Floor Layers	8.30	.45	.625		.08	
Millwrights & Piledrivermen	8.30	.45	.625		.08	
Cement Masons:						
Building	8.90	.45	.35		.01	
Electricians	9.00	.41	.41	.39	.045	
Elevator constructors	8.75	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	6.125	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	7.65	.16	.25		.01	
Ironworkers:						
Structural & Reinforcing	9.32	.69	.84		.05	
Ornamental	9.375	.25	.325		.05	
Riggers, machinery movers	6.00	.25	.275		.05	
Lathers	8.39	.41	.345			
Leadburners	6.90	.30		c	.01	
Line construction:						
Linemen	8.50	4%	1%+3%	7½%	½%	
Linemen helpers	6.75	4%	1%+3%	7½%	½%	
Marble setters	8.20	.30				
Marble setters' helpers	7.30					
Painters:						
Brush, Decorators, paperhangers	7.75	.325	.20			
Sign & pictorial helper	4.935	.20	.10	d&e		
Sign & pictorial painters	5.685	.20	.10	d&e		
Plasterers	8.395	.40	.25		.045	
Pipefitters	9.00	.47	.50		.02	
Plumbers	9.27	.40	.30		.05	
Pointers, caulkers & cleaners	8.45	.45	.45			
Roofers:						
Composition & waterproofers	9.10	.30	.15		.02	
Slate & tile	8.72	.18	.15		.02	
Sheet metal workers	8.15	.35	.34		.01	
Sprinkler fitters	8.70	.16	.40		.09	
Survey Crew:						
Rodman	6.00	.40	.15			
Instrument man	7.15	.40	.15			
Terrazzo workers	7.50					
Terrazzo workers' helper & floor mach.	6.85					
Base machine operator	7.10					
Tile setters	8.15	.30-5/8	.42			
Tile setters' helpers	6.80	.30-5/8	.325			

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.	Other

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. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. One (1) week paid vacation after 1 year's employment; two (2) weeks after 3 years's; and 3 weeks after 10 years.

e. Holidays: A through F and the day after Thanksgiving, one-half day Christmas Eve & one-half day Good Friday.

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LABORERS:	Basic Hourly Rates	Fringe Benefit Payments: H & W	Pensions	Vacation	App. Tr.	Other
Building Laborers	$6.50	.47	.65			
Plasterers laborers	6.625	.47	.65			
Boiler setters Laborers	6.825	.47	.65			
Windlass, Cement gun nozzle laborers	6.65	.47	.65			
Chimney laborers (over40)	6.60	.47	.65			
Stone handlers, derrickmen	6.70	.47	.65			
Jackhammermen	6.725	.47	.65			
Caisson digger	6.85	.47	.65			
Scaffold laborers	6.60	.47	.65			
TUNNEL WORK, ROCK, CLAY & SUBWAY						
Dumpmen, top laborers	6.50	.47	.65			
Cage tenders, skinners, switchmen, truck layers	6.525	.47	.65			
Car pusher, conrete laborers, grout machine op., steel setters & tuggers grout laborers	6.625	.47	.65			
Signal men	6.65	.47	.65			
Pebble placer op., mortarmen muckers	6.725	.47	.65			
Air hoist op., bricklayers tender, cement (invert) laborer, concrete blower op., driller for blasting, dynamiters, erector ops., form men, lock tenders, miners, power knife op., jackhammermen, keyboard op.	6.85	.47	.65			
SEWER, DRAIN, WATER SERVICE:						
Common laborers, top laborers	6.50	.47	.65			
Concrete laborers & steel setters	6.625	.47	.65			
Cement carriers, cemnt mixers, mortar men, scaffoldmen, second bottom men	6.725	.47	.65			
Bottom men, bricklayers tenders, catch basin jiggers & rodders, form men, jackhammermen, pipelayers, well point system	6.85	.47	.65			
STREET PAVING, GRADE SEPARATION, PLANTING, GRADING AND LANDSCAPING:						
Laborers and helpers	6.50	.47	.65			
Form setters on pavement work, Jackhammermen (concrete)	6.775	.47	.65			
Rakers, lutemen, kettlemen, mixermen, frummen, jackhammermen (asphlat)	6.775	.47	.65			

ILLINOIS 12-PEO-1 G 1 of 2

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefit Payments: H & W	Pensions	Vacation	App. Tr.	Other
CLASS I						
Mechanic, Asphalt Plant, Asphalt Spreader, Autograde, Batch Plant, Benoto (Requires Two Engineers) Boiler & Throttle Valve, Caisson Rigs, Central Redi-Mix Plant, Combination Back Hoe Front Enloader Machine, Compressor & Throttle Valve, Concrete Breaker (Truck Mounted) Concrete Conveyor, Concrete Paver over 27E cu. ft. Concrete Paver 27E cu. ft. and under, Concrere Placer, Concrere Tower, Cranes, (all), Cranes Hammerhead, Derricks, (all), Derrocks. Traveling, Grader, Elevating Grouting Machines, Highlift Shovels or From Endloader 2½ yd. & over, Hoists, 1,2 and 3 Drum, Hoists, 2 Tugger one floor, Hydraulic Boom Trucks, Locomotives, (all) Motor Patrol, Piledrivers & Skid Rig, Post Hole Digger, Pre-Stress Machine, Pump Cretes: squeeze cretes-screw type pumps, Gypsum Bulker & pump, Rock Drill (Self-Propelled) Rock Drill (Truck Mounted) Scoops-Tractor Drawn-Slip Form Paver, Straddle Buggies, Tournapull, Tractor w/boom, & Side Boom, Trenching Machines.	$8.65	.30	.40	.20	.02
CLASS II						
Boilers, Bulldozers, Broom, All power Propelled, Concrete Mixer (2 Bag & over) Conveyor, Portable, Forklift trucks, Greaser Engineer, Highlift Shovels or From Endloaders under 2½yd., Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger Single Drum, Rollers, (all) Steam Generators Stone Crushers, Tractors (all) Winch Trucks with "A" Frame	7.60	.30	.40	.20	.02
CLASS III						
Air Compressor - small 125 & under (1 to 5 not to exceed a total of 300 Ft.), Air Compressor - large over 125 Combination - small equipment operator Generators - small 50w & under						

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POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefit Payments: H & W	Pensions	Vacation	Apprentice	Other
CLASS III (CONT'D)						
Generators - large over 30kw, Heaters, Mechanical, Pumps, over 3" (1 to 3 not to exceed a total of 300 ft.) Pumps, Well points, Welding Machines (2 through 5) Winches, 4 small electric drill winches	$6.80	.30	.40	.20	.02	
CLASS IV						
Oilers	5.75	.30	.40	.20	.02	

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CRANE OPERATORS:	BASIC HOURLY RATES	FRINGE BENEFIT PAYMENTS: H & W	PENSIONS	VACATION	HOLIDAY	APPRENTICE
4 & 6 wheel trucks, supply trucks (loading & unloading, truck crane 4 & 6 wheel batch, grease trucks, & dinky drivers	$5.60	a11.00	a12.50	b & c		
4 & 6 wheel trucks hauling over 20 tons, semi-trailer dump & semi flat bed	6.05	a11.00	a12.50	b & c		
Carry-alls & low boys	5.90	a11.00	a12.50	b & c		
Winch trucks, & "A" frames when used for transportation	5.70	a11.00	a12.50	b & c		
Fork lift & hoisters	6.00	a11.00	a12.50	b & c		
Power broom	5.80	a11.00	a12.50	b & c		
Driver & rear end man on slurry trucks	5.85	a11.00	a12.50	b & c		
Ready-mix concrete trucks hauling 9 yards or less	5.79	a11.00	a12.50	b & c		
Ready-mix concrete trucks hauling over 9 yards up to & including 13 yards	5.87	a11.00	a12.50	b & c		
Ready-mix concrete trucks hauling over 13 yards & ready-mix concrete semi-trailer trucks	5.92	a11.00	a12.50	b & c		

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-Per Week
b-One week paid vacation after one year of 1000 hours or more; two weeks paid vacation after 2 preceding consecutive years of 1000 hours or more; three weeks paid vacation after 11 preceding consecutive years of 1000 hours or more.
c-Six (6) Paid Holidays: A-B-C-D-E&F providing employee earned a vacation the previous year with the same employer and worked the scheduled work day before and after the holiday.

NEW DECISION

STATE: Virginia — The Cities of Norfolk, Chesapeake, Portsmouth and Virginia Beach

DECISION NUMBER: AP-440 — DATE: Date of Publication

DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories).

65-VA-Zone-1 U — 1 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.40	.30	.25			
Boilermakers	7.20	.40	.70		.01	
Bricklayers & stone masons	6.20	.20	.30		.02	
Bricklayers and stone masons on stack or chimneys 50' and over	6.45	.20	.30		.02	
Carpenters	5.65				.01	
Cement masons	4.95					
Cement masons, machine and scaffold men	5.05					
Electricians:						
Electricians	6.90	.25	1%		1%	
Cable splicers	6.15	.25	1%		1%	
Linemen	6.15	.25	1%		1%	
Elevator constructors	5.09	.145	.17	½+a+b	.005	
Elevator constructors' helpers	3.56	.145	.17	½+a+b	.005	
Elevator constructors' helpers (prob.)	2.545					
Glaziers	5.44	.06	.10		.01	
Ironworkers:						
Structural, ornamental, machinery movers, riggers & fence erectors and reinforcing	6.15	.30	.30		.03	
Laborers:						
Common	3.50	.10	.10		.03	
Tenders, concrete saw op., air tool, vibrator, nozzleman (gunnite & sandblasting) motorized buggy op.	3.60	.10	.10		.03	
Mortar mixers, hod carriers, pipelayer and/or caulkers	3.75	.10	.10		.03	
Burners on wrecking	3.85	.10	.10		.03	
Lathers	6.59		.25		.01	
Marble setters	5.00	.10	.20			
Marble setters' helpers	3.50	.10	.10		.03	
Millwirghts	6.90					
Painters:						
Brush and roller	5.20	.25	.20			
Structural steel from ground to 74 feet	5.70	.25	.20			
Spray	5.55	.25	.20			
Any work over 74 feet from the ground	6.50	.25	.20			
Bituminous coating & hot creosote	6.85	.25	.20			
Swing stage under 40 ft.	5.45	.25	.20			
Swing stage over 40 ft. up to 74 ft.	5.70	.25	.20			
Sandblasting	5.95	.25	.20			

65-VA-Zone-1 U — 2 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Piledrivermen & dock builders	$5.15					
Plasterers	6.80				.01	
Plumbers & Steamfitters	5.85	.40	.25		.03	
Roofers:						
Composition	4.10					
Helpers	2.95					
Sheet metal workers	5.90	.20	.20			
Soft floor layers	5.65				.01	
Sprinkler fitters	7.27	.30	.50		.05	
Terrazzo workers	5.00	.10	.20			
Floor grinders	3.65	.10	.10		.03	
Base grinders	3.65	.10	.10		.03	
Terrazzo workers' helpers	3.50	.10	.10		.03	
Tile setters	5.00	.10	.20			
Tile setters' helpers	3.50	.10	.10		.03	
Truck drivers	1.75					
Welders - recieve 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 contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.

b. Holidays: A through F.

