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[A Cumulative checklist of CFR issuances for 1972 appears in the first issue of the Federal Register each month under Title 1]

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There are no restrictions on the republication of material appearing in the FEDERAL REGISTER or the CODE OF FEDERAL REGULATIONS.

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 531—PAY UNDER THE GENERAL SCHEDULE

Conversion Rules for Rates of Basic Pay

Part 531 is amended to provide the regulations to convert rates of pay for employees to the new rates set out in the January 1973 adjustment to the General Schedule pay rates.

Effective January 1, 1973, § 531.205 is amended as set out below.

§ 531.205 Pay conversion rules for rates of basic pay in the General Schedule adjusted under 5 U.S.C. 5305 and Executive Order 11691.

(a) Except as provided in paragraph (b) of this section the rate of basic pay of an employee subject to the General Schedule shall be initially adjusted effective the first day of the employee's first pay period which begins on or after January 1, 1973, as follows:

(1) If an employee is receiving basic pay immediately before the effective date of his pay adjustment at one of the rates of a grade in the General Schedule, he shall receive the rate of basic pay for the corresponding numerical rate of the grade in effect on and after such date.

(2) If an employee is receiving basic pay immediately before the effective date of his pay adjustment at a rate between two rates of a grade in the General Schedule, he shall be paid the higher of the two corresponding rates of basic pay in effect on and after such date.

(3) If an employee is receiving basic pay immediately before the effective date of his pay adjustment at a rate in excess of the maximum rate of his grade, he shall receive his existing rate of basic pay increased by the amount of increase made by Executive Order 11691 in the maximum rate for his grade.

(4) If an employee, immediately before the effective date of his pay adjustment, is receiving, pursuant to section 2(b)(4) of the Federal Employees Salary Increases Act of 1955, an existing aggregate rate of pay determined under section 208(b) of the Act of September 1, 1954 (68 Stat. 1111), plus subsequent increases authorized by law, he shall receive an aggregate rate of pay equal to the sum of his existing aggregate rate of pay on the day preceding the effective date of his pay adjustment, plus the amount of increase made by Executive Order 11691 in the maximum rate of his grade, until (i) he leaves his position, or (ii) he is entitled to receive aggregate pay at a higher rate by reason of the operation of any provision of law; but, when such position becomes vacant, the aggregate rate of pay of any subsequent appointee thereto shall be fixed in accordance with applicable provisions of law. Subject to subdivisions (i) and (ii) of this subparagraph, the amount of the increase authorized by this section shall be held and considered for the purposes of section 208(b) of the Act of September 1, 1954, to constitute a part of the existing rate of pay of the employee.

(b) Rates of basic pay authorized under section 5303 of title 5, United States Code, paid to an employee subject to the General Schedule shall be adjusted in accordance with § 530.307(b)(1) of this chapter.

(5 U.S.C. 5305; E.O. 11691, 37 F.R. 27607)

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

[FR Doc.72-21986 Filed 12-21-72;8:45 am]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

Fee Changes

Statement of considerations. Pursuant to the statutory authorities cited below, changes in several fees in Part 28 are being made to reflect more nearly the costs of rendering services.

In the regulations under the United States Cotton Standards Act (7 CFR Part 28, Subpart A) the fee for issuing a new memorandum or certificate in substitution for a prior memorandum or certificate is being increased from 75 cents to $1 when the number of bales covered by such memorandum or certificate is 10 or less. Also, the classification fee for grade only or staple only is being reduced to 30 cents per sample.

In the regulations for Cotton Classification and Market News Services for Organized Groups of Producers (7 CFR Part 28, Subpart D), the fee for issuance of a new classification memorandum without reclassification of the cotton is being increased from 75 cents to $1 when the number of bales covered by such memorandum is 10 or less.

A. In Subpart A, regulations under the U.S. Cotton Standards Act:

1. Paragraph (a) of § 28.116 is amended to read as follows:

§ 28.116 Amounts of fees for classification; exemption.

(a) For the classification of any cotton or samples, the person requesting the service shall pay a fee, as follows, subject to the minimum fee provided in paragraph (c) of this section:

(1) Grade, staple, and Micronaire reading—55 cents per sample.

(2) Grade and staple only—45 cents per sample.

(3) Grade only or staple only—30 cents per sample.

(4) Micronaire reading only—10 cents per sample.

* * * * *

2. Section 28.117 is amended to read as follows:

§ 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder, thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of $1 per sheet.

(Sec. 10, 42 Stat. 1519; 7 U.S.C. 61)

B. In Subpart D, Cotton Classification and Market News Services for Organized Groups of Producers:

1. Paragraph (b) of § 28.910 is amended to read as follows:

§ 28.910 Classification of samples and issuance of memorandums.

* * * * *

(b) Upon the request of an owner of cotton for which classification memorandums have been issued under this subpart a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be $1 per sheet.

(Sec. 10, 42 Stat. 1519, sec. 3C, 50 Stat. 62; 7 U.S.C. 61, 473C)

Notice of proposed rule making, public procedure thereon, and the postponement of the effective date of these amendments later than January 1, 1973 (5 U.S.C. 553), are impracticable, unnecessary, and contrary to the public interest in that: (1) The need for these changes in fees and the amounts thereof are dependent upon the facts within the knowledge of the Agricultural Marketing Services; (2) the fees set forth herein are necessary to more nearly cover the costs of rendering such services and should be made effective as soon as practicable; and (3) additional time is not

required by users of these services to comply with these amendments.

Effective date. These amendments shall become effective on January 1, 1973.

Dated: December 19, 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-22026 Filed 12-21-72;8:46 am]

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

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

Correction

In F.R. Doc. 72-20720 appearing at page 25913 of the issue for Wednesday, December 6, 1972, the following changes should be made in the table in § 354.2:

1. In the first column on page 25914, in the entries under "Delaware" for "Dover" and "Wilmington (including marine terminal and airport)", the word "Do" should be deleted from the center column of the table.

2. In the first column on page 25915 the word "Pennsylvania:" should be inserted flush with the left margin after the entries for "Undesignated ports" and "Chester" which now appear below "Oregon:".

3. In the third column on page 25915 the entries under "Virginia:" appearing between "Arlington" and "Newport News" should read as follows:

Dulles International Airport		1
Dulles International Airport	Andrews AFB, Md., or Baltimore, Md.	3

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

[Lemon Reg. 565]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.865 **Lemon Regulation 565.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 19, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period December 24 through December 30, 1972, is hereby fixed at 190,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: December 20, 1972.

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

[FR Doc.72-22141 Filed 12-21-72;8:47 am]

PART 916—NECTARINES GROWN IN CALIFORNIA

Increase in Expenses and Rate of Assessment for the 1972–73 Fiscal Period

Notice was published in the December 6, 1972 issue of the FEDERAL REGISTER (37 F.R. 25940) that consideration was being given to a proposal regarding an increase in the expenses previously approved for the fiscal period March 1, 1972, through February 28, 1973, pursuant to the marketing agreement, as amended, and Order No. 916, as amended (7 CFR 916), regulating the handling of nectarines grown in California, effective under the applicable provisions of 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 with respect to the proposal. None were submitted.

(a) After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice and the recommendation thereof which was submitted by the Nectarine Administrative Committee (established pursuant to the said marketing agreement and order), *It is hereby ordered,* That the provisions pertaining to expenses in paragraph (a) of § 916.211 *Expenses and rate assessment* (37 F.R. 13527) be, and hereby are, amended to read as follows:

§ 916.211 **Expenses and rate of assessment.**

(a) Expenses: Expenses that are reasonable and likely to be incurred during the fiscal period March 1, 1972, through February 28, 1973, will amount to $360,000.

* * * * *

(b) It is hereby found that it is impracticable and contrary to the public interest to postpone the effective time hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the increase in the budget set forth does not involve an increase in the rate of assessment heretofore established by the Secretary (37 F.R. 13527); (2) the said committee has incurred expenses in excesss of that previously thought likely to be incurred; and (3) it is essential that the specification of expenses herein provided be issued immediately so as that said committee can meet its obligations and perform its duties and functions within the fiscal period in accordance with the said marketing agreement and order.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

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

Dated: December 18, 1972.

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

[FR Doc.72-21994 Filed 12-21-72;8:45 am]

PART 959—ONIONS GROWN IN SOUTH TEXAS

Expenses and Rate of Assessment

Notice of rule making regarding the proposed expenses and rate of assess-

ment, to be effective under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959) regulating the handling of onions grown in designated counties in South Texas, was published in the November 14, 1972, FEDERAL REGISTER (37 F.R. 24116). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to submit written data, views, or arguments pertaining thereto not later than 30 days following publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters, including the proposals set forth in the aforesaid notice, which were recommended by the South Texas Onion Committee, established pursuant to the said marketing agreement and this part, it is hereby found and determined that:

§ 959.213 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1973, by the South Texas Onion Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $60,000.

(b) The rate of assessment to be paid by each handler in accordance with the marketing agreement and this part shall be one-half cent ($0.005) per 50-pound container of onions, or equivalent quantity, handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending July 31, 1973, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

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

Dated: December 19, 1972.

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

[FR Doc.72-22028 Filed 12-21-72;8:46 am]

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 76]

PART 1076—MILK IN THE EASTERN SOUTH DAKOTA MARKETING AREA

Order Suspending a Certain Provision

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Eastern South Dakota marketing area.

Notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 25528) concerning proposed suspension of a certain provision of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of January through June 1973 the following provision of the order does not tend to effectuate the declared policy of the Act and is, therefore, suspended:

In § 1076.12(c), relating to standards for pooling a plant operated by a cooperative association, the provision "of other handlers", as it appears in the text preceding the proviso.

STATEMENT OF CONSIDERATION

Land O'Lakes, Inc., a cooperative association of producers on the market, requests the aforesaid suspension in order to pool milk of member-producers pursuant to § 1076.12(c) of the order. The suspension is the same as has been effective for the August–December period in 1972.

Section 1076.12(c) provides pool plant status for "a plant other than a distributing plant, operated by a cooperative association if more than 50 percent of the total milk supply of producer-members of such cooperative association is shipped to pool distributing plants of other handlers during the month, either directly from the farm or by transfer from the plant of the cooperative association * * *".

Without the suspension, qualifying shipments pursuant to § 1076.12(c) are limited to shipments made to plants of other handlers. The suspension here effectuated will enable Land O'Lakes to qualify its supply plants pursuant to § 1076.12(c) on the basis of member-producer milk shipped to any pool distributing plant, including a plant owned and operated by the cooperative.

This suspension action will facilitate the efficient handling of milk for the market. If the milk were not qualified for pooling pursuant to § 1076.12(c), the alternative method, pursuant to § 1076.12 (b), would require delivery of the milk first to the supply plants prior to delivery to pool distributing plants.

This suspension action is necessary to promote orderly marketing and to permit the most efficient handling of milk of producers regularly supplying the market. The suspension action is made on a temporary basis pending consideration of the pooling problem on a hearing record.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area since the most efficient method of handling much of the milk used to supply distributing plants is by shipment directly from producers' farms to such plants.

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rule making was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this suspension. No opposition was expressed.

Therefore, good cause exists for making this order effective with respect to producer milk deliveries during January through June 31, 1973.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended to be effective with respect to producer milk deliveries during January through June 1973.

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

Effective date: Upon publication in the FEDERAL REGISTER (12–22–72).

Signed at Washington, D.C., on December 18, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-21995 Filed 12-21-72;8:45 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

Suspension for an Additional Period of Documentary Waiver for Aliens in Immediate Transit Without Nonimmigrant Visa

Reference is made to the order published in the FEDERAL REGISTER on September 27, 1972 (37 F.R. 20176) suspending until January 1, 1973, the provisions of 8 CFR 212.1(e).

In the light of the determination of a continuing emergency situation by the Secretary of State and his order of December 15, 1972, concurred in by the Attorney General, suspending for an additional period (until July 1, 1973) the regulation (22 CFR 41.6 (e)) authorizing the admission of aliens in immediate transit without a nonimmigrant visa, the provisions of paragraph (e) *Direct transits* of § 212.1 *Documentary requirements for nonimmigrants* of Title 8 of the Code of Federal Regulations, authorizing such admissions, are hereby suspended until July 1, 1973.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: December 20, 1972.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.72-22148 Filed 12-21-72;9:24 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; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

[Docket No. 72-592]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Area 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:

In § 76.2, paragraph (e)(11) relating to the State of Pennsylvania 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 amendment shall become effective upon issuance.