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65-VA-PEO-1-C

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS:						
Mechanics	$3.90	.125			.03	
Compressors:						
Banks of 4 or more	3.90	.125			.03	
Larger than 125 cf	2.825	.125			.03	
Bulldozer	3.245	.125			.03	
Oilers	2.395	.125			.03	
Fireman	2.555	.125			.03	
Tunnel machine	3.865					
Cranes, cat or rubber mounted with or without attachments	3.90					
Derricks, piledrivers or other floating equipment, backhoe, pavers, hoist (more than 1 drum - active), welding machine, gas or diesel driven, (bank 4 or more)	3.775					
Cableways, tractors with attachments, highlifts, booms, motor patrol, motor grader, tournapulls and cobra, locomotives over 20 tons	3.32					
Pans, pupmcrete operator, trenching machine, mixer larger than 16-S	3.12					
Euclids, when manned by operator, tractor without attachments, hoist (1 drum - active), rollers asphalt, welding machine, gas or diesel driven, (1 or more, larger than 300 amps), locomotive - up to 20 tons, power plant operator, generator (1200 KW or larger) pumps (over 2 inches discharge including well points), A-frame trucks (with power driven winches) mechanics' helper	2.70					
Roller, earth	2.47					
Mixer- 16-S or smaller, bank of more than 2, deck engines	2.46					
Pumps (2 inches and under, bank or more than 4)	2.37					
Truck crane oiler	2.33					
Farm tractor	1.75					

NEW DECISION

STATE: Virginia
DECISION NUMBER: AP-441
COUNTY: Henrico County and the City of Richmond
DATE: Date of Publication
DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories).

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.93	.20	.10		.01	
Boilermakers	7.20	.40	.70		.01	
Bricklayers & stonemasons	6.05	.25	.20			
Carpenters	5.65				.01	
Cement Masons	5.02					
Machine men & scaffold men	5.12					
Scaffolds 30' & over	5.27					
Electricians, linemen and cable splicers:						
Zone 1 within City of Richmond	6.60	5%	1%		½ of 1%	
Zone 2 within 15 miles of Richmond	6.85	5%	1%		½ of 1%	
Zone 3 beyond 15 miles of Richmond	7.10	5%	1%		½ of 1%	
Elevator constructors	6.22	.195	.20	½%+a+b	.005	
Elevator constructors' helpers	4.35	.195	.20	½%+a+b	.005	
Elevator constructors' helpers (prob.)	3.11					
Glaziers	4.31	c				
Ironworkers, structural, ornamental and reinforcing:						
Zone I-Up to 10 miles from Capital Square	6.15	.25	.15		.05	
Zone II-10 miles to 30 miles from Capital Square	6.40	.25	.15		.05	
Zone III-30 miles and beyond Capital Square	6.65	.25	.15		.05	
Laborers:						
Common	3.50	.10	.10		.03	
Tenders, concrete saw operator, air tool vibrator, nozzlemen, (gunite & sandblasting) motorized buggy op.	3.60	.10	.10		.03	
Mortar mixers, hod carriers, pipelayers and/or caulkers	3.75	.10	.10		.03	
Burners on wrecking	3.85	.10	.10		.03	
Lathers	5.90		.10		.01	
Marble setters	4.25					
Marble setters & terrazzo workers' helpers	3.50	.10	.10		.03	
Millwrights	6.90					
Painters:						
Brush	4.65					
Structural steel	4.90					
Spray	5.15					
Piledrivermen & dock builders	5.15					
Plasterers	6.70					
Plumbers	6.75	.40	.20	.15		

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Roofers:						
Composition	$4.10					
Helpers	2.95					
Sheet metal workers:						
The City of Richmond	5.70	.15	.20		.005	
The Balance of County	5.90	.15	.20		.005	
Soft floor layers	5.65				.01	
Sprinkler fitters	7.27	.30	.50		.05	
Steamfitters	6.75	.40	.20	.15		
Terrazzo workers	4.25					
Tile setters	4.25					
Tile setters' helpers	3.50	.10	.10		.03	
Truck drivers	1.60					
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. Employers contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Employer contributes $6.20 per month to Health and Welfare.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS:						
Tunnel machines	$3.34					
Cranes, cats or rubber mounted with or without attachments, derricks, pile drivers or other floating equipment, compressors, bank air (4 or more regardless of motive power), pavers, mechanics (heavy duty), welding machines (gas or diesel driven, bank for or more), shovels, distributors	3.25					
Cableways, tractors with attachments, high lifts, booms motor patrols, motor graders, turnapulls, Cobra and Euclid scrapers, locomotives (over 20 tons)	2.87					
Bulldozers, pumpcrete op., trenching machines, mixers (larger than 16-S), pans	2.67					
Compressors (air, larger than 115 cu. ft.), truck Euclids (when manned by operator), tractors without attachments, hoists (1 drum active), rollers, asphalt, welding machines (gas or diesel driven, 1 or more larger than 300 amps), locomotives (up to 20 tons), power plant op., pumps (over 2" discharge including well Points), A-frame trucks (with power driven winches)	2.30					
Rollers (earth)	2.12					
Mixers (16-S or smaller, bank or more than 2), deck engines	2.11					
Firemen	2.08					
Truck crane oilers	1.98					
Oilers	1.92					
Blade grader	2.87					
Finishing machine	2.67					

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-222 - Mod. #3						
(37 FR 16744 - August 18, 1972)						
Cochise and Pima Counties, Arizona						
Change:						
PLUMBERS; STEAMFITTERS						
Zone I (0-15 miles from Tucson)	$7.74	.45	.70		.06	
Zone II (15-30 miles from Tucson)	8.04	.45	.70		.06	
Zone III (30-45 miles from Tucson)	8.39	.45	.70		.06	
Zone IV (45 miles & beyond Tucson)	9.49	.45	.70		.06	
DECISION #AM-6,710 - Mod. #2						
(37 FR 6124 - March 24, 1972)						
Pima County, Arizona						
Change:						
PLUMBERS; STEAMFITTERS						
Zone I (0-15 miles from Tucson)	$7.74	.45	.70		.06	
Zone II (15-30 miles from Tucson)	8.04	.45	.70		.06	
Zone III (30-45 miles from Tucson)	8.39	.45	.70		.06	
Zone IV (45 miles & beyond Tucson)	9.49	.45	.70		.06	
DECISION #AM-11,416 - Mod. #6						
(37 FR 8621 - April 28, 1972)						
Pulaski County, Arkansas						
Change:						
Electricians						
Electricians	$7.65		1%		½%	
Cable Splicers	7.775		1%		½%	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AM-9,699 - Mod. #4						
(37 FR 13023 - June 30, 1972)						
Statewide, Delaware						
Add:						
Tanks, sandblasting and spray	$7.44	.50	.15			
DECISION #AP-409 - Mod. #7						
(37 FR 15821 - August 4, 1972)						
Montgomery and Prince Georges Counties, Maryland; City of Alexandria, Virginia; Arlington and Fairfax Counties, Virginia and Dulles International Airport						
Change:						
Marble setters' helpers	$7.35					
Terrazzo & mosaic workers	8.10	e	.20			
Terrazzo workers' helpers	7.10	e	.20			
Tile setters	8.10	e	.20			
Tile setters' helpers	7.10	e	.20			
DECISION #AP-411 - Mod. #5						
(37 FR 15790 - August 4, 1972)						
Washington, D. C.						
Change:						
Marble setters' helpers	$7.35					
Terrazzo & mosaic workers	8.10	e	.20			
Terrazzo workers' helpers	7.10	e	.20			
Tile setters	8.10	e	.20			
Tile setters' helpers	7.10	e	.20			
Modification #4 37 FR 15799 October 20, 1972 to read: (37 FR 15790 - August 4, 1972)						

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AM-451 - Mod. #8 (36 FR 16367 - August 20, 1971) Brevard and Volusia Counties, Florida (Cape Kennedy, Kennedy Space Flight Center and Patrick Air Force Base only).						
Change: Modification #6 - 37 FR 21696 - October 13, 1972 to read Modification #7						
DECISION #AM-8,625 - Mod. #3 (37 FR 12471 - June 23, 1972) Boyd County, Kentucky						
Change: Modification #1 - 37 FR 21699 - October 13, 1972 to read Modification #2						

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AM-11,424 - Mod. #6 (37 FR 12038 - June 16, 1972) East Baton Rouge Parish, Louisiana						
Change:						
Electricians:						
Electricians	$7.75	.25	1% + .20		3/10%	
Cable Splicers	8.00	.25	1% + .20		3/10%	
DECISION #AP-300 - Mod. #5 (37 FR 13455 - July 7, 1972) Rapides Parish, Louisiana						
Change:						
Plasterers	$4.75				.01	
Asbestos Workers	7.325	.325	.30		.02	
DECISION #AP-302 - Mod. #5 (37 FR 15225 - July 28, 1972) Calcasieu Parish, Louisiana						
Change:						
Asbestos Workers	$7.325	.325	.30		.02	
Painters:						
Brush, wood or wall	5.70					
Brush, steel; Buffer, wood & wall	5.825					
Paperhanging; Taping & Floating	5.90					
Spray, wood & wall; Rollers	6.045					
Steeplejacks; Sandblasting; Spider Operators; Rubberizing & pyroflexing; Steam Jennies; Spray, steel	6.185					
Bridge Work; Water Towers	7.49					
Taping & Floating Machines	11.07					
DECISION #AP-303 - Mod. #5 (37 FR 15227 - July 28, 1972) Calcasieu Parish, Louisiana						
Change:						
Asbestos Workers	$7.325	.325	.30		.02	
Painters:						
Brush, wood or wall	5.70					
Brush, steel; Buffer, wood & wall	5.825					
Paperhanging; Taping & Floating	5.90					
Spray, wood & wall; Rollers	6.045					
Steeplejacks; Sandblasting; Spider Operators; Rubberizing & pyroflexing; Steam Jennies; Spray, steel	6.185					

DECISION #AP-303 (cont'd.)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Painters (cont'd.):						
Bridge Work; Water Towers	$7.49					
Taping & Floating Machines	11.07					
DECISION #AP-311 - Mod. #4						
(37 FR 16776 - August 18, 1972)						
Caddo & Bossier Parishes, Louisiana						
Change:						
Electricians:						
Electricians	$7.00	.35	1%		1%	
Cable Splicers	7.50	.35	1%		1%	
Glaziers	5.65					
Truck Drivers:						
Pickup Drivers; Spotters & Dumpers of dirt, gravel, asphalt & rock; Truck Helpers	4.27					
Stake Bodies; Flat Beds (all sizes)	4.35					
Single Axle Dumps & Water Trucks; Transit Mix, up to and including 3 yds.	4.60					
Tandem Axle Dumps; Batch & Water Trucks over 3 tons; Pickup Trucks with trailer	4.75					
Mississippi Wagons; Floats; Tractor Trailers; Rubber Tired Tractors and Wobble Wheels	4.90					
Euclids; Low-boys; Dempsey Dumpsters; Koering Dumps; Five Axle Trucks; Transit Mix over 3 yds.; Fuel Trucks	5.10					
Fork Lift	5.45					
DECISION #AP-318 - Mod. #3						
(37 FR 17306 - August 25, 1972)						
Caddo & Bossier Parishes, Louisiana						
Change:						
Electricians:						
Electricians	$7.00	.35	1%		1%	
Cable Splicers	7.50	.35	1%		1%	
Glaziers	5.65					

DECISION #AP-318 (cont'd.)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Truck Drivers:						
Pickup Drivers; Spotters & Dumpers of dirt, gravel, asphalt & rock; Truck Helpers	4.27					
Stake Bodies; Flat Beds (all sizes)	4.35					
Single Axle Dumps & Water Trucks; Transit Mix, up to and including 3 yds.	4.60					
Tandem Axle Dumps; Batch & Water Trucks over 3 tons; Pickup Trucks with trailer	4.75					
Mississippi Wagons; Floats; Tractor Trailers; Rubber Tired Tractors and Wobble Wheels	4.90					
Euclids; Low-boys; Dempsey Dumpsters; Koering Dumps; Five Axle Trucks; Transit Mix over 3 yds.; Fuel Trucks	5.10					
Fork Lift	5.45					

DECISION #AP-229 - Mod. #2
(37 FR 17940 - September 1, 1972)
Eastern Counties, Montana
Blaine-Carter-Custer-Daniels-Dawson-Fallon-Garfield-McCone-Petroleum-Phillips-Powder River-Prairie-Richland-Roosevelt-Sheridan-Valley-Wibaux