The amendment excludes the State of Pennsylvania from the areas quarantined because of the existence of vectors 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 nonquarantined areas contained in said Part 76 apply to the excluded area.

The amendment relieves restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera and must 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 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 it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of December 1972.

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

[FR Doc.72-22029 Filed 12-21-72;8:46 am]

[Docket No. 72-595]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Area 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:

In § 76.2, paragraph (e)(11) relating to the State of Pennsylvania is amended to read:

(11) *Pennsylvania.* (i) The adjacent portions of Montgomery and Bucks Counties bounded by a line beginning at the junction of U.S. Highway 202 and State Highway 73 in Montgomery County; thence, following U.S. Highway 202 in a northeasterly direction to State Highway 152 in Bucks County; thence, following State Highway 152 in a northeasterly direction to U.S. Highway 202; thence, following U.S. Highway 202 in an easterly direction to State Highway 152; thence, following State Highway 152 in a northeasterly, then northerly direction to Legislative Road 658; thence, following Legislative Road 658 in an easterly direction to State Highway 152; thence, following State Highway 152 in a northerly direction to State Highway 113; thence, following State Highway 113 in a westerly direction to State Highway 152; thence, following State Highway 152 in a northeasterly direction to Legislative Road 09117; thence, following Legislative Road 09117 in an easterly direction to Legislative Road 09176; thence, following Legislative Road 09176 in a northerly direction to Legislative Road 09101; thence, following Legislative Road 09101 in a northwesterly direction to Legislative Road A6426; thence, following Legislative Road A6426 in a northwesterly direction to State Highway 563; thence, following State Highway 563 in a northwesterly direction to State Highway 63 in Montgomery County; thence, crossing State Highway 63 in a westerly direction to Legislative Road 46023; thence, following Legislative Road 46023 in a southwesterly direction to Legislative Road 46196; thence, following Legislative Road 46196 in a generally northwesterly direction to State Highway 29; thence, following State Highway 29 in a southwesterly direction to State Highway 73, State Highway 29; thence, following State Highway 29, State Highway 73 in a southwesterly direction to the point at which State Highway 29 diverges from State Highway 73; thence, following State Highway 73 in a southeasterly direction to its junction with U.S. Highway 202 in Montgomery County.

(ii) That portion of Cumberland County bounded by a line beginning at the junction of the Pennsylvania Turnpike, Interstate Highway 76, and Legislative Road 21011; thence, following Legislative Road 21011 in a southeasterly direction to Legislative Road 21028; thence, following Legislative Road 21028 in a southeasterly direction to Legislative Road 21029; thence, crossing Legislative Road 21029 in a southwesterly direction to Legislative Road T550; thence, following Legislative Road T550 in a southwesterly direction to the Reading Company Railroad; thence, following the Reading Company Railroad in a generally southwesterly direction to Legislative Road T474; thence, following Legislative Road T474 in a northwesterly direction to Legislative Road 21008; thence, crossing Legislative Road 21008 in a northwesterly direction to Legislative Road 21034; thence, following Legislative Road 21034 in a northwesterly direction to U.S. Highway 11; thence, following U.S. Highway 11 in a northeasterly direction to Legislative Road T482; thence, following Legislative Road T482 in a northwesterly, then northerly direction to Pennsylvania Turnpike, Interstate Highway 76; thence, following the Pennsylvania Turnpike, Interstate Highway 76 in a northeasterly direction to its junction with Legislative Road 21011.

(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 amendment shall become effective upon issuance.

The amendment quarantines a portion of Cumberland County in Pennsylvania 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 amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. 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 amendment are impracticable, unnecessary and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of December 1972.

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

[FR Doc.72-22030 Filed 12-21-72;8:46 am]

[Docket No. 72-596]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of 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:

In § 76.2, in paragraph (e) (6) relating to the State of North Carolina, subdivision (ii) relating to Harnett, Cumberland, and Sampson Counties 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 amendment shall become effective upon issuance.

The amendment excludes portions of Harnett, Cumberland, and Sampson Counties in North Carolina 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.

The amendment relieves restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera and must 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 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 it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of December 1972.

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

[FR Doc.72-22031 Filed 12-21-72;8:46 am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 72-1466]

PART 545—OPERATIONS

Branch Office Applications

DECEMBER 14, 1972.

Section 545.14 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.14), governing applications by Federal savings and loan associations for permission to establish a branch office, presently provides that such an application will be considered and processed by the Federal Home Loan Bank Board only if certain eligibility requirements are met. One of these requirements (§ 545.14(b)(1)(i)) is that the association have no other such application on file, except for any application as to which more than 4 months have elapsed since the date of publication of notice thereof. Since an application for a limited facility branch office made under paragraph (j) of § 545.14 is a type of branch office application, this requirement has been interpreted as preventing the consideration and processing of a limited facility branch office application during the first 4 months that an application for a full branch is pending. The Board now considers it advisable to change this rule so as to permit the consideration and processing, at the same time, of one of each type of application. Accordingly, the Board, on December 14, 1972, amended said § 545.14 by revising subdivision (i) and the introductory language in subparagraph (1) of paragraph (b) thereof to read as set forth below.

Since the above amendment relieves restriction, the Board found that notice and public procedure with respect to said amendment are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would in the opinion of the Board likewise be unnecessary for the same reason, the Board provided that said amendment shall become effective on December 22, 1972.

§ 545.14 Branch office.

* * * * *

(b) *Eligibility.* (1) Except as provided in subparagraph (2) of this paragraph, a Federal association shall be eligible to have an application for permission to establish a branch office (including an application for a limited facility branch office) considered and processed only if, at the date on which such application is filed with the Board:

(i) The association does not have on file with the Board any other such application, excluding any application as to which more than 4 months have elapsed since the date of publication of notice thereof; except that the limitations of this subdivision (i) shall not prohibit the consideration and processing at the same time of both an application in which the applicant proposes, under the provisions of subparagraph (1) of paragraph (j) of this section, that the office applied for be a limited facility branch office and an application in which it does not so propose.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.72-22022 Filed 12-21-72;8:46 am]

SUBCHAPTER E—DISTRICT OF COLUMBIA SAVINGS AND LOAN ASSOCIATIONS AND BRANCH OFFICES

[No. 72-1467]

PART 582—OFFICES

Branch Office Applications

DECEMBER 14, 1972.

Section 582.1 of the rules and regulations for the District of Columbia Savings and Loan Associations and Branch Offices (12 CFR 582.1), governing applications by District of Columbia savings and loan associations for permission to establish a branch office, presently provides that such an application will be considered and processed by the Federal Home Loan Bank Board only if certain eligibility requirements are met. One of these requirements (§ 582.1(b)(1)(i)) is that the association have no other such application on file, except for any application as to which more than 4 months have elapsed since the date of publication of notice thereof. Since an application for a limited facility branch office made under paragraph (j) of § 582.1 is a type of branch office application, this requirement has been interpreted as preventing the consideration and processing of a limited facility branch office application during the first 4 months that an application for a full branch is pending. The Board now considers it advisable to change this rule so as to permit the consideration and processing, at the same time, of one of each type of appli-

cation. Accordingly, the Board, on December 14, 1972, amended said § 582.1 by revising subdivision (i) and the introductory language in subparagraph (1) of paragraph (b) thereof to read as set forth below.

Since the above amendment relieves restriction, the Board found that notice and public procedure with respect to said amendment are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would in the opinion of the Board likewise be unnecessary for the same reason, the Board provided that said amendment shall become effective on December 22, 1972.

§ 582.1 Branch offices.

* * * * *

(b) *Eligibility.* (1) Except as provided in subparagraph (2) of this paragraph, an association shall be eligible to have an application for permission to establish a branch office (including an application for a limited facility branch office) considered and processed only if, at the date on which such application is filed with the Board:

(i) The association does not have on file with the Board any other such application, excluding any application as to which more than 4 months have elapsed since the date of publication of notice thereof; except that the limitations of this subdivision (i) shall not prohibit the consideration and processing at the same time of both an application in which the applicant proposes, under the provisions of subparagraph (1) of paragraph (j) of this section, that the office applied for be a limited facility branch office and an application in which it does not so propose.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; Sec. 8, 48 Stat. 134, as added by Sec. 913, 84 Stat. 1815; 12 U.S.C. 1464, 1466a. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[FR Doc.72-22023 Filed 12-21-72;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10492, Amdt. SFAR 26-3; Special Federal Aviation Reg. 26]

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

Approval of Import Aircraft Engines, Propellers, Materials, Parts, and Appliances

The purpose of this amendment is to continue in effect the provisions of currently effective Special Federal Aviation Regulation No. 26 (SFAR 26), as amended by Amendments SFAR 26-1 and SFAR 26-2, until July 1, 1973.

SFAR 26 provides for approvals, on a selective basis, of aircraft engines, propellers, materials, parts, and appliances, manufactured in a foreign country with which the United States has an agreement for the acceptance of powered aircraft for export and import. SFAR 26 was adopted to provide these approvals on an interim basis pending appropriate amendments to those bilateral agreements where such amendments are in the mutual interest of the United States and the foreign country involved. The originally established termination date of March 1, 1972, for SFAR 26 was extended by Amendment SFAR 26-1 to September 1, 1972, and further extended by Amendment SFAR 26-2 to January 1, 1973.

At the present time, the United States is continuing to negotiate amendments to the bilateral agreements with a number of foreign countries. However, the FAA is advised that most of the negotiations will not be concluded by the January 1, 1973, termination date of SFAR 26. The reasons which justified the adoption of SFAR 26 still exist, and, in view of the pending negotiations, the FAA believes that it is in the public interest to extend the termination date of SFAR 26 from January 1, 1973, to July 1, 1973.

Since this amendment continues in effect the provisions of a currently effective Special Federal Aviation Regulation and imposes no additional burden on any person, I find that notice and public procedure hereon are unnecessary and it may be made effective in less than 30 days.

In consideration of the foregoing, effective January 1, 1973, the last paragraph of Special Federal Aviation Regulation No. 26, published in the FEDERAL REGISTER (35 F.R. 12748) on August 12, 1970, as amended by Amendments SFAR 26-1 and SFAR 26-2, published in the FEDERAL REGISTER (37 F.R. 4325 and 37 F.R. 16789) on March 2, 1972, and August 19, 1972, respectively, is further amended by striking out the words "January 1, 1973" and inserting the words "July 1, 1973" in place thereof.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on December 11, 1972.

J. H. SHAFFER, *Administrator.*

[FR Doc.72-21978 Filed 12-21-72;8:45 am]

[Docket No. 12453, Amdt. 91-106]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Report on Identification and Activity of Aircraft

The purpose of this amendment is to refer, in Part 91 of the Federal Aviation Regulations, to the requirement for the periodic submission of Part 1 of AC Form 8050-73 (Aircraft Registration Eligibility, Identification, and Activity Report) to the FAA Aircraft Registry. Section 91.53 presently sets forth the material requested in Part 2 of that form, but does not mention Part 1, whose submission by the holder of each Certificate of Aircraft Registration is required by § 47.44.

It appears, in connection with the revocations each year of Certificates of Aircraft Registration, that a substantial number of certificate holders are not aware that the periodic submission of Part 1 of the form is mandatory. The revocations impose an added burden and expense on the holder as well as additional expense and considerable workload on the agency. Most aircraft owners, once having registered their aircraft, apparently are more familiar, from constant contact, with Part 91 than with Part 47. It is considered that a reference to Part 1 of the form should appear in § 91.53, thereby increasing the likelihood that certificate holders will become aware of the mandatory nature of § 47.44 and its periodic requirement.

Since this amendment does not involve any substantive change and does not impose an additional burden on the affected certificate holders, I find that public notice and procedure thereon are not necessary and that it may become effective in less than 30 days.

In consideration of the foregoing, § 91.53(a) of the Federal Aviation Regulations is hereby amended, effective December 22, 1972, to read as follows:

§ 91.53 Report on identification and activity of aircraft.

(a) Except as provided in paragraph (b) of this section, the owner of each aircraft registered in the United States should (but is not required to) submit Part 2 of Aircraft Registration Eligibility, Indentification, and Activity Report, AC Form 8050-73 (as distinguished from Part 1 of that form which the certificate holder is required to submit under § 47.44 of this chapter). Part 2 of the form should be submitted to the FAA Aircraft Registry before July 1 of each of the years 1970 and 1971, and April 1 of each year thereafter, stating—

* * * * *

(Sections 103, 307, 311, 312, 313(a), 501, 601 (a) (6), 609, 901, Federal Aviation Act of 1958; 49 U.S.C. 1303, 1348, 1352, 1353, 1354(a), 1401, 1421, 1429, 1471; sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on December 13, 1972.