Change:

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
CRUSHER CONVEYOR; Farm type tractor, up to & incl. 50 HP engine; Grade setter	$6.33	.45	.45		.02
CRUSHER OILER & HELPER; Field equipment serviceman helper; Hot plant oiler, 100 ton per hr. or over; Mechanic and/or welder helper on job; Oiler other than shovels & cranes; Shovel oiler, 3 cy and under; Washing and screening plant oiler	6.36	.45	.45		.02
CONCRETE BATCH PLANT OILER, UP TO & INCL. 2 MIXERS	6.39	.45	.45		.02
AIR COMPRESSOR, SINGLE; Pumpman	6.40	.45	.45		.02
FARM TYPE TRACTOR, OVER 50 HP ENGINE; Herman Nelson heater & similar types	6.41	.45	.45		.02
CRANE OILER; Oiler-driver, rubber-tired cranes	6.44	.45	.45		.02
CONVEYOR LOADER, UP TO & INCL. 42" BELT	6.45	.45	.45		.02
BORING MACHINE, JEEP, PICKUP OR FARM TRACTOR MOUNTED; Concrete mixer, 3 bags & under; Fireman; Heavy duty drills, helper; Retort op.	6.46	.45	.45		.02
BROOM, SELF-PROPELLED	6.54	.45	.45		.02
AIR COMPRESSOR, 2 OR MORE; Belt finishing machine; Conveyor loader, over 42" belt; Roller, on other than hot mix oil, paving	6.57	.45	.45		.02
RUBBER-TIRED FRONTEND LOADER, 1 CY & UNDER	6.58	.45	.45		.02

DECISION #AP-229 (cont'd)

POWER EQUIPMENT OPERATORS' CONT'D:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
CHAIN BUCKET LOADER; Chip gravel spreader, self-propelled; DW 10, 15, 20 tractor pulling roller	6.59	.45	.45		.02	
CONCRETE MIXER, 4 BAGS & OVER	6.63	.45	.45		.02	
FORM GRADER; Hoist, single drum	6.64	.45	.45		.02	
CEMENT SILO	6.66	.45	.45		.02	
FORKLIFT, ON CONSTRUCTION SITE	6.68	.45	.45		.02	
CONCRETE BATCH PLANT OILER, 3 MIXERS AND OVER	6.70	.45	.45		.02	
A-FRAME TRUCK, CRANE, WINCH TRUCK AND SIMILAR	6.71	.45	.45		.02	
HYDRALIFT AND SIMILAR TYPES; Oiler, hoist house, dams; Whirley crane oiler	6.77	.45	.45		.02	
FIELD EQUIPMENT SERVICEMAN	6.79	.45	.45		.02	
AIR DOCTOR; Asphalt paving machine; Asphalt paving machine, screed; Bit grinder; Bitum, mixer paving, travel plant; Boring machine, large; Concrete batch plant, 1 and 2 mixers; Concrete finishing machine, paving; Concrete bucket dispatcher; Concrete curing machine; Concrete float and spreader; Concrete power saw, self-propelled; Concrete travel batcher; Crusher op.; Distributor; Elevating grader; Gradeall; Heavy duty drills, all types; Hoist, 2 or more drums; Hot plant op.; Hot plant fireman; Industrial locomotive, all types; Mountain logger or similar type; Mucking machine; Pavement breaker, Emsco and similar; Power auger large truck or tractor, mounted and punch; Power mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumpcrete or grout machine; Push tractor; Refrigerator plant; Roller, on blade or hot mix oil paving; Roller, 25 ton or over; Ross and similar type carriers on construction site; Rubber-tired dozer;						

POWER EQUIPMENT OPERATORS COVERED:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Rubber-tired frontend loader, over 1 cy to & incl. 3 cy; Scraper DW 15, 20, 21 & similar type if power unit is not used; Self-propelled sheeps foot & similar type; Shovels, incl. all attachments, under 1 cy; Track-type frontend loader, up to & incl. 5 cy; Track-type tractor with or without attachments; Trenching machine; Turnhead conveyor or head tower on batch plant; Wagner roller & similar type; Water pull when used for compaction; Washing and screening plant	6.87	.45	.45		.02	
MIXERMOBILE	6.95	.45	.45		.02	
MECHANIC AND/OR WELDER ON JOB	6.97	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 3 CY TO & INCL. 5 CY	6.99	.45	.45		.02	
AUTOMATIC FINEGRADER, GURRIES AND OTHER SIMILAR TYPES; Motor patrol; Paving mixing machine; Scraper, single engine; Slip form paver	7.00	.45	.45		.02	
CRANE, UP TO & INCL. 80' BOOM WITH JIB	7.03	.45	.45		.02	
ELECTRIC OVERHEAD CRANES; Shovels, incl. all attachments, 1 cy to & incl. 3 cy; Track-type tractor, on euclid loader	7.05	.45	.45		.02	
CONCRETE BATCH PLANT, 3 AND 4 MIXERS	7.07	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 5 cy TO & INCL. 10 cy	7.09	.45	.45		.02	
SCRAPER, TWIN ENGINE; Track-type frontend loader, over 5 cy to & incl. 10 cy	7.10	.45	.45		.02	
CENTRAL MIXING PLANTS, CONCRETE DAYS & STATIONARY	7.12	.45	.45		.02	
QUAD CAT	7.17	.45	.45		.02	
CRANE, 81' TO 130' BOOM	7.18	.45	.45		.02	

POWER EQUIPMENT OPERATORS COVERED:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
RUBBER-TIRED FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.19	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.20	.45	.45		.02	
CRANE, 131' TO 150' BOOM	7.23	.45	.45		.02	
SCRAPER, SINGLE OR TWIN ENGINE, PULLING BELLY DUMP TRAILER	7.25	.45	.45		.02	
CONCRETE BATCH PLANT, 5 MIXERS AND OVER	7.27	.45	.45		.02	
CRANE, 151' BOOM & OVER	7.28	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 15 CY (Factory rating not to include sideboards)	7.29	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 15 CY	7.30	.45	.45		.02	
SHOVEL, INCL. ALL ATTACHMENTS, OVER 3 CY TO & INCL. 5 CY; Stiff leg derrick and guy derrick	7.32	.45	.45		.02	
SCRAPER, TANDEM ENGINE	7.36	.45	.45		.02	
HELICOPTER HOIST	7.37	.45	.45		.02	
CABLEWAY HIGHLINE	7.38	.45	.45		.02	
WHIRLEY CRANE	7.40	.45	.45		.02	
SHOVELS, INCL. ALL ATTACHMENTS, OVER 5 cy	7.45	.45	.45		.02	

DECISION #AP-230 - Mod. #2 (37 FR 17945 - September 1, 1972)

MODIFICATIONS P. 11

Western Counties, Montana

Beaverhead-Big Horn-Broadwater-Carbon-Cascade-Chouteau-Deerlodge-Fergus-Flathead-Gallatin-Glacier-Golden Valley-Granite-Hill-Jefferson-Judith Basin-Lake-Lewis & Clark-Liberty-Lincoln-Madison-Meagher-Mineral-Missoula-Musselshell-Park-Pondera-Powell-Ravalli-Rosebud-Sanders-Silverbow-Stillwater-Sweetgrass-Teton-Toole-Treasure-Wheatland-Yellowstone

Change:

Power Equipment Operators: (Flathead-Lake-Lincoln-Mineral-Missoula-Ravalli-Sanders-Glacier National Park-Northern Half of Powell County)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CRUSHER CONVEYOR; Farm type tractor, up to & incl. 50 HP engine; Grade setter	$6.33	.45	.45		.02	
CRUSHER OILER & HELPER; Field equipment serviceman helper; Hot plant oiler, 100 ton per hr. or over; Mechanic and/or welder helper on job; Oiler other than shovels & cranes; Shovel oiler, 3 cy and under; Washing and screening plant oiler	6.36	.45	.45		.02	
CONCRETE BATCH PLANT OILER, UP TO & INCL. 2 MIXERS	6.39	.45	.45		.02	
AIR COMPRESSOR, SINGLE; Pumpman	6.40	.45	.45		.02	
FARM TYPE TRACTOR, OVER 50 HP ENGINE; Herman Nelson heater & similar types	6.41	.45	.45		.02	
CRANE OILER; Oiler-driver, rubber-tired cranes	6.44	.45	.45		.02	
CONVEYOR LOADER, UP TO & INCL. 42" BELT	6.45	.45	.45		.02	
BORING MACHINE, JEEP, PICKUP OR FARM TRACTOR MOUNTED; Concrete mixer, 3 bags & under; Fireman; Heavy duty drills, helper; Retort op.	6.46	.45	.45		.02	
BROOM, SELF-PROPELLED	6.54	.45	.45		.02	
AIR COMPRESSOR, 2 OR MORE; Belt finishing machine; Conveyor loader, over 42" belt; Roller, on other than hot mix oil, paving	6.57	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, 1 CY & UNDER	6.58	.45	.45		.02	

DECISION #AP-230 (cont'd)

MODIFICATIONS P. 12

POWER EQUIPMENT OPERATORS' CONT'D:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CHAIN BUCKET LOADER; Chip gravel spreader, self-propelled; DW 10, 15, 20 tractor pulling roller	6.59	.45	.45		.02	
CONCRETE MIXER, 4 BAGS & OVER	6.63	.45	.45		.02	
FORM GRADER; Hoist, single drum	6.64	.45	.45		.02	
CEMENT SILO	6.66	.45	.45		.02	
FORKLIFT, ON CONSTRUCTION SITE	6.68	.45	.45		.02	
CONCRETE BATCH PLANT OILER, 3 MIXERS AND OVER	6.70	.45	.45		.02	
A-FRAME TRUCK, CRANE, WINCH TRUCK AND SIMILAR	6.71	.45	.45		.02	
HYDRALIFT AND SIMILAR TYPES; Oiler, hoist house, dams; Whirley crane oiler	6.77	.45	.45		.02	
FIELD EQUIPMENT SERVICEMAN	6.79	.45	.45		.02	
AIR DOCTOR; Asphalt paving machine; Asphalt paving machine, screed; Bit grinder; Bitum, mixer paving, travel plant; Boring machine, large; Concrete batch plant, 1 and 2 mixers; Concrete finishing machine, paving; Concrete bucket dispatcher; Concrete curing machine; Concrete float and spreader; Concrete power saw, self-propelled; Concrete travel batcher; Crusher op.; Distributor; Elevating grader; Gradeall; Heavy duty drills, all types; Hoist, 2 or more drums; Hot plant op.; Hot plant fireman; Industrial locomotive, all types; Mountain logger or similar type; Mucking machine; Pavement breaker, Emsco and similar; Power auger large truck or tractor, mounted and punch; Power mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumpcrete or grout machine; Push tractor; Refrigerator plant; Roller, on blade or hot mix oil paving; Roller, 25 ton or over; Ross and similar type carriers on construction site; Rubber-tired dozer;						