J. H. SHAFFER, *Administrator.*

[FR Doc.72-21979 Filed 12-21-72;8:45 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–755]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Correction

In F.R. Doc. 72–15033 appearing at page 19726 of the issue for Thursday, September 21, 1972, the following changes should be made:

1. On page 19750 in Section 7, Chart of Profit and Loss Accounts, the number "66" should be inserted in sequence for Item 41, Professional and technical fees and expenses, under "Group III carriers".

2. The reference at the end of paragraph (d)(4) of section 22, General Reporting Instructions reading "section 2–13(b)" should read "section 2–13(d)".

Chapter V—National Aeronautics and Space Administration

PART 1209—BOARDS AND COMMITTEES

Subpart 5—Aerospace Safety Advisory Panel

1. Subpart 1209.5 is deleted in its entirety and reserved.

JAMES C. FLETCHER,
Administrator.

[FR Doc.72–22104 Filed 12–21–72;8:46 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C–2321]

PART 13—PROHIBITED TRADE PRACTICES

Cromwell Oil Co., et al.

Subpart—Advertising falsely or misleadingly: § 13.50 *Dealer or seller assistance;* § 13.60 *Earnings and profits;* § 13.155 *Prices:* 13.155–20 Cost, expense reimbursing, or advertising; 13.155–75 Product or quantity covered; § 13.260 *Terms and conditions.* Subpart—Combining or conspiring: § 13.425 *To enforce or bring about resale price maintenance.* Subpart—Misrepresenting oneself and goods—Business Status, Advantages or Connections: § 13.1513 *Operations generally;*—Goods: § 13.1615 *Earnings and profits;* § 13.1765 *Undertakings, in general;*—Services: § 13.1843 *Terms and conditions.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1892 *Sales contract, right-to-cancel provision.* Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1935 *Earnings and profits;* § 13.2015 *Opportunities in product or service;* § 13.2040 *Returns and reimbursements;* § 13.2045 *Sales assistance;* § 13.2090 *Undertakings, in general.* Subpart—Securing agents or representatives by misrepresentation: § 13.2117 *Advertising allowances and materials;* § 13.2130 *Earnings;* § 13.2132 *Exclusive territory;* § 13.2165 *Terms and conditions.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Cromwell Oil Co., et al., Los Angeles, Calif., Docket No. C–2321, Nov. 20, 1972]

In the Matter of Cromwell Oil Co., a corporation and Bernard Plotkin, and Harold Plotkin, individually and as officers of said corporation.

Consent order requiring a Los Angeles, Calif., seller of distributorships and distributor of automotive oil additives and other merchandise, among other things to cease misrepresenting profits, services, and conditions in recruiting distributors and illegally fixing the resale prices of its products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondents Cromwell Oil Co., a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, and Bernard Plotkin and Harold Plotkin, individually, and as officers of said corporation, in connection with the advertising, offering for sale, and sale of distributorships, automotive oil additives or other merchandise, products or services in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from representing, directly or by implication, orally or in writing that:

1. Respondents have established or will establish retail accounts, customer routes, or any other type account for the distributor, franchisee or other customer without said customer's assistance;

2. Said retail accounts, customer routes, or any other type account are located in exclusive territories;

3. Respondents will conduct a large-scale program of local, regional, or national advertising in the distributor's, franchisee's, or other customer's area; or misrepresenting, in any manner, the amount of advertising that will be provided by respondents to its distributors, franchisees, or other customers;

4. Respondents will pay for medical, life or any other type of insurance on behalf of the distributors, franchisees, or other customers;

5. Respondents' distributors, franchisee's, or other customers will earn an amount of money which is greater than the average earnings of all current distributors, franchisees, or other customers; or misrepresenting, in any manner, the amount of earnings, profits, or compensation which will be earned by respondents' distributors, franchisees, or other customers;

6. Respondents will pay distributors, franchisees, or other customers a cash rebate on sales of additives or any other product;

7. Losses from consignment orders by prospective distributors, franchisees, or other customers of respondents' will be less than the average amount of losses of all current distributors, franchisees, or other customers; or misrepresenting, in any manner, the amount of losses which will be sustained from consignment orders;

8. Respondents will redeem, in cash, tabs from products sold by respondents.

It is further ordered, That respondents maintain adequate records for a period of two (2) years, and permit the inspection and copying thereof by Commission representatives:

a. Which disclose the facts upon which any representations of the type described in paragraph I of this order are based; and

b. From which the validity of any representations of the type described in paragraph I of this order can be determined.

It is further ordered, That respondents:

a. Inform orally all prospective customers and provide in writing, in all contracts, that the contract may be cancelled for any reason by notification to respondents, in writing, within 3 days from the date of execution, and

b. Refund immediately all moneys to customers who have requested contract cancellation in writing within 3 days from execution thereof.

II. *It is further ordered,* That respondents Cromwell Oil Co., a corporation, its successors and assigns, and respondent's officers, agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, and Bernard Plotkin and Harold Plotkin, individually and as officers of said corporation, in connection with the advertising, offering for sale, and sale of distributorships, automotive oil additives or other merchandise, products or services in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Requiring distributors to agree that they will resell at prices specified by respondents or that they will not resell below or above specified prices;

2. Requiring distributors to agree through direct or indirect means, that they will maintain respondents' specified resale price as a condition of purchasing respondents' exclusive distributorships and as a condition of buying respondents' products;

3. Publishing, disseminating, or circulating to any dealer any price lists, price books, price tags, or other documents indicating any resale or retail prices without stating on such lists, books, tags, or other documents that the prices are suggested or approximate;

4. Utilizing any other means of accomplishing the maintenance of resale prices established by respondents: *Provided, however,* Nothing hereinabove shall be construed to waive, limit, or otherwise affect the right of respondents to enter into, establish, maintain, and enforce, in any lawful manner, any price maintenance agreement excepted

from the provisions of section 5 of the Federal Trade Commission Act by virtue of the McGuire Act Amendments to said Act and any other applicable statutes, whether now in effect or hereinafter enacted.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions and to all of its distributors and shall instruct each distributor and future distributors to read this order and to be familiar with its provisions. Additionally, respondents shall deliver a copy of this order to cease and desist to all present and future personnel of corporate respondents engaged in the offering for sale or sale of any product, or any aspect of preparation, creation or placing of advertising, and that respondents shall secure a signed statement acknowledging receipt of said order from each such person. The respondent corporation's obligation to distribute a copy of this order to future distributors shall terminate 5 years from the date this order becomes effective.

It is further ordered, That respondent Cromwell Oil Co. notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out of this order such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation of or dissolution of subsidiaries, or any other change in the corporation.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon it of this order file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order.

Issued: November 20, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-21967 Filed 12-21-72;8:45 am]

[Docket No. C-2322]

PART 13—PROHIBITED TRADE PRACTICES

Lanier Carpets, Inc., and Simeon L. Archer

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.1060 Importing, manufacturing, selling, or transporting flammable wear.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Lanier Carpets, Inc., et al., Dalton, Ga., Docket No. C-2322, Nov. 22, 1972]

In the Matter of Lanier Carpets, Inc., a corporation, and Simeon L. Archer, individually and as an officer of the corporation.

Consent order requiring a Dalton, Ga., manufacturer and retailer of carpets and rugs, among other things to cease manufacturing for sale, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith is as follows:

It is ordered, That respondent Lanier Carpets, Inc., a corporation, its successors and assigns, and its officers, and respondent Simeon L. Archer, individually and as an officer of said corporation and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the provisions of this order with respect to customer notification, recall and processing, or destruction shall be applicable to "Colony HDR" style carpets as designated in subparagraph 1 of paragraph 2 of the complaint giving rise to this order, and any other styles determined to be in violation of the Flammable Fabrics Act, as amended, prior to the date of acceptance, by the Commission of the final compliance report.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and the results thereof, (5) any disposition of said products since March 8, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 22, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-21968 Filed 12-21-72;8:45 am]

[Docket No. C-2318]

PART 13—PROHIBITED TRADE PRACTICES

Nu Dimensions International, Ltd., et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15-75 Foreign branches, operations, etc.; § 13.70 *Fictitious or misleading guarantees;* § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act; § 13.155 *Prices:* 13.155-10 Bait; 13.155-95 Terms and conditions: 13.155-95(a) Truth in Lending Act; 13.155-100 Usual as reduced, special, etc.; § 13.170 *Quali-*

ties or properties of products or service: 13.170–52 Medicinal, therapeutic, healthful, etc.; 13.170–74 Reducing, non-fattening, low-calorie, etc.; § 13.210 *Scientific tests;* § 13.225 *Source or origin;* § 13.280 *Unique nature or advantages.* Subpart—Cutting off access to customers or market: § 13.550 *Hindering salesmen.* Subpart—Misrepresenting oneself and goods—Business Status, Advantages or Connections: § 13.1420 *Foreign status, branches, operations, etc.;*—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act; § 13.1647 *Guarantees;* § 13.1697 *Opportunities in product or service;* § 13.1710 *Qualities or properties;* § 13.1740 *Scientific or other relevant facts;* § 13.1747 *Special or limited offers;* § 13.1770 *Unique nature or advantages;*—Prices: § 13.1779 *Bait;* § 13.1823 *Terms and conditions:* 13.1823–20 Truth in Lending Act; § 13.1825 *Usual as reduced or to be increased.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act; § 13.1857 *Instruments sale to finance companies;* § 13.1876 *Notice of third party sale of contract.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: Continued, § 13.1892 *Sales contract, right-to-cancel provision;* § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2000 *Limited offers or supply;* § 13.2015 *Opportunities in product or service;* § 13.2035 *Result guarantee;* § 13.2063 *Scientific or other relevant facts.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Nu Dimensions International, Ltd. et al., Portland, Oreg., Docket No. C-2318, Nov. 20, 1972]

In the Matter of Nu Dimensions International, Ltd., New Dimensions, Ltd., Corporations, Doing Business as Nu Dimensions Figure Salons and International Acceptance Company, and Alan Acceptance Corporation, a Corporation, and Allan A. Turner and Cindy Young, Individually and as Officers of Said Corporations.

Consent order requiring a Seattle, Wash., promoter and seller of figure improvement programs, among other things to cease representing prices as special or for a limited time only; falsely advertising the results obtainable through said figure improvement programs; representing certain treatments as healthful when, in fact, they can be detrimental in certain instances; and failing to disclose to customer, in connection with the extension of consumer credit, information required by Regulation Z of the Truth in Lending Act. The order further provides that purchasers of programs or services costing more than $25, be entitled to a trial period and cancellation rights; for termination rights and pro rata refunds to patrons who have a doctor-certified health problem or have moved more than 25 miles from the salon; and preserves credit purchasers' rights if their notes are turned over to third parties.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondents Nu Dimensions International, Ltd., and New Dimensions, Ltd., corporations doing business as Nu Dimensions Figure Salons, International Acceptance Co., or under any other name or names, and Alan Acceptance Corporation, a corporation, and their officers, and Allan A. Turner and Cindy Young, individually and as officers of said corporations, and respondents' successors, assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, or sale of figure improvement programs or other services or articles in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Making representations, in advertisements or otherwise, purporting to offer for sale minimal cost programs or any other program or service when the purpose of the representation is not to sell the offered program or service but to obtain leads or prospects for the sale of other programs or services at higher prices.

2. Discouraging the purchase of or disparaging in any manner any advertised reducing program.

3. Representing, directly or by implication, that any services are offered for sale when such offer is not a bona fide offer to sell the advertised service.

4. The use of any company policy, sales plan, or method of compensation for any agent, representative, or employee, which has the effect in any manner of discouraging them from selling advertised programs or penalizing them upon sale of advertised programs.

5. Representing, directly or by implication, that the price charged for any reducing program or service is a special or reduced price unless such price represents a significant reduction from an established selling price at which such program or service has been sold with substantial frequency by respondents in the recent regular course of their business; or misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondents' reducing programs.

6. Representing, directly or by implication, that a price increase is imminent unless the amount and effective date of such increase have been definitely determined in advance and such increase takes place on the date determined.

7. Falsely representing, directly or by implication, that new enrollees who do not sign up for a program at the time of their figure analysis are regularly and customarily charged an additional fee or lose a discount which would otherwise be available.

8. Misrepresenting, directly or by implication, that the availability of any service, specially priced program, free treatments or other inducement for enrollment is limited in time or otherwise; or failing to disclose completely and accurately in immediate conjunction with any represented promotional inducement all conditions and limitations on its availability.

9. Advertising or otherwise quoting the price of a "treatment," unless a disclosure is made in immediate conjunction therewith that each salon visit normally consists of two or more treatments.

10. Representing, directly or by implication, that:

a. Respondents' programs are effective in reducing body weight or dimensions, unless respondents disclose in immediate conjunction therewith that said programs include a required diet.

b. Respondents' passive equipment will: (1) Stimulate circulation, (2) correct posture, (3) tone and firm human tissue, including muscles, or (4) induce weight loss or loss of inches by any means; unless such representation is fully substantiated by controlled scientific tests conducted by independent experts, and the results are available for inspection by the general public.

c. Respondents' programs will cause any stated change in body size, configuration or weight in any specified period of time, unless:

(1) Such representation is fully substantiated by controlled scientific tests conducted by independent experts, and the results are available for inspection by the general public, or

(2) The representation is made solely in the course of the offering or implementation of a guarantee in conformity with the following subparagraph, if applicable, and with paragraph 18 of this order.

d. Respondents' programs will take off inches, or that any inch loss is guaranteed, unless:

(1) All measurements are made with nonstretch tape equipped with a tension meter and a uniform tightness is used;

(2) Horizontal rather than diagonal measurements are taken on body parts positioned in a uniform manner, except that diagonal measurements at angles constant for each individual patron may be taken of the upper arms and outer thighs;

(3) All measurements are taken at specified distances from designated reference points (such as 2 inches below the navel), such distances to be constant for each individual patron;

(4) A copy of the standard tension and applicable distances, angles, and body reference points is given to the prospective patron before she is measured; and

(5) Any advertisement referring to inch loss identifies each area of the body from which such loss is or will be measured.

e. Any or all of respondents' patrons can attain a perfect figure.

f. Respondents' reducing methods:

(1) Are new or unique,

(2) Are thoroughly or scientifically tested or approved by experts or physi-

cians, unless and until such statements become true,

(3) Will give patrons more energy, or

(4) Are beneficial or have therapeutic value to persons with medical problems.

g. Respondents' programs involve no disrobing, unless it is disclosed at the same time that partial disrobing may be necessary for measurement, or unless the representation is clearly limited to use of respondents' passive equipment.

h. Respondents' program is the least expensive method of figure reduction.

i. Respondents operate salons in more than three States of the United States or in other countries, unless and until such statements become true.

j. Respondents' programs do not involve "memberships" or long-term contractual obligations, or that patrons can purchase respondents' services on a per-treatment basis; unless respondents manifestly permit patrons to purchase individual treatments without contractual obligations for more.

k. A majority, 85 percent or any other proportion of respondents' patrons choose the accelerated program, unless such proportion is verified by respondents' enrollment records.

l. Respondents' accelerated program achieves desired results in half the time it would take under the regular program, or at any other rate, unless such representation is verified by respondents' records.

11. Using any advertising, sales plan, or procedure, involving the use of false, deceptive, or misleading statements or representations for the purpose of obtaining leads or prospects for the sale of reducing programs.

12. Failing, in connection with the sale of any program or service at a price exceeding $25, to:

a. Include clearly and conspicuously on the face of the contract or other legally binding document the following statement:

NOTICE

You are entitled to a trial period of two (2) visits within the next five (5) business days, excluding the date and visit during which you signup for a program. Accordingly, you may cancel this contract for any reason by certified mail, return receipt requested, or telegram sent within five (5) business days after the date of this contract or within 24 hours after the second visit, whichever occurs earlier. Such notification of cancellation should be addressed to Nu Dimensions at (current mailing address must be stated). Upon such cancellation, you will be entitled to a prompt pro rata refund except for a cancellation fee not to exceed $15 or 10 percent of the cash price, whichever is less.

b. Orally inform the prospective patron, before she enrolls, of the trial-period and cancellation rights prescribed by subparagraph a above.

c. Cancel the contract of any patron who requests cancellation in accordance with the provisions of subparagraph a above; and mail to each such patron, within ten (10) business days of receipt of said request, a refund in accordance with said subparagraph.

13. Failing to disclose clearly, conspicuously, completely and accurately, both orally and in writing, before enrolling any person in any program:

a. The nature of respondents' programs, equipment and required diets.

b. That prospective patrons with health problems or who are under a doctor's care should consult their physician to be sure that respondents' programs are not incompatible with figure control or other health plans prescribed by such physician.

c. That the patron may terminate her program and obtain a pro rata refund of any moneys paid, upon either: (1) Tender of a letter from her physician stating clearly and unequivocally that participation in respondents' program would be hazardous to her health and setting forth in detail the medical reasons for such opinion, or (2) permanently moving to a residence located beyond a 25-mile radius of all figure salons operated by respondents, or in an area so geographically isolated from such salons that travel thereto would be unreasonably burdensome.

14. Failing to terminate the contract of any patron who requests termination pursuant to subparagraph c of paragraph 13; and failing to mail, within ten (10) business days of receipt of said request, a pro rata refund in accordance with said subparagraph.

15. Failing to provide each customer a copy of each contract, note, or other instrument of indebtedness executed by, or on behalf of such customer; and failing to include clearly and conspicuously on the face of all such documents:

a. A statement that the document is a contract and will become legally binding upon said customer upon its acceptance by the respondents.

b. All terms and conditions of such document.

c. The following statement:

NOTICE

Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby, any contractual provision or other agreement to the contrary notwithstanding.

16. Misrepresenting in any manner, directly or by implication:

a. The conditions under which a contract may be canceled.

b. That any of respondents or their successors or assigns are holders in due course of any notes, contracts or other documents executed by respondents' customers.

c. That a customer's account has been turned over to an attorney or an independent organization engaged in the business of collecting past-due accounts.

17. Assigning, selling, or otherwise transferring notes, contracts, or other documents evidencing a purchaser's indebtedness, unless any rights or defenses which the purchaser has and may assert against respondents are preserved and may be asserted against any assignee or subsequent holder of such note, contract or other documents evidencing the indebtedness.

18. Advertising or representing in any manenr, directly or by implication, that any of respondents' reducing programs or other services or articles are guaranteed unless:

a. Respondents disclose clearly, adequately and accurately in immediate conjunction therewith:

(1) The nature and extent of the guarantee,

(2) The conditions and limitations on the guarantee,

(3) Which programs are guaranteed,

(4) The duration of the guarantee,

(5) The manner in which the guarantor will perform; and

b. Respondents promptly and fully perform all of their obligations and requirements, directly or impliedly represented, under the terms of each such guarantee; and

C. Respondents honor the guarantees of all patrons who have substantially complied with the conditions of their guarantee, allowing flexibility for sickness and vacations.

It is further ordered, That respondents maintain at all times complete records relative to the manner and form of their compliance, during the immediately preceding 12-month period, with the above terms and provisions of this order. Such records shall include copies of all advertising, and shall indicate with respect to each sale the type of program and/or service, the price charged for such program and/or service, the terms of each such program or service and the name and address of each purchaser thereof.

II. *It is further ordered,* That respondents Nu Dimensions International, Ltd., and New-Dimensions, Ltd., corporations doing business as Nu Dimensions Figure Salons, International Acceptance Co., or under any other name or names, and Alan Acceptance Corp., a corporation, and their officers, and Allan A. Turner and Cindy Young, individually and as officers of said corporations, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

a. Failing to disclose the "cash price" which is the price at which respondents offer, in the regular course of business, to sell for cash the services which are the subject of the credit sale, as required by § 226.8(c)(1) of Regulation Z.

b. Failing to disclose the sum of all charges made to the customer which are required by § 226.4 of Regulation Z to be included in the finance charge, and to describe that sum as the "finance charge," as required by § 226.8(c)(8)(i) of Regulation Z.

c. Failing to disclose the annual percentage rate, calculated in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

d. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, at the time and in the manner, form and amount required by §§ 226.6, 226.8, and 226.10 of Regulation Z.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist to each operating division, to all present and future franchisees and licensees, and to all personnel of respondents now or hereafter engaged in the offering for sale, or sale of respondents' services, or in the collection of patrons' accounts, in the consummation of any extension of consumer credit, or in any aspect of preparation, creation or placing of advertising; and that respondents secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in any of the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of any successor corporation or corporations, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

Issued: November 20, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-21970 Filed 12-21-72;8:45 am]

[Docket No. C-2320]

PART 13—PROHIBITED TRADE PRACTICES

Stark, Roshcelle & Alchas, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements:* 13.73-10 Fur Products Labeling Act. Subpart—*Furnishing false guaranties:* 13.1053-35 Fur products Labeling Act. Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-30 Fur Products Labeling Act: § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-30 Fur Products Labeling Act; § 13.1255 Manufacture or preparation: 13.1255-30 Fur Products Labeling Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1590 *Composition:* 13.1590-30 Fur Products Labeling Act; § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-30 Fur Products Labeling Act; § 13.1685 *Nature:* 13.1685-35 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and regulatory and statutory requirements:* 13.1852-25 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Stark, Roshcelle & Alchas, Inc., et al., New York, N.Y., Docket No. C-2320, Nov. 20, 1972]

In the Matter of Stark, Roschelle, & Alchas, Inc. a corporation, and David Roschelle, Eugene Stark and George Alchas, individually and as officers of said corporation.

Consent order requiring a New York City furrier, among other things to cease misbranding and falsely invoicing its fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That, Stark, Roschelle, & Alchas, Inc., a corporation, its successors and assigns, and its officers, and David Roschelle, Eugene Stark and George said corporation, respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the term "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by:

1. Representing directly or by implication on a label that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Representing directly or by implication on an invoice that the fur contained in such fur product is natural, when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That Stark, Roschelle & Alchas, Inc., a corporation, its successors and assigns, and its officers, and David Roschelle, Eugene Stark and George Alchas, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, that the respondent corporation shall forthwith distribute a copy of this Order to each of its operating divisions.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 20, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-21969 Filed 12-21-72;8:45 am]

[Docket No C-2317]

PART 13—PROHIBITED TRADE PRACTICES

Universal Figure Form of Youngstown, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices:* 13.155-100 Usual as reduced, special, etc.; § 13.170 *Qualities or properties of product or service:* 13.170-74 Reducing, non-fattening, low-calorie, etc.; § 13.190 *Results;* § 13.225 *Services;* § 13.240 *Special or limited offers.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1747 *Special or limited offers;*—Prices: § 13.1825 *Usual as reduced or to be increased.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1892 *Sales contract, right-to-cancel provision.* Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2000

Limited offers or supply; § 13.2015 *Opportunities in product or service.* Subpart—Securing signatures wrongfully: § 13.2175 *Securing signatures wrongfully.* Subpart—Using deceptive techniques in advertising: § 13.2275 *Using deceptive techniques in advertising.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Universal Figure Form of Youngstown, Inc., et al., Youngstown, Ohio, Docket No. C–2317, Nov. 15, 1972]

In the Matter of Universal Figure Form of Youngstown, Incorporated, a corporation, and Jerome B. Kahn, George W. Jaconetti, and Donald W. Hudson, individually and as officers of said corporation.

Consent order requiring a Youngstown, Ohio, health club, among other things, to cease misrepresenting time limits on offers of membership; representing prices as constituting a reduction or savings unless it is substantial; misrepresenting the benefits derived from membership; using "before and after" photographs deceptively, and failing to inform customers of their right to cancel within 3 business days.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Universal Figure Form of Youngstown, Inc., a corporation, its successors and assigns, and its officers, and Jerome B. Kahn, George W. Jaconetti, and Donald W. Hudson, individually and as officers of said corporation, and respondents' agents, representatives, salesmen, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, and sale of health club memberships, or other related services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I. Representing, directly or by implication:

A. That fewer health club memberships or related services are available for sale for a limited time or in a limited number than are, in fact, available.

B. That any price is a special price or constitutes a savings or reduction from the regular price unless:

1. Respondents maintain records with respect to each sale at a special price or at a savings or reduction from the regular price indicating:

a. The name and address of each customer.

b. The type of health club membership or related service sold to each customer.

c. The price charged for each such sale.

d. The terms and conditions of each such sale of the health club membership or related service.

2. Such price at which the health club membership or related service is offered constitutes a reduction from the price at which said membership is usually and customarily sold at retail by respondents in the recent course of business.

C. That membership in respondents' health club programs and/or use of respondents' health club facilities automatically means that every person will alter his body size or configuration or will lose weight.