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Rubber-tired frontend loader, over 1 cy to & incl. 3 cy; Scraper DW 15, 20, 21 & similar type if power unit is not used; Self-propelled sheeps foot & similar type; Shovels, incl. all attachments, under 1 cy; Track-type frontend loader, up to & incl. 5 cy; Track-type tractor with or without attachments; Trenching machine; Turnhead conveyor or head tower on batch plant; Wagner roller & similar type; Water pull when used for compaction; Washing and screening plant	6.87	.45	.45		.02	
MIXERMOBILE	6.95	.45	.45		.02	
MECHANIC AND/OR WELDER ON JOB	6.97	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 3 CY TO & INCL. 5 CY	6.99	.45	.45		.02	
AUTOMATIC FINEGRADER, GURPEES AND OTHER SIMILAR TYPES; Motor patrol; Paving mixing machine; Scraper, single engine; Slip form paver	7.00	.45	.45		.02	
CRANE, UP TO & INCL. 80' BOOM WITH JIB	7.03	.45	.45		.02	
ELECTRIC OVERHEAD CRANES; Shovels, incl. all attachments, 1 cy to & incl. 3 cy; Track-type tractor, on euclid loader	7.05	.45	.45		.02	
CONCRETE BATCH PLANT, 3 AND 4 MIXERS	7.07	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 5 cy TO & INCL. 10 cy	7.09	.45	.45		.02	
SCRAPER, TWIN ENGINE; Track-type frontend loader, over 5 cy to & incl. 10 cy	7.10	.45	.45		.02	
CENTRAL MIXING PLANTS, CONCRETE DAMS & STATIONARY	7.12	.45	.45		.02	
QUAD CAT	7.17	.45	.45		.02	
CRANE, 81' TO 130' BOOM	7.18	.45	.45		.02	

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
RUBBER-TIRED FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.19	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.20	.45	.45		.02	
CRANE, 131' TO 150' BOOM	7.23	.45	.45		.02	
SCRAPER, SINGLE OR TWIN ENGINE, PULLING BELLY DUMP TRAILER	7.25	.45	.45		.02	
CONCRETE BATCH PLANT, 5 MIXERS AND OVER	7.27	.45	.45		.02	
CRANE, 151' BOOM & OVER	7.28	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 15 CY (Factory rating not to include sideboards)	7.29	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 15 CY	7.30	.45	.45		.02	
SHOVEL, INCL. ALL ATTACHMENTS, OVER 3 CY TO & INCL. 5 CY; Stiff leg derrick and guy derrick	7.32	.45	.45		.02	
SCRAPER, TANDEM ENGINE	7.36	.45	.45		.02	
HELICOPTER HOIST	7.37	.45	.45		.02	
CABLEWAY HIGHLINE	7.38	.45	.45		.02	
WHIRLEY CRANE	7.40	.45	.45		.02	
SHOVELS, INCL. ALL ATTACHMENTS, OVER 5 CY	7.45	.45	.45		.02	

(Southern Half of Powell County and the remaining Counties)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
CRUSHER CONVEYOR; Farm type tractor, up to & incl. 50 HP engine; Grade setter	$6.33	.45	.45		.02	
CRUSHER OILER & HELPER; Field equipment serviceman helper; Hot plant oiler, 100 ton per hr. or over; Mechanic and/or welder helper on job; Oiler other than shovels & cranes; Shovel oiler, 3 cy and under; Washing and screening plant oiler	6.36	.45	.45		.02	
CONCRETE BATCH PLANT OILER, UP TO & INCL. 2 MIXERS	6.39	.45	.45		.02	
AIR COMPRESSOR, SINGLE; Pumpman	6.40	.45	.45		.02	
FARM TYPE TRACTOR, OVER 50 HP ENGINE; Herman Nelson heater & similar types	6.41	.45	.45		.02	
CRANE OILER; Oiler-driver, rubber-tired cranes	6.44	.45	.45		.02	
CONVEYOR LOADER, UP TO & INCL. 42" BELT	6.45	.45	.45		.02	
BORING MACHINE, JEEP, PICKUP OR FARM TRACTOR MOUNTED; Concrete mixer, 3 bags & under; Fireman; Heavy duty drills, helper; Retort op.	6.46	.45	.45		.02	
BROOM, SELF-PROPELLED	6.54	.45	.45		.02	
AIR COMPRESSOR, 2 OR MORE; Belt finishing machine; Conveyor loader, over 42" belt; Roller, on other than hot mix oil, paving	6.57	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, 1 CY & UNDER	6.58	.45	.45		.02	

POWER EQUIPMENT OPERATORS' CONT'D:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
CHAIN BUCKET LOADER; Chip gravel spreader, self-propelled; DW 10, 15, 20 tractor pulling roller	6.59	.45	.45		.02	
CONCRETE MIXER, 4 BAGS & OVER	6.63	.45	.45		.02	
FORM GRADER; Hoist, single drum	6.64	.45	.45		.02	
CEMENT SILO	6.66	.45	.45		.02	
FORKLIFT, ON CONSTRUCTION SITE	6.68	.45	.45		.02	
CONCRETE BATCH PLANT OILER, 3 MIXERS AND OVER	6.70	.45	.45		.02	
A-FRAME TRUCK, CRANE, WINCH TRUCK AND SIMILAR	6.71	.45	.45		.02	
HYDRALIFT AND SIMILAR TYPES; Oiler, hoist house, dams; Whirley crane oiler	6.77	.45	.45		.02	
FIELD EQUIPMENT SERVICEMAN	6.79	.45	.45		.02	
AIR DOCTOR; Asphalt paving machine; Asphalt paving machine, screed; Bit grinder; Bitum, mixer paving, travel plant; Boring machine, large; Concrete batch plant, 1 and 2 mixers; Concrete finishing machine, paving; Concrete bucket dispatcher; Concrete curing machine; Concrete float and spreader; Concrete power saw, self-propelled; Concrete travel batcher; Crusher op.; Distributor; Elevating grader; Gradeall; Heavy duty drills, all types; Hoist, 2 or more drums; Hot plant op.; Hot plant fireman; Industrial locomotive, all types; Mountain logger or similar type; Mucking machine; Pavement breaker, Emsco and similar; Power auger large truck or tractor, mounted and punch; Power mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumpcrete or grout machine; Push tractor; Refrigerator plant; Roller, on blade or not rix oil paving; Roller, 25 ton or over; Ross and similar type carriers on construction site; Rubber-tired dozer;						

POWER EQUIPMENT OPERATORS CONT'D:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Rubber-tired frontend loader, over 1 cy to & incl. 3 cy; Scraper DW 15, 20, 21 & similar type if power unit is not used; Self-propelled sheeps foot & similar type; Shovels, incl. all attachments, under 1 cy; Track-type frontend loader, up to & incl. 5 cy; Track-type tractor with or without attachments; Trenching machine; Turnhead conveyor or head tower on batch plant; Wagner roller & similar type; Water pull when used for compaction; Washing and screening plant	6.87	.45	.45		.02	
MIXERMOBILE	6.95	.45	.45		.02	
MECHANIC AND/OR WELDER ON JOB	6.97	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 3 CY TO & INCL. 5 CY	6.99	.45	.45		.02	
AUTOMATIC FINEGRADER, GURRIES AND OTHER SIMILAR TYPES; Motor patrol; Paving mixing machine; Scraper, single engine; Slip form paver	7.00	.45	.45		.02	
CRANE, UP TO & INCL. 80' BOOM WITH JIB	7.03	.45	.45		.02	
ELECTRIC OVERHEAD CRANES; Shovels, incl. all attachments, 1 cy to & incl. 3 cy; Track-type tractor, on euclid loader	7.05	.45	.45		.02	
CONCRETE BATCH PLANT, 3 AND 4 MIXERS	7.07	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 5 cy TO & INCL. 10 cy	7.09	.45	.45		.02	
SCRAPER, TWIN ENGINE; Track-type frontend loader, over 5 cy to & incl. 10 cy	7.10	.45	.45		.02	
CENTRAL MIXING PLANTS, CONCRETE DAMS & STATIONARY	7.12	.45	.45		.02	
QUAD CAT	7.17	.45	.45		.02	
CRANE, 81' TO 130' BOOM	7.18	.45	.45		.02	

POWER EQUIPMENT OPERATORS CONT'D:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
RUBBER-TIRED FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.19	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.20	.45	.45		.02	
CRANE, 131' TO 150' BOOM	7.23	.45	.45		.02	
SCRAPER, SINGLE OR TWIN ENGINE, PULLING BELLY DUMP TRAILER	7.25	.45	.45		.02	
CONCRETE BATCH PLANT, 5 MIXERS AND OVER	7.27	.45	.45		.02	
CRANE, 151' BOOM & OVER	7.28	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 15 CY (Factory rating not to include sideboards)	7.29	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 15 CY	7.30	.45	.45		.02	
SHOVEL, INCL. ALL ATTACHMENTS, OVER 3 CY TO & INCL. 5 CY; Stiff leg derrick and guy derrick	7.32	.45	.45		.02	
SCRAPER, TANDEM ENGINE	7.36	.45	.45		.02	
HELICOPTER HOIST	7.37	.45	.45		.02	
CABLEWAY HIGHLINE	7.38	.45	.45		.02	
WHIRLEY CRANE	7.40	.45	.45		.02	
SHOVELS, INCL. ALL ATTACHMENTS, OVER 5 CY	7.45	.45	.45		.02	

DECISION #AP-239 - Mod. #1 MODIFICATIONS P. 19
(37 FR 19909 - September 22, 1972)
Flathead and Missoula Counties, Montana

Change:

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CRUSHER CONVEYOR; Farm type tractor, up to & incl. 50 HP engine; Grade setter	$6.33	.45	.45		.02	
CRUSHER OILER & HELPER; Field equipment serviceman helper; Hot plant oiler, 100 ton per hr. or over; Mechanic and/or welder helper on job; Oiler other than shovels & cranes; Shovel oiler, 3 cy and under; Washing and screening plant oiler	6.36	.45	.45		.02	
CONCRETE BATCH PLANT OILER, UP TO & INCL. 2 MIXERS	6.39	.45	.45		.02	
AIR COMPRESSOR, SINGLE; Pumpman	6.40	.45	.45		.02	
FARM TYPE TRACTOR, OVER 50 HP ENGINE; Herman Nelson heater & similar types	6.41	.45	.45		.02	
CRANE OILER; Oiler-driver, rubber-tired cranes	6.44	.45	.45		.02	
CONVEYOR LOADER, UP TO & INCL. 42" BELT	6.45	.45	.45		.02	
BORING MACHINE, JEEP, PICKUP OR FARM TRACTOR MOUNTED; Concrete mixer, 3 bags & under; Fireman; Heavy duty drills, helper; Retort op.	6.46	.45	.45		.02	
BROOM, SELF-PROPELLED	6.54	.45	.45		.02	
AIR COMPRESSOR, 2 OR MORE; Belt finishing machine; Conveyor loader, over 42" belt; Roller, on other than hot mix oil, paving	6.57	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, 1 CY & UNDER	6.58	.45	.45		.02	

DECISION #AP-239 (cont'd) MODIFICATIONS P. 20

POWER EQUIPMENT OPERATORS' CONT'D:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CHAIN BUCKET LOADER; Chip gravel spreader, self-propelled; DW 10, 15, 20 tractor pulling roller	6.59	.45	.45		.02	
CONCRETE MIXER, 4 BAGS & OVER	6.63	.45	.45		.02	
FORM GRADER; Hoist, single drum	6.64	.45	.45		.02	
CEMENT SILO	6.66	.45	.45		.02	
FORKLIFT, ON CONSTRUCTION SITE	6.68	.45	.45		.02	
CONCRETE BATCH PLANT OILER, 3 MIXERS AND OVER	6.70	.45	.45		.02	
A-FRAME TRUCK, CRANE, WINCH TRUCK AND SIMILAR	6.71	.45	.45		.02	
HYDRALIFT AND SIMILAR TYPES; Oiler, hoist house, dams; Whirley crane oiler	6.77	.45	.45		.02	
FIELD EQUIPMENT SERVICEMAN	6.79	.45	.45		.02	
AIR DOCTOR; Asphalt paving machine; Asphalt paving machine, screed; Bit grinder; Bitum, mixer paving, travel plant; Boring machine, large; Concrete batch plant, 1 and 2 mixers; Concrete finishing machine, paving; Concrete bucket dispatcher; Concrete curing machine; Concrete float and spreader; Concrete power saw, self-propelled; Concrete travel batcher; Crusher op.; Distributor; Elevating grader; Gradeall; Heavy duty drills, all types; Hoist, 2 or more drums; Hot plant op.; Hot plant fireman; Industrial locomotive, all types; Mountain logger or similar type; Mucking machine; Pavement breaker, Emsco and similar; Power auger large truck or tractor, mounted and punch; Power mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumpcrete or grout machine; Push tractor; Refrigerator plant; Roller, on blade or hot mix oil paving; Roller, 25 ton or over; Ross and similar type carriers on construction site; Rubber-tired dozer;						

POWER EQUIPMENT OPERATORS COVERED:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Rubber-tired frontend loader, over 1 cy to & incl. 3 cy; Scraper DW 15, 20, 21 & similar type if power unit is not used; Self-propelled sheeps foot & similar type; Shovels, incl. all attachments, under 1 cy; Track-type frontend loader, up to & incl. 5 cy; Track-type tractor with or without attachments; Trenching machine; Turnhead conveyor or head tower on batch plant; Wagner roller & similar type; Water pull when used for compaction; Washing and screening plant	6.87	.45	.45		.02	
MIXERMOBILE	6.95	.45	.45		.02	
MECHANIC AND/OR WELDER ON JOB	6.97	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 3 CY TO & INCL. 5 CY	6.99	.45	.45		.02	
AUTOMATIC FINEGRADER, GURRIES AND OTHER SIMILAR TYPES; Motor patrol; Paving mixing machine; Scraper, single engine; Slip form paver	7.00	.45	.45		.02	
CRANE, UP TO & INCL. 80' BOOM WITH JIB	7.03	.45	.45		.02	
ELECTRIC OVERHEAD CRANES; Shovels, incl. all attachments, 1 cy to & incl. 3 cy; Track-type tractor, on euclid loader	7.05	.45	.45		.02	
CONCRETE BATCH PLANT, 3 AND 4 MIXERS	7.07	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 5 cy TO & INCL. 10 cy	7.09	.45	.45		.02	
SCRAPER, TWIN ENGINE; Track-type frontend loader, over 5 cy to & incl. 10 cy	7.10	.45	.45		.02	
CENTRAL MIXING PLANTS, CONCRETE DAMS & STATIONARY	7.12	.45	.45		.02	
QUAD CAT	7.17	.45	.45		.02	
CRANE, 81' TO 130' BOOM	7.18	.45	.45		.02	

POWER EQUIPMENT OPERATORS COVERED:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
RUBBER-TIRED FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.19	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.20	.45	.45		.02	
CRANE, 131' TO 150' BOOM	7.23	.45	.45		.02	
SCRAPER, SINGLE OR TWIN ENGINE, PULLING BELLY DUMP TRAILER	7.25	.45	.45		.02	
CONCRETE BATCH PLANT, 5 MIXERS AND OVER	7.27	.45	.45		.02	
CRANE, 151' BOOM & OVER	7.28	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 15 CY (Factory rating not to include sideboards)	7.29	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 15 CY	7.30	.45	.45		.02	
SHOVEL, INCL. ALL ATTACHMENTS, OVER 3 CY TO & INCL. 5 CY; Stiff leg derrick and guy derrick	7.32	.45	.45		.02	
SCRAPER, TANDEM ENGINE	7.36	.45	.45		.02	
HELICOPTER HOIST	7.37	.45	.45		.02	
CABLEWAY HIGHLINE	7.38	.45	.45		.02	
WHIRLEY CRANE	7.40	.45	.45		.02	
SHOVELS, INCL. ALL ATTACHMENTS, OVER 5 CY	7.45	.45	.45		.02	

DECISION #AP-240 - Mod. #1 MODIFICATIONS P. 23
(37 FR 19912 - September 22, 1972)
Gallatin and Lewis & Clark
Counties, Montana

Change:

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
CRUSHER CONVEYOR; Farm type tractor, up to & incl. 50 HP engine; Grade setter	$6.33	.45	.45		.02	
CRUSHER OILER & HELPER; Field equipment serviceman helper; Hot plant oiler, 100 ton per hr. or over; Mechanic and/or welder helper on job; Oiler other than shovels & cranes; Shovel oiler, 3 cy and under; Washing and screening plant oiler	6.36	.45	.45		.02	
CONCRETE BATCH PLANT OILER, UP TO & INCL. 2 MIXERS	6.39	.45	.45		.02	
AIR COMPRESSOR, SINGLE; Pumpman	6.40	.45	.45		.02	
FARM TYPE TRACTOR, OVER 50 HP ENGINE; Herman Nelson heater & similar types.	6.41	.45	.45		.02	
CRANE OILER; Oiler-driver, rubber-tired cranes	6.44	.45	.45		.02	
CONVEYOR LOADER, UP TO & INCL. 42" BELT	6.45	.45	.45		.02	
BORING MACHINE, JEEP, PICKUP OR FARM TRACTOR MOUNTED; Concrete mixer, 3 bags & under; Fireman; Heavy duty drills, helper; Retort op.	6.46	.45	.45		.02	
BROOM, SELF-PROPELLED	6.54	.45	.45		.02	
AIR COMPRESSOR, 2 OR MORE; Belt finishing machine; Conveyor loader, over 42" belt; Roller, on other than hot mix oil, paving	6.57	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, 1 CY & UNDER	6.58	.45	.45		.02	

DECISION #AP-240 (cont'd) MODIFICATIONS P. 24

POWER EQUIPMENT OPERATORS (cont'd):	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
CHAIN BUCKET LOADER; Chip gravel spreader, self-propelled; DW 10, 15, 20 tractor pulling roller	6.59	.45	.45		.02	
CONCRETE MIXER, 4 BAGS & OVER	6.63	.45	.45		.02	
FORM GRADER; Hoist, single drum	6.64	.45	.45		.02	
CEMENT SILO	6.66	.45	.45		.02	
FORKLIFT, ON CONSTRUCTION SITE	6.68	.45	.45		.02	
CONCRETE BATCH PLANT OILER, 3 MIXERS AND OVER	6.70	.45	.45		.02	
A-FRAME TRUCK, CRANE, WINCH TRUCK AND SIMILAR	6.71	.45	.45		.02	
HYDRALIFT AND SIMILAR TYPES; Oiler, hoist house, dams; Whirley crane oiler	6.77	.45	.45		.02	
FIELD EQUIPMENT SERVICEMAN	6.79	.45	.45		.02	
AIR DOCTOR; Asphalt paving machine; Asphalt paving machine, screed; Bit grinder; Bitum, mixer paving, travel plant; Boring machine, large; Concrete batch plant, 1 and 2 mixers; Concrete finishing machine, paving; Concrete bucket dispatcher; Concrete curing machine; Concrete float and spreader; Concrete power saw, self-propelled; Concrete travel batcher; Crusher op.; Distributor; Elevating grader; Gradeall; Heavy duty drills, all types; Hoist, 2 or more drums; Hot plant op.; Hot plant fireman; Industrial locomotive, all types; Mountain logger or similar type; Mucking machine; Pavement breaker, Emsco and similar; Power auger large truck or tractor, mounted and punch; Power mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumpcrete or grout machine; Push tractor; Refrigerator plant; Roller, on blade or hot mix oil paving; Roller, 25 ton or over; Ross and similar type carriers on construction site; Rubber-tired dozer;						

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Rubber-tired frontend loader, over 1 cy to & incl. 3 cy; Scraper DW 15, 20, 21 & similar type if power unit is not used; Self-propelled sheeps foot & similar type; Shovels, incl. all attachments, under 1 cy; Track-type frontend loader, up to & incl. 5 cy; Track-type tractor with or without attachments; Trenching machine; Turnhead conveyor or head tower on batch plant; Wagner roller & similar type; Water pull when used for compaction; Washing and screening plant	6.67	.45	.45		.02	
MIXERMOBILE	6.95	.45	.45		.02	
MECHANIC AND/OR WELDER ON JOB	6.97	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 3 CY TO & INCL. 5 CY	6.99	.45	.45		.02	
AUTOMATIC FINEGRADER, GURKIES AND OTHER SIMILAR TYPES; Motor patrol; Paving mixing machine; Scraper, single engine; Slip form paver	7.00	.45	.45		.02	
CRANE, UP TO & INCL. 80' BOOM WITH JIB	7.03	.45	.45		.02	
ELECTRIC OVERHEAD CRANES; Shovels, incl. all attachments, 1 cy to & incl. 3 cy; Track-type tractor, on euclid loader	7.05	.45	.45		.02	
CONCRETE BATCH PLANT, 3 AND 4 MIXERS	7.07	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 5 cy TO & INCL. 10 cy	7.09	.45	.45		.02	
SCRAPER, TWIN ENGINE; Track-type frontend loader, over 5 cy to & incl. 10 cy	7.10	.45	.45		.02	
CENTRAL MIXING PLANTS, CONCRETE DAMS & STATIONARY	7.12	.45	.45		.02	
QUAD CAT	7.17	.45	.45		.02	
CRANE, 81' TO 130' BOOM	7.18	.45	.45		.02	

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
RUBBER-TIRED FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.19	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.20	.45	.45		.02	
CRANE, 131' TO 150' BOOM	7.23	.45	.45		.02	
SCRAPER, SINGLE OR TWIN ENGINE, PULLING BELLY DUMP TRAILER	7.25	.45	.45		.02	
CONCRETE BATCH PLANT, 5 MIXERS AND OVER	7.27	.45	.45		.02	
CRANE, 151' BOOM & OVER	7.28	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 15 CY (Factory rating not to include sideboards)	7.29	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 15 CY	7.30	.45	.45		.02	
SHOVEL, INCL. ALL ATTACHMENTS, OVER 3 CY TO & INCL. 5 CY; Stiff leg derrick and guy derrick	7.32	.45	.45		.02	
SCRAPER, TANDEM ENGINE	7.36	.45	.45		.02	
HELICOPTER HOIST	7.37	.45	.45		.02	
CABLEWAY HIGHLINE	7.38	.45	.45		.02	
WHIRLEY CRANE	7.40	.45	.45		.02	
SHOVELS, INCL. ALL ATTACHMENTS, OVER 5 CY	7.45	.45	.45		.02	

DECISION #AM-1,721 - Mod. #5
(36 FR 14908 - August 11, 1971
Bronx, Kings, Queens and Richmond Counties, New York

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Change:						
Building, Heavy and Highway Construction:						
Bricklayers	$8.45	.70	2.05	.30		
Electricians & Linemen	9.43	u	1%+a	v+b		
Plasterers' helpers (Queens)	7.05	1.10		1.15		
Plasterers:						
Kings	7.55	.85		1.35	.01	
Queens	7.55	i			.01	
Bronx-NY-Richmond	7.55	.85	.60	.90	.01	
Painters:						
Structural steel	7.50	8%	11%			
Structural steel spray	8.50	8%	11%			

Footnotes:
a. Employer contributes $.86 per hour to an annuity fund.
i. Employer contributes $2.35 per hour to a combined Welfare, Pension & Vacation fund.
u. Employer contributes $.66 per hour to a combined Welfare and Pension fund.
v. Employer contribution of $.47 per hour to a vacation fund.

DECISION #AP-400 - Mod. #1
(37 FR 13913 - July 14, 1972)
Bronx, Kings, Queens and Richmond Counties, New York

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Change:						
Residential Construction:						
Bricklayers	$8.45	.70	2.05	.30		
Electricians & Linemen	9.43	u	1%+a	v+b		
Plasterers' helpers (Queens)	7.05	1.10		1.15		
Plasterers:						
Kings	7.55	.85		1.35	.01	
Queens	7.55	i			.01	
Bronx-NY-Richmond	7.55	.85	.60	.90	.01	
Painters:						
Structural steel	7.50	8%	11%			
Structural steel spray	8.50	8%	11%			

Footnotes:
a. Employer contributes $.86 per hour to an annuity fund.
i. Employer contributes $2.35 per hour to a combined Welfare, Pension & Vacation fund.
u. Employer contributes $.66 per hour to a combined Welfare and Pension fund.
v. Employer contribution of $.47 per hour to a vacation fund.