D. That purchasers of memberships in respondents' health club facilities will lose weight as a result of using the facilities of respondents' health clubs without regulating caloric intake.

E. That any advertised facilities are available, unless such facilities are, in fact, available and generally in working condition and, regardless of the patron's sex, are available for use. If respondents' facilities are not available to all members at all hours, such fact must be clearly and conspicuously disclosed in all of the respondents' advertisements of such facilities. Such disclosure shall appear in a type larger than the size used to set out the facilities. If respondents' facilities are not available to all members at all hours, this fact must be affirmatively disclosed to patrons before any contractual agreement for use of the facilities is made between the patrons and the respondents.

II. Use of "before and after" or comparison photographs indicating any changes or body configuration, unless:

A. The person so depicted has attended respondents' health clubs and the results depicted were achieved through participation in respondents' health club program; or

II. Use of "before and after" or comparison photographs indicating any changes or body configuration, unless:

A. The person so depicted has attended respondents' health clubs and the results depicted were achieved through participation in respondents' health club programs; or

B. The photographs are accompanied by the following statement, to appear in clear and conspicuous fashion in immediate conjunction therewith: "Posed Photographs".

III. Failing to incorporate the following statement on the face of all sales contracts, all notes, or other instruments of indebtedness (excluding charge slips of Master Charge, BankAmericard, or similar charge cards providing the following statement is shown to the patron before any contractual agreement is consummated) executed by or on behalf of respondents' customers, with such conspicuousness and clarity as is likely to be read and understood by the purchaser:

NOTICE

If you are obtaining credit in connection with this purchase, you will be required to sign a promissory note, a sales contract or other instrument of indebtedness which may be purchased from the seller by a bank, finance company or any other third party. If such is the case, you will be required to make your payments to someone other than the seller. You should be aware that if this happens you may have to pay the note, contract, or other instrument of indebtedness in full to its new owner even if your purchase contract is not fulfilled.

IV. Obtaining customers' signatures on any application for membership, contract, note, or other document which fails to contain a clause allowing customers to void said agreement or obligation, within three (3) business days of the date of execution of said document, upon the tender of a certificate from the customer's physician that participation in respondents' health club programs would impair the health of said customer during the term of said contract, provided such certificate is accurate and correct.

V. Selling any sales contract, promissory note, or other instrument of indebtedness to a finance company or other third party prior to midnight of the third business day after the date of execution by the buyer.

VI. Failing to deliver a copy of this order to cease and desist to all present and future employees, instructors or other persons engaged in the sale of respondents' health club memberships and related services and failing to secure from each employee or other person a signed statement acknowledging receipt of said order.

VII. Failing to post in a prominent place in any health club operated by respondents a copy of the cease and desist order, with a note that any member or prospective member may receive a copy on demand.

VIII. Failing, after the acceptance of the initial report of compliance, to submit a report to the Commission once a year during the next three (3) years, describing all known complaints respecting unauthorized representations, all known complaints received from customers respecting representations by salesmen which are claimed to have been deceptive, the facts uncovered by respondents in their investigation thereof, and the action taken by respondents with respect to each such complaint.

It is further ordered, That respondents notify the Commission within thirty (30) days of any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation and/or corporations, the creation or dissolution of subsidiaries or any other changes in the corporation and/or corporations which may affect compliance obligations arising out of this order.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth, in detail, the manner and form in which they have complied with this order.

Issued: November 15, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-21971 Filed 12-21-72;8:45 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 73-1]

PART 6—AIR COMMERCE REGULATIONS

Use of Transit Air Cargo Manifest as Immediate Transportation Entry

On September 17, 1971, there was published in the FEDERAL REGISTER (36 F.R. 18583) a notice of proposed rule making setting forth a proposed amendment to the Customs Regulations providing for the use of Air Cargo Manifest, Customs Form 7509, as an immediate transportation entry for transit air cargo shipments. Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed regulation. Consideration was given to all representations received in response to the notice.

The following technical change is added to attain consistency and conform with the amendment:

In §§ 6.18(f) and 6.20(d), "transportation entry and transit air cargo manifest" is substituted for "transit aircargo manifest".

The proposed amendments, including this change, are adopted as set forth below:

Sections 6.18 (a) and (f) are amended to read:

§ 6.18 Documentation for transit air cargo.

(a) Customs Form 7509, Air Cargo Manifest, printed, stamped, or labeled "Transportation Entry and Transit Air Cargo Manifest" must be used as the transportation entry and the manifest for transit aircargo. The cargo manifest sheet in the inward cargo manifest of the importing aircraft and each copy thereof required for a transit aircargo movement must be so printed, stamped, or labeled. Each transportation entry and transit aircargo manifest sheet, hereafter referred to as transit aircargo manifest sheet, must be a duplicate, insofar as identification of the cargo and other data, of the corresponding manifest sheet in the inward cargo manifest presented for the aircraft on which the cargo arrives in the United States and shall show the value in U.S. dollars of each item listed therein.

* * * * *

(f) The transportation entry and transit aircargo manifest must be furnished in the number of copies indicated below for the respective transportation movement:

* * * * *

Section 6.20 is amended in paragraph (c) by adding a new sentence between the second and third sentences and by amending paragraph (d) to read as follows:

§ 6.20 Conditions for transportation of transit aircargo.

* * * * *

(c) Transit aircargo may be transported to another port only when receipted for by an airline designated as a common carrier for the transportation of bonded merchandise having on file an appropriate Customs bond for such transportation. Transit aircargo may be exported from the port of arrival only when covered by an exportation bond on Customs Form 7557 or 7559 as specified in section 18.25 of this chapter, or other appropriate bond. The importing airline, whether registered in the United States or a foreign country, if it has been designated a carrier of bonded merchandise as set forth above, may receipt for the aircargo, obligate its appropriate bond, and deliver the aircargo to an authorized domestic carrier for inbond transportation beyond the port of arrival under the importing airline's bond which covers that movement. The responsibility of the receiving airline for transit aircargo otherwise than for direct exportation from the port of arrival begins when a receipt executed as prescribed in paragraph (d) of this section is presented to Customs. * * *

(d) Each copy of the transportation entry and transit aircargo manifest must bear the following statement legibly signed and dated, if required, when presented to Customs:

* * * * *

(R.S. 251, as amended, secs. 552, 553, 624, 46 Stat. 742, as amended, 759, sec. 1109, 72 Stat. 799, as amended; 19 U.S.C. 66, 1552, 1553, 1624, 49 U.S.C. 1509)

Effective date. This amendment shall become effective 30 days after its publication in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: December 11, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-21996 Filed 12-21-72;8:46 am]

[T.D. 73-3]

PART 22—DRAWBACK

Accelerated Payment of Drawback Claims

On October 5, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 20951), setting forth a proposed amendment to the Customs regulations to add a new § 22.20a, which would provide for the accelerated payment of drawback claims. Interested persons were given 30 days from the date of publication of the notice to submit relevant written data, views, or arguments, regarding the proposed amendment to the regulations. The comments submitted were favorable.

The following changes have been made to this amendment:

1. The second sentence of § 22.20a is amended to set forth the particular Customs form numbers of the appropriate two bonds, mentioned below, which are to be used in connection with the filing of a claim for the accelerated payment of drawback. In the proposed notice, the second sentence only indicated that a bond guaranteeing the refund of any excess payment shall be filed with the claim for accelerated payment, but did not identify the bond.

2. The clause "that the amount claimed is credible" appearing in the third sentence of § 22.20a in the proposed notice, is replaced by the clause "that the claim appears reasonable in amount."

3. The last sentence of § 22.20a is changed to clarify when the right to receive accelerated payment of drawback will be denied by the regional commissioner. The last sentence is amended to read "The right to receive accelerated payments shall be denied claimants repeatedly computing claims erroneously, thereby necessitating demands for refund."

Drawback claims which are pending on the effective date of this amendment may be processed under this amendment, if the claimants so request.

Under § 22.20a of the Customs regulations, an applicant for accelerated payment of drawback claims must file with Customs a bond guaranteeing the refund of any excess payments. Therefore, pursuant to the authority contained in section 251 of the Revised Statutes, as amended, and sections 313, 623, and 624 of the Tariff Act of 1930, as amended (19 U.S.C. 66, 1313, 1623, and 1624), it shall be necessary in order to enforce this provision of the regulations for the applicant to file either a single entry bond, Customs Form 7609, or a term bond, Customs Form 7611, in the form as set forth below.

In the case of the single-entry bond, Customs Form 7609, the bond shall be taken in an amount equal to the amount of accelerated payment to be received on the entry covered. In the case of the term bond, Customs Form 7611, the bond shall be taken in an amount sufficient to cover the maximum amount of accelerated payment to be outstanding at any time during the period of the bond.

If a claimant with outstanding drawback claims at the time this amendment becomes effective requests that such claims be processed under this procedure, one bond covering all such outstanding claims may be taken, irrespective of the fact that the period in which such claims were filed exceeds a year. The format for the term bond, Customs Form 7611, hereunder should be modified as appropriate for this purpose.

Accordingly, new § 22.20a of the Customs regulations, Chapter I, Title 19 of the Code of Federal Regulations, the

conforming changes, and the two new bond forms, are hereby adopted as set forth below.

Since the bond format is a matter of rules of agency procedure, and the bonds implement an exemption, notice and public procedure as to the manner of bond to be used is unnecessary under 5 U.S.C. 553. As the amendment and bond forms relieve a restriction by permitting an accelerated drawback payment prior to liquidation, good cause exists under 5 U.S.C. 553(d) for dispensing with a delayed effective date.

Effective date. This amendment, and the two bond forms to enforce this amendment, shall become effective on the date of its publication in the FEDERAL REGISTER (12–22–72).

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: December 13, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

Part 22 is amended by adding a new § 22.20a entitled *"Accelerated Payment of Drawback Claims,"* reading as follows:

§ 22.20a Accelerated payment of drawback claims.

A claimant for drawback, whom the regional commissioner of Customs determines not delinquent or otherwise remiss in transactions with Customs, is eligible for accelerated payment of drawback claims which are properly prepared and fully completed as provided in § 22.13. A claimant, requesting accelerated payment of a claim, shall submit with the claim a computation of the amount due thereon and shall also file with Customs, for approval by the regional commissioner, a bond on either Customs Form 7609 or 7611, guaranteeing the refund of any excess payment. If the regional commissioner, after receiving a claim, determines that the conditions for accelerated payment are met, and that the claim appears reasonable in amount, he shall, within 3 weeks after the claim is filed, certify for payment 90 percent of the claim as computed by the claimant. After liquidation, the remainder found to be due will be paid, or a demand for refund of any excess payment paid will be made. The right to receive accelerated payments shall be denied claimants repeatedly computing claims erroneously, thereby necessitating demands for refund.

(R.S. 251, as amended, secs. 313, 624, 46 Stat. 693, as amended, 759; 19 U.S.C. 66, 1313, 1624)

In addition to § 22.20a of the Customs regulations, as published above, the two new bond forms, Customs Forms 7609 and 7611, which shall enforce this section of the Customs regulations are set forth below:

BUREAU OF CUSTOMS

BOND FOR ACCELERATED PAYMENT OF DRAWBACK (SINGLE ENTRY) KNOW ALL MEN BY THESE PRESENTS,

That* _____, of _____, as principal, and _____, of _____, and _____, of _____, as sureties, are held and firmly bound unto the United States of America in the sum of _____ dollars ($_____) for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this _____ day of _____, 19____.

Whereas, pursuant to regulations promulgated under section 313 of the Tariff Act of 1930, as amended, the above-bounden principal requests accelerated payment of a drawback claim for $_____ dated _____, prior to liquidation of said claim; and

Whereas, pursuant to the above cited regulations, 90 percent of the amount due on said claim, as computed by the above-bounden principal, will be paid to the latter, prior to liquidation of said claim;

Now, Therefore, The condition of this obligation is such that—

If the above-bounden principal shall refund upon demand the full amount paid on the drawback claim secured by this bond in excess of the amount which is established by liquidation of said claim to be due (it being understood and agreed that for purposes of this bond the amount due on said claim as determined by liquidation shall be binding on all parties to this obligation), then this obligation shall be void; otherwise it shall remain in full force and effect.