DECISION #AM-5,967 - Mod. #4
(36 FR 24027 - December 17, 1971)
Bedford, Cameron, Clarion, Clinton, Elk, Forest, Fulton, Huntington, Mifflin and Potter Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Change:						
Carpenters	$6.76	6%	3%			
Cement masons	7.05	.423	.705			

DECISION #AM-5,968 - Mod. #6
(36 FR 24028 - December 17, 1971)
Armstrong, Blair, Crawford, Indiana, McKean, Venango, and Warren Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Change:						
Carpenters by counties:						
Armstrong	7.11	6%	3%			
Blair, Crawford, Indiana, McKean, Venango and Warren	6.76	6%	3%			
Cement masons	7.05	.423	.705			

DECISION #AM-5,969 - Mod. #5
(37 FR 244 - January 7, 1972)
Centre, Clearfield, Jefferson and Green Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Change:						
Carpenters by counties:						
Centre, Clearfield and Jefferson	6.76	6%	3%			
Green	7.11	6%	3%			
Cement masons	7.05	.423	.705			

DECISION #AM-5,972 - Mod. #6
(36 FR 24031 - December 17, 1971)
Beaver County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Change:						
Cement masons	7.05	.423	.705			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-3,973 - Mod. #4						
(36 FR 24032 - December 17, 1971)						
Butler, Cambria, Fayette, and Somerset Counties, Pennsylvania						
Change:						
Carpenters by counties:						
Butler, Washington and Westmoreland	$7.46	6%	3%			
Cambria and Somerset	6.76	6%	3%			
Lawrence, Fayette, Mercer and Erie	7.11	6%	3%			
Cement masons	7.05	.423	.705			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-312 - Mod. #7						
(37 FR 16716 - August 18, 1972)						
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas						
Change:						
Building Construction:						
Laborers:						
Unskilled:						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman & Wheeler Cos.	$3.50					
Air tool operator (jackhammer, vibrator):						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman & Wheeler Cos.	3.65					
Mason tenders:						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman & Wheeler Cos.	3.65					
Mortar mixers:						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman & Wheeler Cos.	3.65					
Pipelayers (non-metallic):						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman & Wheeler Cos.	3.65					
Plasterers' tenders:						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman & Wheeler Cos.	3.65					

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-343 - Mod. #4 (37 FR 20488 - September 29, 1972) Bexar County, Texas						
Change: Building Construction: Plumbers - Pipefitters	$7.18	.25	.30		.10	
Change Modification #2 to Read Decision #AP-343						
DECISION #AP-350 - Mod. #4 (37 FR 20506 - September 29, 1972) Harris County, Texas						
Change: Building Construction: Carpenters: Piledrivermen	6.66	.40	.30			

SUPERSEDEAS DECISION

STATE: Illinois COUNTY: Cook
DECISION NUMBER: AP-28 DATE: Date of Publication
Supersedes Decision No. AP-8 dated August 11, 1972 in 37 FR 16321
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	$8.25	.40	.275		.05	
Boilermakers	8.35	.50	.75	2%	.01	
Boilermakers' helpers	8.25	.50	.75	2%	.01	
Carpenters - (Bldg., Heavy & Highway)						
Carpenters & Soft Floor Layers	8.30	.45	.625		.08	
Millwrights & Piledrivermen	8.30	.45	.625		.08	
Cement Masons:						
Building	8.90	.45	.35		.01	
Heavy & Highway	8.90	.45	.35	.10	.01	
Electricians	9.00	.41	.41	.39	.045	
Elevator constructors	8.75	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	6.125	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	7.65	.16	.25		.01	
Ironworkers:						
Structural & Reinforcing	9.32	.69	.84		.05	
Ornamental	9.375	.25	.325		.05	
Riggers, machinery movers	6.00	.25	.275		.05	
Lathers	8.39	.41	.345			
Leadburners	6.90	.30		c	.01	
Line construction:						
Linemen	8.50	4%	1%+3%	7½%	½%	
Linemen helpers	6.75	4%	1%+3%	7½%	½%	
Marble setters	8.20	.30				
Marble setters' helpers	7.30					
Painters:						
Brush, Decorators, paperhangers	7.75	.325	.20			
Sign & pictorial helper	4.935	.20	.10	d&e		
Sign & pictorial painters	5.685	.20	.10	d&e		
Plasterers	8.395	.40	.25		.045	
Pipefitters	9.00	.47	.50		.02	
Plumbers	9.27	.40	.30		.05	
Pointers, caulkers & cleaners	8.45	.45	.45			
Roofers:						
Composition & waterproofers	9.10	.30	.15		.02	
Slate & tile	8.72	.18	.15		.02	
Sheet metal workers	8.15	.35	.34		.01	
Sprinkler fitters	8.70	.16	.40		.09	
Survey Crew:						
Rodman	6.00	.40	.15			
Instrument man	7.15	.40	.15			
Terrazzo workers	7.50					
Terrazzo workers' helper & floor mach.	6.85					
Base machine operator	7.10					
Tile setters	8.15	.30-5/8	.42			
Tile setters' helpers	6.80	.30-5/8	.325			

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

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. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. One (1) week paid vacation after 1 year's employment; two (2) weeks after 3 years's; and 3 weeks after 10 years.

e. Holidays: A through F and the day after Thanksgiving, one-half day Christmas Eve & one-half day Good Friday.

LABORERS:	Basic Hourly Rates	Fringe Benefit Payments: H & W	Pensions	Vacation	App. Tr.	Other
BUILDING; HEAVY & HIGHWAY CONSTRUCTION						
Building Laborers	$6.50	.47	.65			
Plasterers laborers	6.625	.47	.65			
Boiler setters Laborers	6.825	.47	.65			
Windlass, Cement gun nozzle laborers	6.65	.47	.65			
Chimney laborers (over40)	6.60	.47	.65			
Stone handlers, derrickmen	6.70	.47	.65			
Jackhammermen	6.725	.47	.65			
Caisson digger	6.85	.47	.65			
Scaffold laborers	6.60	.47	.65			
TUNNEL WORK, ROCK, CLAY & SUBWAY						
Dumpmen, top laborers	6.50	.47	.65			
Cage tenders, skinners, switchmen, truck layers	6.525	.47	.65			
Car pusher, conrete laborers, grout machine op., steel setters & tuggers grout laborers	6.625	.47	.65			
Signal men	6.65	.47	.65			
Pebble placer op., mortarmen muckers	6.725	.47	.65			
Air hoist op., bricklayers tender, cement (invert) laborer, concrete blower op., driller for blasting, dynamiters, erector ops.. form men lock tenders, miners, power knife op., jackhammermen, keyboard op.	6.85	.47	.65			
SEWER, DRAIN, WATER SERVICE:						
Common laborers, top laborers	6.50	.47	.65			
Concrete laborers & steel setters	6.625	.47	.65			
Cement carriers, cemnt mixers, mortar men, scaffoldmen, second bottom men	6.725	.47	.65			
Bottom men, bricklayers tenders, catch basin jiggers & rodders, form men, jackhammermen, pipelayers, well point system	6.85	.47	.65			
STREET PAVING, GRADE SEPARATION, PLANTING, GRADING AND LANDSCAPING:						
Laborers and helpers	6.50	.47	.65			
Form setters on pavement work, Jackhammermen (concrete)	6.775	.47	.65			
Rakers, lutemen, kettlemen, mixermen, frummen, jackhammermen (asphlat)	6.775	.47	.65			

WRECKING LABORERS:	Basic Hourly Rates	Fringe Benefit Payments: H & W	Pensions	Vacation	App. Tr.	Other
BRICK CLEANERS	$3.10	.32	.40			
LABORERS	5.52	.32	.40			
WRECKERS	5.92	.32	.40			
STACKMAN OR HIGHMAN	6.52	.32	.40			
BURNERS, WALLMEN & JACKHAMMER MEN	6.17	.32	.40			

BUILDING CONSTRUCTION
POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefit Payments				
		H & W	Pensions	Vacation	Apprentice Training	Other
CLASS I						
Mechanic, Asphalt Plant, Asphalt Spreader, Autograde, Batch Plant, Benoto (Requires Two Engineers) Boiler & Throttle Valve, Caisson Rigs, Central Redi-Mix Plant, Combination Back Hoe Front Enloader Machine, Compressor & Throttle Valve, Concrete Breaker (Truck Mounted) Concrete Conveyor, Concrete Paver over 27E cu. ft. Concrete Paver 27E cu. ft. and under, Concrere Placer, Concrere Tower, Cranes, (all), Cranes Hammerhead, Derricks, (all), Derrocks. Traveling, Grader, Elevating Grouting Machines, Highlift Shovels or From Endloader 2½ yd. & over, Hoists, 1,2 and 3 Drum, Hoists, 2 Tugger one floor, Hydraulic Boom Trucks, Locomotives, (all) Motor Patrol, Pildrivers & Skid Rig, Post Hole Digger, Pre-Stress Machine, Pump Cretes: squeeze cretes-screw type pumps, Gypsum Bulker & pump, Rock Drill (Self-Propelled) Rock Drill (Truck Mounted) Scoops-Tractor Drawn-Slip Form Paver, Straddle Buggies, Tournapull, Tractor w/boom, & Side Boom, Trenching Machines.	$8.65	.30	.40	.20	.02	
CLASS II						
Boilers, Bulldozers, Broom, All power Propelled, Concrete Mixer (2 Bag & over) Conveyor, Portable, Forklift trucks, Greaser Engineer, Highlift Shovels or Fron Endloaders under 2½yd., Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger Single Drum, Rollers, (all) Steam Generators Stone Crushers, Tractors (all) Winch Trucks with "A" Frame	7.60	.30	.40	.20	.02	
CLASS III						
Air Compressor - small 125 & under (1 to 5 not to exceed a total of 300 Ft.), Air Compressor - large over 125 Combination - small equipment operator Generators - small 50w & under						

POWER EQUIPMENT OPERATORS (CONT'D)

	Basic Hourly Rates	Fringe Benefit Payments				
		H & W	Pensions	Vacation	Apprentice Training	Other
CLASS III (CONT'D)						
Generators - large over 50Kw, Heaters Mechanical, Pumps, over 3" (1 to 3 not to exceed a total of 300 ft.) Pumps, Well points, Welding Machines (2 through 5) Winches, 4 small electric drill winches	$6.80	.30	.40	.20	.02	
CLASS IV						
Oilers	5.75	.30	.40	.20	.02	

HEAVY, SEWER & HIGHWAY CONSTRUCTION:	BASIC HOURLY RATES	PAID HOLIDAY, VACATION & INSURANCE BENEFITS: H & W	PENSIONS	VACATION	APP. TR.	OTHER
POWER EQUIPMENT OPERATORS:						
CLASS I:						
Asphalt plant, asphalt heater & planer combination, asphalt spreader, autograde, belt loader, caisson rigs, central redimix plant, concrete breaker (truck mounted), concrete conveyor, concrete paver over 27E cu. ft., concrete placer, concrete tube float, cranes, all attachments, cranes, Linden, Peco & machines of a like nature, derricks, all, derrick boats, derricks, traveling, dredges, euclid loader, elevating type, gradall, & machines of a like nature, grader, elevating, hoists, one, two & three drum, locomotive, all, mucking machine, 1 cu. yd. & over, mucking machine, under 1 cu. yd., pile drivers & skid rig, pre-stress machine, pump cretes dual ram (reguiring frequent lubrication & water), rock drill - crane type, slip form paver, straddle buggies, tractor with boom, tractaire - with attachments, trenching machines, underground boring &/or mining machines 5 ft. in diameter & over tunnel, etc, underground boring &/or mining machine under 5 ft., wheel excavator, widener (Apsco)	$9.00	.30	.40	.10	.02	
CLASS II:						
Mechanic-welder, batch plant, bituminous mixer, bulldozer, combination backhoe front endloader machine, concrete breaker or hydro hammer, concrete grinding machine, concrete mixer or paver 7s series to & including 27 cu. ft., concrete spreader, concrete curing machine, burlap machine, belting machine & sealing machine, finishing machine - concrete, grader, motor grader, motor patrol, auto patrol, form grader, pull grader, subgrader, highlift shovels or front endloader, hydraulic boom trucks (all attachments), locomotives, dinky,						