Signed, sealed and delivered in the presence of—

_____ (Name)	_____ (Address)		
_____ (Name)	_____ (Address)	_____ (Principal)	(SEAL)
_____ (Name)	_____ (Address)		
_____ (Name)	_____ (Address)	_____ (Surety)	(SEAL)
_____ (Name)	_____ (Address)		
_____ (Name)	_____ (Address)	_____ (Surety)	(SEAL)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the **_____ of the corporation named as principal in the within bond; that _____, who signed the said bond on behalf of the principal, was then _____ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

_____ (CORPORATE SEAL)

(To be used when no power of attorney has been filed with the district director of customs.)

BUREAU OF CUSTOMS

BOND FOR ACCELERATED PAYMENT OF DRAWBACK (TERM)

Know all men by these presents,

That *_____, of _____, as principal, and *_____, of _____, and _____, of _____, as sureties, are held and firmly bound unto the United States of America in the sum of _____ dollars ($_____), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this _____ day of _____, 19—

Whereas, it is expected that during the period of 1 year beginning on the _____ day of _____, 19—, and ending on the _____ day of _____, 19—, both dates inclusive, the above-bounden principal will file certain drawback claims and will request accelerated payment of such claims pursuant to regulations promulgated under section 313 of the Tariff Act of 1930, as amended; and

Whereas, pursuant to the above-cited regulations, the above-bounden principal will compute the amount due on drawback claims for which he requests accelerated payment; and

Whereas, pursuant to the above-cited regulations, 90 percent of the amount due on drawback claims, as computed by the above-bounden principal, will be paid to the latter prior to the liquidation of said claims;

Now, Therefore, the condition of this obligation is such that—

If the above-bounden principal shall refund upon demand the full amount paid on any drawback claim secured by this bond in excess of the amount which is established by liquidation of such claim to be due (it being understood and agreed that for purposes of this bond the amount due on a claim as determined by liquidation shall be binding on all parties to this obligation), then this obligation shall be void; otherwise it shall remain in full force and effect.

Signed, sealed and delivered in the presence of—

_____ (Name)	_____ (Address)		
_____ (Name)	_____ (Address)	_____ (Principal)	(SEAL)
_____ (Name)	_____ (Address)		
_____ (Name)	_____ (Address)	_____ (Surety)	(SEAL)
_____ (Name)	_____ (Address)		
_____ (Name)	_____ (Address)	_____ (Surety)	(SEAL)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the **_____ of the corporation named as principal in the within bond; that _____, who signed the said bond on behalf of the principal, was then _____ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

_____ (CORPORATE SEAL)

(To be used when no power of attorney has been filed with the district director of customs.)

* If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

** May be executed by the secretary, assistant secretary, or other officer of corporation.

** May be executed by the secretary, assistant secretary, or other officer of the corporation.

[FR Doc.72-22024 Filed 12-21-72; 8:46 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 51—CANNED VEGETABLES

Canned Dry Peas; Confirmation of Effective Date of Order Establishing Separate Standards of Identity, Quality, and Fill of Container

In the matter of amending the standard of identity for canned peas (21 CFR 51.1) by deleting all references to dried peas and establishing new standards of identity (21 CFR 51.4), quality (21 CFR 51.5), and fill of container (21 CFR 51.6), for canned dry peas.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056 as amended by 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed in response to the above-identified order which was published in the FEDERAL REGISTER of September 13, 1972 (37 F.R. 18527). Accordingly, the order became effective November 12, 1972.

Dated: December 15, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-21963 Filed 12-21-72;8:45 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ANTISTATIC AND/OR ANTIFOGGING AGENTS IN FOOD-PACKAGING MATERIAL

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1B2683) filed by Chem-y, Fabriek van Chemische Producten N.V., Noordstaat 49, Bodegraven, Holland, and other relevant material, concludes that food additive regulations should be amended, as set forth below, to provide for the safe use of alpha-(carboxymethyl)-omega-(tetradecyloxy) poly(oxyethylene) as an antistatic and/or antifogging agent in olefin polymers intended for use in food-packaging material.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120) § 121.2527(b) is amended by alphabetically inserting in the list of substances a new item as follows:

§ 121.2527 Antistatic and/or antifogging agents in food-packaging materials.

* * * * *

(b) List of substances:

Substances	*Limitations*
Alpha-(Carboxymethyl)-omega-(tetradecyloxy) poly(oxyethylene).	For use only as an antistatic and/or antifogging agent at levels not to exceed 0.2 percent by weight in polyolefin film not exceeding 0.001 inch thickness.

* * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–83, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (12–22–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 15, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-21961 Filed 12-21-72;8:45 am]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

DEFOAMING AGENTS

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 2A2777) filed by Witco Chemical Corp., 400 North Michigan Avenue, Chicago, IL 60611, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of white mineral oil as a defoaming agent in wash water for sliced potatoes.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under authority delegated to the Commissioner (21 CFR 2.120), § 121.1099(a)(2) is amended by adding alphabetically a new item to the "List of Substances" as follows:

§ 121.1099 Defoaming agents.

* * * * *

(a) * * *

(2) Substances listed in this subparagraph, subject to any limitations imposed:

Substances	*Limitations*
* * *	* * *
White mineral oil: Conforming with § 121.1146.	As a component of defoaming agents for use in wash water for sliced potatoes at a level not to exceed 0.008 percent of the wash water.

* * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication 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 objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (12–22–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 15, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-21964 Filed 12-21-72;8:45 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

COMPONENTS OF PAPER AND PAPERBOARD IN CONTACT WITH AQUEOUS AND FATTY FOODS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP OH2517) filed by the Dow Chemical Co., Barstow Building, 2020 Abbott Road Center, Midland, MI 48640, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of 1-(3-chloroallyl)-3,5,7 - triaza-1-azoniaadamantane chloride as a preservative for latex pigment binders in paper and paperboard when used in contact with food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526(b)(2) is amended by alphabetically inserting a new item in the "List of Substances," as follows:

§ 121.2526 **Components of paper and paperboard in contact with aqueous and fatty foods.**

* * * * *

(b) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
1 - (3-chloroallyl) - 3,5,7 - triaza-1-azoniaadaman - tane chloride.	For use only as a preservative at a level of 0.3 weight percent in latexes used as pigment binders in paper and paperboard intended for use in contact with food only of the types identified in paragraph (c) of this section, table 1, under types V, VIII, and IX and under the conditions of use described in paragraph (c) of this section, table 2, conditions of use E, F, and G.
* * *	* * *

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication 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 objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shal become effective on its date of publication in the FEDERAL REGISTER (12–22–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1))

Dated: December 18, 1972.

SAM D. FINE,
Associate Comissioner for Compliance.

[FR Doc.72-21958 Filed 12-21-72;8:45 am]

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Thenium Closylate

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (15–182V) filed by Cooper U.S.A., Inc., 1909 North Clifton Avenue, Chicago, IL 60614, proposing revised labeling for the safe and effective use of thenium closylate for treatment of hookworm infections in dogs. 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), Part 135c is amended by adding a new section as follows:

§ 135c.93 **Thenium closylate tablets.**

(a) *Chemical name.*—(N,N-dimethyl-N-2-phenoxyethyl-N-2′-thenylammonium)-p-chlorobenzenesulfonate.

(b) *Specifications.*—Thenium closylate tablets contain thenium closylate equivalent to 500 milligrams thenium as base in each tablet.

(c) *Sponsor.*—See code No. 010 in § 135.501(c) of this chapter.

(d) *Conditions of use.*—(1) The Tablets are administered orally to dogs as a single day treatment of canine ancylostomiasis by the removal from the intestines of the adult forms of the species *Ancylostoma caninum* and *Uncinaria stenocephala* (hookworms). Dogs weighing 10 pounds and over are administered 1 tablet as a single dose. Dogs weighing 5 to 10 pounds are administered one-half tablet twice during a single day. All dosages are given for 1 day only. The treatment should be repeated after 2 or 3 weeks.

(2) Suckling puppies or recently weaned puppies weighing less than 5 pounds should not be treated with the drug. Animals that are severely infected, exhibiting evidence of intestinal hemorrhage, debilitation, and anemia, should be given supportive treatment.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (12–22–72).

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

Dated: December 15, 1972.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.72-21962 Filed 12-21-72;8:45 am]

[DESI 8218]

PART 148i—NEOMYCIN SULFATE
PART 148n—OXYTETRACYCLINE
PART 148p—POLYMYXIN

Polymyxin B Sulfate Ointment; Revocation of Certification or Release; Confirmation of Order

An order was published in the FEDERAL REGISTER of October 14, 1972 (37 F.R. 21808), amending the antibiotic drug regulations to repeal provisions for certification of polymyxin B sulfate ointment. The order amended Part 148i by revising paragraph (b)(1)(ii) of § 148i.16; amended Part 148n by revising the introductory text of paragraph (b)(1)(ii) of § 148n.20; and amended Part 148p by revoking § 148p.3 and revising paragraph (b)(1) of § 148p.9.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the above-identified order. Accordingly the amendments promulgated thereby became effective November 23, 1972.

Dated: December 12, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-22095 Filed 12-21-72;8:46 am]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.681]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Nonimmigrant Documentary Waiver; Suspension

In view of indications that the possibility of the commission of terrorist acts in the United States remains high, of the continued presence in the United States of aliens against whom such acts might be directed, and of the possibility that such acts might be directed against U.S. citizens or their property as well as against aliens, it has been determined that there is a continuing emergency situation in which the need for advance screening of aliens seeking admission into the United States requires the suspension for an additional period of the provision for admission of aliens in immediate transit without a visa. Therefore, Part 41, Chapter I, Title 22 of the Code of Federal Regulations is amended by suspending until July 1, 1973, the waiver of the nonimmigrant visa requirement in the case of aliens in immediate transit.

Paragraph (e) of § 41.6 is suspended until July 1, 1973.

Effective date. The amendment to the regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER (12–22–72).

The provisions of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein

involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

Dated: December 15, 1972.

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

Concurred in: December 18, 1972.

RICHARD G. KLEINDIENST,
Attorney General.

[FR Doc.72-22151 Filed 12-21-72;9:17 am]

SUBCHAPTER G—INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE

[Dept. Reg. 108.680]

PART 61—PAYMENTS TO AND ON BEHALF OF PARTICIPANTS IN THE INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE PROGRAM

Per Diem Change

The regulations governing international educational and cultural exchange are revised to provide increased per diem to participants who come to the United States to lecture, teach, and engage in research. Accordingly, paragraph (c), § 61.4 of Title 22 of the Code of Federal Regulations is revised to read as follows:

§ 61.4 Grants to foreign participants to lecture, teach and engage in research.

* * * * *

(c) *Per diem allowance.* Per diem allowance not to exceed $25 in lieu of subsistence expenses while participating in the program in the United States, its territories or possessions and while traveling within or between the United States, its territories or possessions: *Provided however,* That in accordance with standards prescribed from time to time by the Assistant Secretary for Educational and Cultural Affairs, a per diem allowance of not to exceed $35 may be established in the case of participants awarded grants to lecture or engage in research whose status, position or other special circumstance require special treatment: *And provided further,* That the Assistant Secretary of State for Educational and Cultural Affairs may, in the case of any particular participant, authorize a per diem allowance in excess of $35, but not to exceed $50.

* * * * *

Effective date. This revision is effective upon publication in the FEDERAL REGISTER (12-22-72).

(Sec. 4, 63 Stat. 111, as amended, 75 Stat. 527-538; 22 U.S.C. 2658, 2451 note)

Dated: December 11, 1972.

For the Secretary of State.

[SEAL] WILLIAM B. MACOMBER, Jr.
Deputy Under Secretary for Management.

[FR Doc.72-21981 Filed 12-21-72;8:46 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7231]

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

Basis of Property Received on Liquidation of Subsidiary

On October 31, 1972, there was published in the FEDERAL REGISTER (37 F.R. 23189) a notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 334(b) (2) and (3) of the Internal Revenue Code of 1954, relating to basis of property received on liquidation of a subsidiary. After consideration of all relevant matters regarding the rule proposed, the amendment as proposed is hereby adopted subject to the change set forth below:

Example (3) (c) of § 1.334-1(c) (7) (iv) as set forth in paragraph 2 of the notice of proposed rule making is changed to read as set forth below.

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

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

Approved: December 16, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to certain provisions of section 202 of the Act of November 13, 1966 (Public Law 89-809, 80 Stat. 1576), relating to basis of property received on liquidation of subsidiary, such regulations are amended as follows:

PARAGRAPH 1. Section 1.334 is amended by revising section 334(b) (2) (B), by adding a new sentence at the end of section 334(b) (3), and by adding a historical note, to read as follows:

§ 1.334 Statutory provisions; basis of property received in liquidations.