POWER EQUIPMENT OPERATORS (CONT'D):	BASIC HOURLY RATES	PAID HOLIDAY, VACATION & INSURANCE BENEFITS: H & W	PENSIONS	VACATION	APP. TR.	OTHER
pump cretes: Squeeze cretes - screw type pumps Gypsum bulker & pump, rock drill (self-propelled), rototiller, seaman, etc., self-propelled scoops - tractor drawn, self-propelled compactor, spreader - chip - stone, etc., scraper, tank car heater, tractor, push, pulling sheeps foot, disc., compactor, etc, tug boats	8.50	.30	.40	.10	.02	
CLASS III:						
Boilers, boiler & throttle valve, brooms, all power propelled, cement supply tendor, compressor & throttle valve, concrete mixer (two bag & over) conveyor, portable, fireman on boilers, forklift trucks, greaser engineer, grouting machine, hoists, automatic, hoists, all elevators, hoists, tugger single drum, jeep diggers, pipe jacking machines, post-hole diggers, power saw, concrete, power-driven, pug mills, rollers, all, steam generators, stone crushers, stump machine, winch trucks with "A" frame, work boats, tamper - form - motor driven	7.90	.30	.40	.10	.02	
CLASS IV:						
Air compressors, all, generators, heaters, mechanical, light plants, all (1 through 5), pumps, all, pumps well points, tractaire, welding machines (2 through 6),	6.95	.30	.40	.10	.02	
CLASS V:						
Oilers	5.95	.30	.40	.10	.02	

TRUCK DRIVERS: BUILDING CONSTRUCTION:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSION	VACATION/HOLIDAY	OTHER
4 & 6 wheel trucks, supply truck (loading & unloading, truck crane, 4 & 6 wheel batch, grease trucks, & dinky drivers	$5.60	a11.00	a12.50	b & c	
4 & 6 wheel trucks hauling over 20 tons, semi-trailer dump & semi flat bed	6.05	a11.00	a12.50	b & c	
Carry-alls & low boys	5.90	a11.00	a12.50	b & c	
Winch trucks, & "A" frames when used for transportation	5.70	a11.00	a12.50	b & c	
Fork lift & hoisters	6.00	a11.00	a12.50	b & c	
Power broom	5.80	a11.00	a12.50	b & c	
Driver & rear end man on slurry trucks	5.85	a11.00	a12.50	b & c	
Ready-mix concrete trucks hauling 9 yards or less	5.79	a11.00	a12.50	b & c	
Ready-mix concrete trucks hauling over 9 yards up to & including 13 yards	5.87	a11.00	a12.50	b & c	
Ready-mix concrete trucks hauling over 13 yards & ready-mix concrete semi-trailer trucks	5.92	a11.00	a12.50	b & c	

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-Per Week
b-One week paid vacation after one year of 1000 hours or more; two weeks paid vacation after 2 preceding consecutive years of 1000 hours or more; three weeks paid vacation after 11 preceding consecutive years of 1000 hours or more.
c-Six (6) Paid Holidays: A-B-C-D-E&F providing employee earned a vacation the previous year with the same employer and worked the scheduled work day before and after the holiday.

HEAVY & HIGHWAY CONSTRUCTION:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSION	VACATION/HOLIDAY	OTHER
TRUCK DRIVERS:					
4-6 wheel trucks, dinky, tilyers, supply truck driver loading and, unloading, drivers on truck cranes	$5.05	.20	.25	a + b	
Drivers on 4 & 6 wheel truck over 20 tons	5.50	.20	.25	a + b	
Drivers on semitrailer dump trucks	5.50	.20	.25	a + b	
Drivers on semi-flatbed & lowboys	5.35	.20	.25	a + b	
Drivers on winch trucks	5.15	.20	.25	a + b	
Dumpsters, track truck, Euclid, hug bottom dumps, Tournatractors, Tournapulls when pulling other than self-loading equipment:					
Under 20 tons	5.45	.20	.25	a + b	
Over 20 tons	5.60	.20	.25	a + b	
Distributors - 1 man operation	5.65	.20	.25	a + b	
Distributors - 2 man operation	5.30	.20	.25	a + b	
Liquid asphalt trucks	5.30	.20	.25	a + b	
Fork lift & hoisters	5.45	.20	.25	a + b	
Power broom	5.25	.20	.25	a + b	
"A" frame truck when used for transportation	5.15	.20	.25	a + b	
Driver & rear end man on slurry trucks	5.30	.20	.25	a + b	
Driver on grease truck	5.05	.20	.25	a + b	

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 - Holidays: A, B, C, D, E & F provided employee earned a vacation the previous year with the same employer, worked at least 1 day in the holiday week, and worked the scheduled work day before and after the holiday.

b - Any employee having worked for the same employer shall be entitled to: 1 week paid vacation after 1 year of 1000 hours; 2 weeks paid vacation after 3 consecutive years of 1000 hours or more; 3 weeks paid vacation after 12 consecutive years of 1000 hours or more.

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
WELL DRILLERS:						
Drillers, Pump Installer, Welder and Mechanic	$7.70	.35	.35	a		
Tool Dresser, Helper	7.30	.35	.35	a		

FOOTNOTE:

a. Six (6) paid Holidays: New Year's; Memorial Day; Independence Day; Labor Day; Thankgiving Day; Christmas Day.

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AP-353
COUNTIES: Jefferson and Orange
DATE: Date of Publication
Supersedes Decision No. AP-315, dated August 25, 1972, in 37 FR 17366.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

(1 - 3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS (JEFFERSON COUNTY)	$7.02	.50	.495		.03	
ASBESTOS WORKERS (ORANGE COUNTY)	7.325	.325	.30		.02	
BOILERMAKERS	6.80	.30	.50		.02	
BRICKLAYERS; STONEMASONS	7.65	.275	.30		.04	
CARPENTERS:						
Carpenters	6.775		.30			
Millwrights	7.73					
Piledrivermen	7.105		.30			
CEMENT MASONS	6.75					
ELECTRICIANS	7.63	.28	1%+.32		1/2%	
ELEVATOR CONSTRUCTORS	4.53	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
IRONWORKERS:						
Structural: Ornamental; Reinforcing	6.77	.40	.40		.05	
LABORERS:						
Common laborer; asphalt ironer and raker	4.59	.25	.15		.02	
Carpenter tender	4.69	.25	.15		.02	
Cement masons tender; air tool operator (jackhammer - vibrator)	4.69	.25	.15		.02	
Mortar mixers, hod carriers & mason tender; plaster and lather tender; pipelayers, non-metallic pipe, including handling and laying pumpcrete pipe	4.79	.25	.15		.02	
Sandblaster, exclusive of preparation work for painters; dumper, spotter and wagon drill; powderman-blaster; well driller	4.59	.25	.15		.02	
Machineman and nozzleman, for gunniting 1½" and over	5.025	.25	.15		.02	
LATHERS	6.925	.20			.01	
PAINTERS:						
Southern half of Jefferson County and all of Orange County:						
Brush, wood and wall paperhanger and glazier	6.30					
Brush, steel	6.35					
Spray	6.80					
Sandblaster, power cleaning	6.55					
Brush, hot paint or creosote	6.55					
Spray, hot paint or creosote	7.05					

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS (CONT'D):						
Southern half of Jefferson County and all of Orange County (Cont'd):						
All time spent rigging	$6.55					
Twenty-five cents (25¢) per hour premium on all work from stage, chair, window jack or ledge in all classifications.						
Northern half of Jefferson County:						
Brush and glazier	6.275					
Canvas and paperhangers	6.525					
Spray	6.70					
PIPEFITTERS	7.33	.30	.52		.06	
PLASTERERS	6.825	.27	.30		.02	
PLUMBERS	7.46				.03	
ROOFERS:						
Roofers	5.93	.20	.10	.15	.03	
Kettlemen	5.00	.20	.10	.15	.03	
Helpers	3.80	.20	.10	.15	.03	
SHEET METAL WORKERS	7.57		.15		.04	
SPRINKLER FITTERS	8.35	.30	.50		.05	
TILE SETTERS	6.855	.275	.30		.04	
TRUCK DRIVERS:						
Under 1½ ton and wash, grease, tireman, fuel pump operators when used on construction	4.40					
1½ tons thru 2½ tons, dump truck less than 7 yds., town driver	4.69					
Over 2½ tons, farm tractors (when used to transport personnel or material), fork lifts (when used in warehouses, storage yards, and when used to transport material), floats, hydraulic tail gate lifts	4.85					
Euclids (not self-loading)	4.95					
Warehousemen - material checker	4.965					
WELDER - 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

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b - Paid Holidays - A through F.

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

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
HEAVY EQUIPMENT OPERATORS						
Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler, Derrick-Power Operated, all types; Draglines; Push Cat Operator; Bull Dozer and all type of Cat Tractors; Cable-Way; Back-Hoe; Shovel; Crane-Power operated, all types; Elevating Grader, Self-propelled; Hoist-motor driven, two drums or more; Mix Mobile; Winch Truck; Locomotive Crane; Mixer, 14 cu. ft. or more; Paving Mixer, all sizes; Piledrivers; Scraper - heavy type, over 3 cu. yds.; Trench Machine, all sizes; Gradall; High-Lift; Foundation Boring Machines; Gasoline or Diesel driven welding machines - 7 to 12 machines; Pump-crete Machine; Drill Operator - Water Well; [illegible]-10 Euclid; Tourn[illegible] pulls; Asphalt Plants; Crushing Machines and Batch-Plants; Scoop-mobiles; Fingerlift Operator	$7.155		.25			
LIGHT EQUIPMENT OPERATORS						
Air Compressor; Blade Grade - Towed; Flex Plane; Form Grader; Mixer - less than 14 cu. ft.; Pump; Pulso - meter; Truck Crane Driver; Gasoline or Diesel Driven Welding machines, 3 to 6 machines; Hoist - Single Drum; Scraper, 3 cu. yds. or less; Conveyors - power operated	6.30		.25			
FIREMAN	5.84		.25			
OILER	5.69		.25			

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AP-354
COUNTIES: Jefferson and Orange
DATE: Date of Publication
Supersedes Decision No. AP-314, dated August 25, 1972, in 37 FR 17366.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS (JEFFERSON COUNTY)	$7.02	.50	.495		.03	
ASBESTOS WORKERS (ORANGE COUNTY)	7.325	.325	.30		.02	
BOILERMAKERS	6.80	.30	.50		.02	
BRICKLAYERS; STONEMASONS	7.65	.275	.30		.04	
CARPENTERS:						
Carpenters	6.925		.30		.05	
Millwrights	7.73					
Piledrivermen	7.105		.30			
CEMENT MASONS	6.75					
ELECTRICIANS	7.63	.28	1%+.32		1/2%	
ELEVATOR CONSTRUCTORS	4.53	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	6.77	.40	.40		.05	
LABORERS:						
Common laborer; asphalt ironer and raker	4.59	.25	.15		.02	
Carpenter tender	4.69	.25	.15		.02	
Cement masons tender; air tool operator (jackhammer - vibrator)	4.69	.25	.15		.02	
Mortar mixers, hod carriers & mason tender; plaster and lather tender; pipelayers, non-metallic pipe, including handling and laying pumpcrete pipe	4.79	.25	.15		.02	
Sandblaster, exclusive of preparation work for painters; dumper, spotter and wagon drill; powderman-blaster; well driller	4.59	.25	.15		.02	
Machine man and nozzleman for gunniting 1½" and over	5.025	.25	.15		.02	
LATHERS	6.925	.20			.01	
PAINTERS:						
Southern half of Jefferson County and all of Orange County:						
Brush, wood and wall paperhanger and glazier	6.65					
Brush, steel	6.70					
Spray	7.15					