SEC. 334. *Basis of property received in liquidations.* * * *

(b) *Liquidation of subsidiary.* * * *

(2) *Exception.* * * *

(B) Stock of the distributing corporation possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote, and at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), was acquired by the distributee by purchase (as defined in paragraph (3)) during a 12-month period beginning with the earlier of—

(i) The date of the first acquisition by purchase of such stock, or

(ii) If any of such stock was acquired in an acquisition which is a purchase within the meaning of the second sentence of paragraph (3), the date on which the distributee is first considered under section 318(a) as owning stock owned by the corporation from which such acquisition was made,

* * * * *

(3) *Purchase defined.* * * * Notwithstanding subparagraph (C) of this paragraph, for purposes of paragraph (2) (B), the term "purchase" also means an acquisition of stock from a corporation when ownership of such stock would be attributed under section 318 (a) to the person acquiring such stock, if the stock of such corporation by reason of which such ownership would be attributed was acquired by purchase (within the meaning of the preceding sentence).

* * * * *

(Sec. 334 as amended by sec. 202(a) and (b), Act of Nov. 13, 1966 (Public Law 89-809, 80 Stat. 1576))

PAR. 2. Paragraph (c) of § 1.334-1 is amended by revising so much of subparagraph (6) as precedes subdivision (i) thereof, by redesignating subparagraph (7) as subparagraph (8), and by inserting a new subparagraph (7). These revised and added provisions read as follows:

§ 1.334-1 Basis of property received in liquidations.

* * * * *

(c) *Application of stock basis to property.* * * *

(6) Except as provided in subparagraph (7) of this paragraph, for purposes of section 334(b) (2) the term "purchase" means any acquisition of stock, but only if—

* * * * *

(7) (i) Notwithstanding subdivision (iii) of subparagraph (6) of this paragraph, the term "purchase" includes an acquisition of stock after December 31, 1965, from a related corporation if at least 50 percent in value of the stock of such related corporation was acquired after December 31, 1965, by purchase (within the meaning of subparagraph (6) of this paragraph without regard to this subparagraph). For purposes of this subparagraph, a corporation is a related corporation if stock owned by the corporation would be considered as owned by the distributee under section 318(a).

(ii) If subdivision (i) of this subparagraph applies and if all distributions by the distributing corporation under section 332 are made after November 13, 1966, then the amount of stock required by section 334(b) (2) (B) must be acquired during a 12-month period beginning with the earlier of—

(*a*) The date of the first acquisition by purchase (within the meaning of subparagraph (6) of this paragraph without regard to this subparagraph) of any of such stock, or

(*b*) The date on which the distributee first would be considered under section 318(a) as owning any of such stock owned by the related corporation, taking into account in applying section 318(a) only stock of the related corporation purchased after December 31, 1965 (within the meaning of subparagraph (6) of this paragraph without regard to this subparagraph).

(iii) Since a purchase of stock within the meaning of subdivision (i) of this

subparagraph necessarily involves a transaction between two related corporations, the purchase price will be subjected to close scrutiny to ascertain whether the price reflects the fair market value of the stock. If it is determined that the price paid exceeds the fair market value of the stock purchased, then for purposes of section 334(b)(2) the cost of such stock for purposes of computing its adjusted basis shall be its fair market value.

(iv) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). (a) On January 1, 1967, in an exchange to which section 351 applies, corporation R acquires 40 percent of the stock of corporation S, which owns 100 percent of the stock of corporation T. On July 1, 1967, R acquires 10 percent of the stock of S for cash. On December 31, 1967, R causes S to sell to it the 100 percent of T stock which S owns.

(b) Since R owns at least 50 percent of the stock of S at the time it acquires the T stock from S, the acquisition will qualify as a purchase only if the requirements of this subparagraph are met. The acquisition of the T stock does not qualify under this subparagraph as a purchase because R has acquired only 10 percent of the stock of S by purchase (within the meaning of subparagraph (6) without regard to this subparagraph).

Example (2). (a) Assume the same facts as in example (1), plus the further fact that on November 1, 1967, R acquires an additional 45 percent of the stock of S for cash.

(b) The acquisition by R of the 100 percent of T stock does qualify as a purchase under this subparagraph because R has acquired 55 percent (at least 50 percent) of the stock of S by purchase (within the meaning of subparagraph (6) without regard to this subparagraph).

(c) During a 12-month period beginning on November 1, 1967 (the date on which R first would be considered under section 318(a) as owning any stock owned by S, taking into account only stock of S that R has purchased within the meaning of subparagraph (6) without regard to this subparagraph), R has acquired by purchase the amount of stock required by section 334(b)(2)(B).

Example (3). (a) On January 1, 1968, corporation X acquires for cash 10 percent of the stock of corporation Z. On February 1, 1968, X acquires for cash at least 50 percent of the stock of corporation Y, which owns 45 percent of the stock of Z. On March 1, 1968, X causes corporation Y to sell to it the 45 percent of Z stock which Y owns. On April 1, 1968, corporation X acquires for cash 25 percent of the stock of Z.

(b) Since X owns at least 50 percent of the stock of Y at the time of its acquisition of the 45 percent of Z stock from Y, the acquisition will qualify as a purchase only if the requirements of this subparagraph are met. The acquisition of the Z stock does qualify as a purchase under this subparagraph because X acquired at least 50 percent of the stock of Y by purchase (within the meaning of subparagraph (6) without regard to this subparagraph). Therefore, X has acquired by purchase the amount of stock required by section 334(b)(2)(B) during a 12-month period beginning on January 1, 1968, the date of the first acquisition by purchase (within the meaning of subparagraph (6) without regard to this subparagraph) of any of such stock.

(c) The result would be the same if X purchased 100 percent of the Y stock on February 1, 1968, and caused Y to be completely liquidated on March 1, 1968, receiving the 45 percent interest in Z in the liquidation.

(8) Section 334(b) does not apply to minority shareholders. The basis of property, other than cash, received by such shareholders shall be determined under section 334(a), section 334(c), or section 358.

[FR Doc.72-21992 Filed 12-21-72;8:45 am]

[T.D. 7230]

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

Yearly Certification as to Partial Blindness

The Income Tax Regulations (26 CFR) under section 151 of the Internal Revenue Code of 1954, are amended as follows:

Paragraph (d) of § 1.151-1 is amended to include a new subparagraph (4).

§ 1.151-1 Deductions for personal exemptions.

* * * * *

(d) *Exemptions for the blind.* * * *

(4) Notwithstanding subparagraph (3) of this paragraph, this subparagraph may be applied where the individual for whom an exemption under section 151 (d) is claimed is not totally blind, and in the certified opinion of an examining physician skilled in the diseases of the eye there is no reasonable probability that the individual's visual acuity will ever improve beyond the minimum standards described in subparagraph (3) of this paragraph. In this event, if the examination occurs during a taxable year for which the exemption is claimed, and the examining physician certifies that, in his opinion, the condition is irreversible, and a copy of this certification is filed with the return for that taxable year, then a statement described in subparagraph (3) of this paragraph need not be attached to such individual's return for subsequent taxable years so long as the condition remains irreversible. The taxpayer shall retain a copy of the certified opinion in his records, and a statement referring to such opinion shall be attached to future returns claiming the section 151(d) exemption.

Because this Treasury decision revises departmental policy and procedure, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 553 (b) of title 5 of the United States Code, or subject to the effective date of limitations of subsection (d) of such section.

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

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

Approved: December 16, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72-21991 Filed 12-21-72;8:45 am]

[T.D. 7202]

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

Charitable Remainder Trusts; Correction

On August 23, 1972, T.D. 7202 was published in the FEDERAL REGISTER (37 F.R. 16913). The word "testator" in paragraph (g)(2)(i) of § 1.664-1, as prescribed by T.D. 7202, is corrected in the Income Tax Regulations (26 CFR Part 1) to read "grantor".

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.72-22149 Filed 12-21-72;8:47 am]

[T.D. 7232]

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

PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Special Rules With Respect to Section 501(c)(3) Organizations

On May 6, 1972, notice of proposed rule making was published with respect to promulgation of regulations under section 508 of the Internal Revenue Code of 1954, as enacted by section 101(a) of the Tax Reform Act of 1969 (83 Stat. 494), relating to special rules with respect to section 501(c)(3) organizations. A public hearing with respect to these proposed regulations was held on August 8, 1972. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the Income Tax Regulations (26 CFR Part 1) are hereby amended as follows: Temporary Treasury Regulations § 13.8, 35 F.R. 7300 (1970), § 13.9, 35 F.R. 11232 (1970), and § 13.17, 36 F.R. 23905 (1971), are superseded. Except where otherwise specifically provided, the following regulations take effect on January 1, 1970.

PARAGRAPH 1. Insert in the appropriate places, the following sections:

§ 1.508 Statutory provisions; special rules with respect to certain 501(c)(3) organizations.

SEC. 508. *Special rules with respect to section 501(c)(3) organizations.*—(a) *New organizations must notify Secretary that they are applying for recognition of section 501(c)(3) status.*—Except as provided in subsection (c), an organization organized after October 9, 1969, shall not be treated as an organization described in section 501(c)(3)—

(1) Unless it has given notice to the Secretary or his delegate, in such manner as the Secretary or his delegate may by regulations prescribe, that it is applying for recognition of such status, or

(2) For any period before the giving of such notice, if such notice is given after the time prescribed by the Secretary or his delegate by regulations for giving notice under this subsection.

For purposes of paragraph (2), the time prescribed for giving notice under this subsection shall not expire before the 90th day after the day on which regulations first prescribed under this subsection become final.

(b) *Presumption that organizations are private foundations.*—Except as provided in subsection (c), any organization (including an organization in existence on October 9, 1969) which is described in section 501(c)(3) and which does not notify the Secretary or his delegate, at such time and in such manner as the Secretary or his delegate may by regulations prescribe, that it is not a private foundation shall be presumed to be a private foundation. The time prescribed for giving notice under this subsection shall not expire before the 90th day after the day on which regulations first prescribed under this subsection become final.

(c) *Exceptions*—(1) *Mandatory exceptions.*—Subsections (a) and (b) shall not apply to—

(A) Churches, their integrated auxiliaries, and conventions or associations of churches, or

(B) Any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than $5,000.

(2) *Exceptions by regulations.*—The Secretary or his delegate may by regulations exempt (to the extent and subject to such conditions as may be prescribed in such regulations) from the provisions of subsection (a) and (b) or both—

(A) Educational organizations which normally maintain a regular faculty and curriculum and normally have a regularly enrolled body of pupils or students in attendance at the place where their educational activities are regularly carried on; and

(B) Any other class of organizations with respect to which the Secretary or his delegate determines that full compliance with the provisions of subsections (a) and (b) is not necessary to the efficient administration of the provisions of this title relating to private foundations.

(d) *Disallowance of certain charitable, etc., deductions*—(1) *Gift or bequest to organizations subject to section 507(c) tax.* No gift or bequest made to an organization upon which the tax provided by section 507(c) has been imposed shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made—

(A) By any person after notification is made under section 507(a), or

(B) By a substantial contributor (as defined in section 507(d)(2)) in his taxable year which includes the first day on which action is taken by such organization which culminates in the imposition of tax under section 507(c) and any subsequent taxable year.

(2) *Gift or bequest to taxable private foundation, section 4947 trust, etc.* No gift or bequest made to an organization shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made—

(A) To a private foundation or a trust described in section 4947 in a taxable year for which it fails to meet the requirements of subsection (e) (determined without regard to subsection (e)(2)(B) and (C)), or

(B) To any organization in a period for which it is not treated as an organization described in section 501(c)(3) by reason of subsection (a).

(3) *Exemption.*—Paragraph (1) shall not apply if the entire amount of the unpaid portion of the tax imposed by section 507(c) is abated by the Secretary or his delegate under section 507(g).

(e) *Governing instruments*—(1) *General rule.*—A private foundation shall not be exempt from taxation under section 501(a) unless its governing instrument includes provisions the effects of which are—

(A) To require its income for each taxable year to be distributed at such time and in such manner as not to subject the foundation to tax under section 4942, and

(B) To prohibit the foundation from engaging in any act of self-dealing (as defined in section 4941(d)), from retaining any excess business holdings (as defined in section 4943(c)), from making any investments in such manner as to subject the foundation to tax under section 4944, and from making any taxable expenditures (as defined in section 4945(d)).