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS (CONT'D):						
Southern half of Jefferson County and all of Orange County (Cont'd):						
Sandblaster, power cleaning	$6.975					
Brush, hot paint or creosote	6.975					
Spray, hot paint or creosote	7.40					
All time spent rigging	6.975					
Twenty-five cents (25c) per hour premium on all work from stage, chair, window jack or ledge in all classifications.						
Northern half of Jefferson County:						
Brush and glaziers	6.525					
Canvas and paperhangers	6.775					
Brush, steel	6.70					
Spray	6.95					
PIPEFITTERS	7.33	.30	.52		.06	
PLASTERERS	6.825	.27	.30		.02	
PLUMBERS	7.46				.03	
ROOFERS:						
Roofers	5.93	.20	.10	.15	.03	
Kettlemen	5.00	.20	.10	.15	.03	
Helpers	3.80	.20	.10	.15	.03	
SHEET METAL WORKERS	7.57		.15		.04	
SPRINKLER FITTERS	8.35	.30	.50		.05	
TILE SETTERS	6.855	.275	.30		.04	
TRUCK DRIVERS:						
Under 1½ ton and wash, grease, tiremen, fuel pump operators when used on construction	4.40					
1½ tons thru 2½ tons, dump truck less than 7 yds., town driver	4.69					
Over 2½ tons, farm tractors (when used to transport personnel or material), fork lifts (when used in warehouses, storage yards, and when used to transport material), floats, hydraulic tail gate lifts	4.85					
Euclids (not self-loading)	4.95					
Warehousemen - material checker	4.965					
WELDER - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b - Paid Holidays - A through F.

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

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION:						
Linemen	$7.915	.28	1%		1/2%	
Groundman	73%JR	.28	1%		1/2%	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
HEAVY EQUIPMENT OPERATORS Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler, Derrick-Power Operated, all types; Draglines; Push Cat Operator; Bull Dozer and all type of Cat Tractors; Cable-Way; Back-Hoe; Shovel; Crane-Power operated, all types; Elevating Grader, Self-propelled; Hoist-motor driven, two drums or more; Mix Mobile; Winch Truck; Locomotive Crane; Mixer, 14 cu. ft. or more; Paving Mixer, all sizes; Piledrivers; Scraper - heavy type, over 3 cu. yds.; Trench Machine, all sizes; Gradall; High-Lift; Foundation Boring Machines; Gasoline or Diesel driven welding machines - 7 to 12 machines; Pump-crete Machine; Drill Operator - Water Well; DW-10 Euclid; Tourna-pulls; Asphalt Plants, Crushing Machines and Batch-plants; Scoop-mobiles; Fingerlift Operator	$7.155		.25			
LIGHT EQUIPMENT OPERATORS Air Compressor; Blade Grade - Towed; Flex Plane; Form Grader; Mixer - less than 14 cu. ft.; Pump; Pulso-meter; Truck Crane Driver; Gasoline or Diesel Driven Welding machines, 3 to 6 machines; Hoist - Single Drum; Scraper, 3 cu. yds. or less; Conveyors - power operated	6.30		.25			
FIREMAN	5.84		.25			
OILER	5.69		.25			

SUPERSEDEAS DECISION-

STATE: Texas
DECISION NO.: AP-355
COUNTY: Lubbock
DATE: Date of Publication
Supersedes Decision No. AP-313, dated August 25, 1972, in 37 FR 17361.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$7.25	.30	.25		.02	
BOILERMAKERS	6.80	.30	.50		.02	
BRICKLAYERS; STONEMASONS	6.50					
CARPENTERS	6.00	.20	.05		.01	
CEMENT MASONS	4.75					
ELECTRICIANS:						
Electricians	6.35	.25	1%			
Cable splicers	6.60	.25	1%			
ELEVATOR CONSTRUCTORS	3.54	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS(PROB.)	50%JR					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	6.075	.40	.40		.10	
All ironworkers on jobs (30) miles or more from the Ciyt of Lubbock	6.20	.40	.40		.10	
LABORERS:						
Construction laborers, including excavation, pouring concrate, carpenter tenders, reinforcing, shoring, digging, loading and unloading materials, wrecking buildings and all structures and all construction laborers except those named below	3.60					
Air tool operator (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete and clay and all non-metallic pipe); handling, laying and cleaning pumpcrete pipe	3.875					
Mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders, asphalt rakers, tampers and spreaders; pot men and kettlemen, well drillers, bell hole men,dumpers and spotters	3.80					
Wagon drill	3.95					
Blasterers and powder make-up men	4.20					
LATHERS	6.50	.20			.01	

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS:						
Brush	$5.00					
Spray	5.65					
PLASTERERS	5.75					
PLUMBERS - STEAMFITTERS	6.35		.30		.02	
SHEET METAL WORKERS	7.22					
SOFT FLOOR LAYERS	5.00					
SPRINKLER FITTERS	8.35	.30	.50		.05	
TRUCK DRIVERS	3.00					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates.
b - Paid Holidays - A through F.

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

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
HEAVY EQUIPMENT OPERATORS						
Drilling machine (all types); Scoopmobile; Hoists, two drums or more; Winch truck; six wheel truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade graders, self-propelled; Cableways; Cranes - power operated to 100 feet; Fordson type backhoe; Derricks, power operated (all types); Gradall; Hy-ho; Hop-to; Paving mixers (all types); Piledrivers; Mobile concrete mixers, over 14 cubic feet; Bulldozers, Loaders, Tractovators; Scrapers and pulls; Welders; Trenching machines; Roller, ten tons or over; Air compressors, three; Air compressor & one pump; Pump, three or more: Air compressor & air tugger; Boilers, two or more fired by one man; Heavy duty mechanic	$6.00	.30	.50		.10	
LIGHT EQUIPMENT OPERATORS						
Air compressor (1); Pump (1); Pulsometer; Conveyor; Throttle valves; Wagon drill; Elevators building; Form graders; Hoist, single drum; Mixers, less than 14 cubic feet; Screening plants; Welding machines, gas & diesel (2 or more); Crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); Bobcat type equipment; Ford tractor or like with any attachment (except backhoe)	5.60	.30	.50		.10	
OILERS (ALL TYPES)	4.70	.30	.50		.10	

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INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.60					
Asphalt Heaterman	2.65					
Asphalt Raker	2.75					
Asphalt Shoveler	2.15					
Batching Plant Scaleman	2.95					
Carpenter	3.50					
Carpenter Helper	3.25					
Concrete Finisher (Paving)	3.50					
Concrete Finisher (Structures)	3.35					
Concrete Finisher Helper (Structures)	3.00					
Form Builder (Structures)	3.25					
Form Builder Helper (Structures)	2.50					
Form Setter (Paving and Curb)	2.35					
Form Setter (Structures)	3.75					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.50					
Mechanic	3.05					
Oiler	2.80					
Serviceman	3.00					
Powderman	2.75					
Powderman Helper	2.50					
Spreader Box Man	2.80					
Swamper	2.50					
Power Equipment Operators:						
Asphalt Distributor	2.60					
Asphalt Paving Machine	3.00					
Broom or Sweeper Operator	2.10					
Bulldozer, 150 H.P. and Less	3.00					
Bulldozer, over 150 H.P.	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ C.Y.)	3.40					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ C.Y. and Over)	3.75					
Crusher or Screening Plant Operator	3.00					
Foundation Drill Operator (Truck Mounted)	3.75					
Front End Loader (2½ C.Y. and Less)	3.00					
Front End Loader (Over 2½ C.Y.)	3.10					
Motor Grader Operator, Fine Grade	4.10					

24 - Texas - 3 g (2 - 2)

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd):						
Motor Grader Operator	$3.50					
Roller, Steel Wheel (Plant-Mix Pavements)	2.50					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.60					
Roller, Pneumatic (Self-Propelled)	2.30					
Scrapers (17 C.Y. and Less)	3.00					
Scrapers (Over 17 C.Y.)	3.25					
Tractor (Crawler Type) 150 H.P. and Less	2.85					
Tractor (Crawler Type) over 150 H.P.	3.00					
Tractor (Pneumatic) 80 H.P. and Less	2.50					
Tractor (Pneumatic) over 80 H.P.	2.65					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.75					
Truck Drivers:						
Single Axle, Light	2.00					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	2.25					
Winch	2.60					
Weighman (Truck Scales)	2.30					
Welder	4.35					

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION:						
Lineman	$6.35	.25	1%			
Operators	5.45	.25	1%			
Groundmen (more than 1 year experience)	5.20	.25	1%			
Groundmen (less than 1 year experience)	4.70	.25	1%			
Flat bed truck operator	4.45	.25	1%			

[FR Doc.72-18620 Filed 11-2-72;8:45 am]

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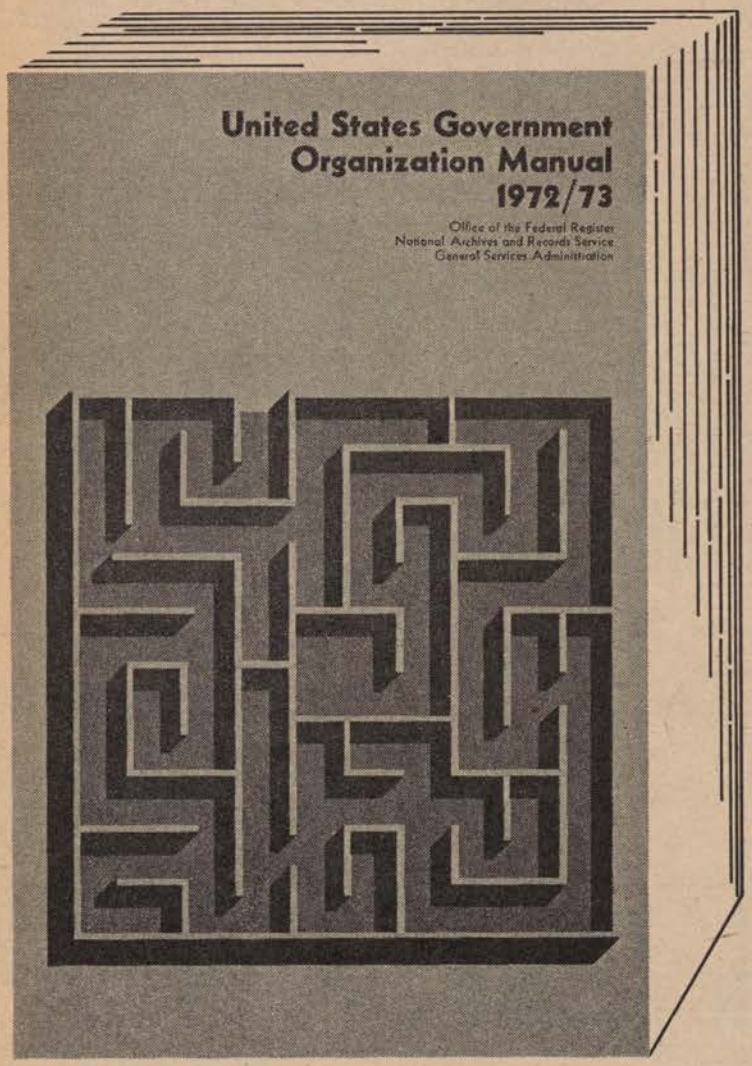

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