(2) *Special rules for existing private foundations.*—In the case of any organization organized before January 1, 1970, paragraph (1) shall not apply—

(A) To any taxable year beginning before January 1, 1972,

(B) To any period after December 31, 1971, during the pendency of any judicial proceeding begun before January 1, 1972, by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument in order to meet the requirements of paragraph (1), and

(C) To any period after the termination of any judicial proceeding described in subparagraph (B) during which its governing instrument or any other instrument does not permit it to meet the requirements of paragraph (1).

[Sec. 508, as added by sec. 101(a), Tax Reform Act 1969 (83 Stat. 494)]

§ 1.503–1 Notices.

(a) *New organizations must notify the Commissioner that they are applying for recognition of section 501(c)(3) status*—(1) *In general.*—Except as provided in subparagraph (3) of this paragraph, an organization that is organized after October 9, 1969, will not be treated as described in section 501(c)(3)—

(i) Unless such organization has given the Commissioner notice in the manner prescribed in subparagraph (2) of this paragraph; or

(ii) For any period before the giving of such notice, unless such notice is given in the manner and within the time prescribed in subparagraph (2) of this paragraph.

No organization shall be exempt from taxation under section 501(a) by reason of being described in section 501(c)(3) whenever such organization is not treated as described in section 501(c)(3) by reason of section 508(a) and this paragraph. See section 508(d)(2)(B) and § 1.508–2(b) regarding the deductibility of charitable contributions to an organization during the period such organization is not exempt under section 501(a) as an organization described in section 501(c)(3) by reason of failing to file a notice under section 508(a) and this subparagraph. See also § 1.508–2(b)(1)(viii) regarding the deductibility of charitable contributions to trusts described in section 4947(a)(1).

(2) *Filing of notice.*—(i) For purposes of subparagraph (1) of this paragraph, except as provided in subparagraph (3) of this paragraph, an organization seeking exemption under section 501(c)(3) must file the notice described in section 508(a) within 15 months from the end of the month in which the organization was organized, or before March 22, 1973, whichever comes later. Such notice is filed by submitting a properly completed and executed Form 1023, exemption application. Notice should be filed with the district director. A request for extension of time for the filing of such notice should be submitted to such district director. Such request may be granted if it demonstrates that additional time is required.

(ii) Although the information required by Form 1023 must be submitted to satisfy the notice required by this section, the failure to supply, within the required time, all of the information required to complete such form is not alone sufficient to deny exemption from the date of organization to the date such complete information is submitted by the organization. If the information which is submitted within the required time is incomplete, and the organization supplies the necessary additional information at the request of the Commissioner within the additional time period allowed by him, the original notice will be considered timely.

(iii) For purposes of subdivision (i) of this subparagraph and paragraph (b)(2)(i) of this section, an organization shall be considered "organized" on the date it becomes an organization described in section 501(c)(3) (determined without regard to section 508(a)).

(iv) Since a trust described in section 4947(a)(2) is not an organization described in section 501(c)(3), it is not required to file a notice described in section 508(a).

(v) For the treatment of community trusts, and the trusts or funds comprising them, under section 508, see the special rules under § 1.170A–9(e).

(vi) A foreign organization shall, for purposes of section 508, be treated in the same manner as a domestic organization, except that section 508 shall not apply to a foreign organization which is described in section 4948(b).

(3) *Exceptions from notice.*—(i) Subparagraphs (1) and (2) of this paragraph are inapplicable to the following organizations:

(*a*) Churches, interchurch organizations of local units of a church, conventions or associations of churches, or integrated auxiliaries of a church, such as a men's or women's organization, religous school, mission society, or youth group;

(*b*) Any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than $5,000 (as described in subdivision (ii) of this subparagraph);

(*c*) Subordinate organizations (other than private foundations) covered by a group exemption letter;

(*d*) Solely for purposes of sections 507, 508(d)(1), 508(d)(2)(A) and 508(d)(3), 508(e), 509 and chapter 42, a trust described in section 4947(a)(1). (However, a trust described in section 501(c)(3)

which was organized after October 9, 1969, shall be exempt under section 501 (a) by reason of being described in section 501(c)(3) only if it files such notice); and

(e) Any other class of organization that the Commissioner from time to time excludes from the requirement of filing notice under section 508(a).

(ii) For purposes of subdivision (i) (b) of this subparagraph and paragraph (b)(7)(ii) of this section, the gross receipts (as defined in subdivision (iii) of this subparagraph) of an organization are normally not more than $5,000 if—

(a) During the first taxable year of the organization the organization has received gross receipts of $7,500 or less;

(b) During its first 2 taxable years the aggregate gross receipts received by the organization are $12,000 or less; and

(c) In the case of an organization which has been in existence for at least 3 taxable years, the aggregate gross receipts received by the organization during the immediately preceding 2 taxable years, plus the current year are $15,000 or less.

If an organization fails to meet the requirements of (a), (b), or (c) of this subdivision, then with respect to the organization, such organization shall be required to file the notices described in section 508 (a) and (b) within 90 days after the end of the period described in (a), (b), or (c) of this subdivision or before March 22, 1973, whichever is later, in lieu of the period prescribed in subparagraph (2)(i) of this paragraph. Thus, for example, if an organization meets the $7,500 requirement of (a) of this subdivision for its first taxable year, but fails to meet the $12,000 requirement of (b) of this subdivision for the period ending with its second taxable year, then such organization shall meet the notification requirements of section 508(a)(1) and 508(b) and subparagraph (2)(i) of this paragraph if it files such notification within 90 days after the close of its second taxable year. If an organization which has been in existence at least 3 taxable years meets the requirements of (a), (b), and (c) with respect to all prior taxable years, but fails to meet the requirements of (c) of this subdivision with respect to the current taxable year, then even if the organization fails to make such notification within 90 days after the close of the current taxable year, section 508(a)(1) and 508(b) shall not apply with respect to its prior years. In such a case, the organization shall not be treated as described in section 501(c)(3) for a period beginning with such current taxable year and ending when such notice is given under section 508(a)(2).

(iii) For a definition of "gross receipts" for purposes of subdivision (i) (b) of this subparagraph and paragraph (b)(7)(ii) of this section, see § 1.6033-2(g)(4).

(4) *Voluntary filings by new organizations excepted from filing notice.* Any organization excepted from the requirement of filing notice under section 508(a) will be exempt from taxation under section 501(c)(3) if it meets the requirements of that section, whether or not it files such notice. However, in order to establish its exemption with the Internal Revenue Service and receive a ruling or determination letter recognizing its exempt status, an organization excepted from the notice requirement by reason of subparagraph (3) of this paragraph should file proof of its exemption in the manner prescribed in § 1.501(a)-1.

(b) *Presumption that old and new organizations are private foundations*—(1) *In general.* Except as provided in subparagraph (7) of this paragraph, any organization (including an organization in existence on October 9, 1969) which is described in section 501(c)(3), and which does not notify the Commissioner within the time and in the manner prescribed in subparagraph (2) that it is not a private foundation, will be presumed to be a private foundation.

(2) *Filing of notice.* (i) Except as provided in subparagraph (7) of this paragraph, an organization must file the notice described in section 508(b) and subparagraph (1) of this paragraph within 15 months from the end of the month in which such organization was organized, or before March 22, 1973, whichever comes later. See paragraph (a)(2)(iii) of this section, for rules pertaining to when an organization is "organized".

(ii) Any organization filing notice under this paragraph that has received a ruling or determination letter from the Internal Revenue Service dated on or before July 13, 1970, recognizing its exemption from taxation under section 501(c)(3) (or the corresponding provisions of prior law), shall file the notice described in section 508(b) by submitting a properly completed and executed Form 4653, Notification Concerning Foundation Status.

(iii) The financial schedule on Form 4653 need be completed only if the organization is, or thinks it might be, described in section 170(b)(1)(A) (iv) or (vi) or section 509(a)(2).

(iv) Any organization filing notice under this paragraph that has not received a ruling or determination letter from the Internal Revenue Service dated on or before July 13, 1970, recognizing its exemption from taxation under section 501(c)(3) (or the corresponding provisions of prior law), shall file its notice by submitting a properly completed and executed Form 1023 and providing information that it is not a private foundation. The organization shall also submit all information required by the regulations under section 170 or 509 (whichever is applicable) necessary to establish recognition of its classification as an organization described in section 509(a) (1), (2), (3), or (4). A Form 1023 submitted prior to July 14, 1970, will satisfy this requirement if the organization submits an additional statement that it is not a private foundation together with all pertinent additional information required. Any statement filed under this subdivision shall be accompanied by a written declaration by the principal officer, manager or authorized trustee that there is a reasonable basis in law and in fact for the statement that the organization so filing is not a private foundation, and that to the best of the knowledge and belief of such officer, manager or trustee, the information submitted is complete and correct.

(v) The notice filed under subdivision (ii) of this subparagraph should be filed in accordance with the instructions applicable to Form 4653. The notice required by subdivision (iv) of this subparagraph should be filed with the district director. An extension of time for the filing of such notice may be granted by the Director of the Internal Revenue Service Center or district director upon timely request by the organization to such person, if the organization demonstrates that additional time is required.

(3) *Effect of notice upon the filing organization.* (i) The notice filed under this paragraph may not be relied upon by the organization so filing unless and until the Internal Revenue Service notifies the organization that it is an organization described in paragraph (1), (2), (3), or (4), of section 509(a). For purposes of the preceding sentence, an organization that has filed notice under section 508(b), and has previously received a ruling that it is an organization described in section 170(b)(1)(A) (other than clauses (vii) and (viii) thereof), will be considered to have been notified by the Internal Revenue Service that it is an organization described in paragraph (1) of section 509(a) if (a) the facts and circumstances forming the basis for the issuance of such ruling have not substantially changed, and (b) the ruling issued under that section has not been revoked expressly or by a subsequent change of the law or regulations under which the ruling was issued.

(ii) If an organization has filed a notice under section 508(b) stating that it is not a private foundation and designating only one paragraph of section 509(a) under which it claims recognition of its classification (such as an organization described in section 509(a)(2)), and if it has received a ruling or determination letter which recognizes that it is not a private foundation but which fails to designate the paragraph under section 509(a) in which it is described, then such organization will be treated as described under the paragraph designated by it, until such ruling or determination letter is modified or revoked. The rule in the preceding sentence shall not apply to an organization which indicated that it does not know its status under section 509(a) or which claimed recognition of its status under more than one paragraph of section 509(a).

(4) *Effect of notice upon grantors or contributors to the filing organization.* In the case of grants, contributions, or distributions made prior to March 22, 1973, any organization which has properly filed the notice described in section

508(b) prior to such date will not be treated as a private foundation for purposes of making any determination under the internal revenue laws with respect to a grantor, contributor or distributor (as for example, a private foundation distributing all of its net assets pursuant to a section 507(b)(1)(A) termination), thereto, unless the organization is controlled directly or indirectly by such grantor, contributor, or distributor, if by the 30th day after the day on which such notice is filed, the organization has not been notified by the Commissioner that the notice filed by such organization has failed to establish that such organization is not a private foundation. See subparagraph (6) of this paragraph for the effect of an adverse notice by the Internal Revenue Service. For purposes of this subdivision, an organization which has properly filed the notice described in section 508(b) prior to March 22, 1973, and which has claimed recognition of its status under only one paragraph of section 509(a) in such notice, will be treated only for purposes of grantors, contributors or distributors as having the classification claimed in the notice if the provisions of this subdivision are otherwise satisfied.

(5) *Statement that old and new organizations are operating foundations.* (i) Any organization (including an organization in existence on October 9, 1969) which is described in section 501(c)(3) may submit a statement, in the form and manner provided for notice in subparagraph (2) of this paragraph, that it is an operating foundation (as defined in section 4942(j)(3)) and include in such statement:

(*a*) Necessary supporting information as required by the regulations under section 4942(j)(3) to confirm such determination (including a statement identifying the clause of section 4942(j)(3)(B) that is applicable); and

(*b*) A written declaration by the principal officer, manager, or authorized trustee that there is a reasonable basis in law and in fact that the organization so filing is an operating foundation, and that to the best of the knowledge and belief of such officer, manager or trustee, the information submitted is complete and correct.

(ii) The statement filed under this subparagraph may not be relied upon by the organization so filing unless and until the Internal Revenue Service notifies the organization that it is an operating foundation described in section 4942(j)(3).

(iii) In the case of grants, contributions, or distributions made prior to March 22, 1973, any organization which has properly filed the statement described in this subparagraph prior to such date will be treated as an operating foundation for purposes of making any determination under the internal revenue laws with respect to a grantor, contributor, or distributor thereto, unless the organization is controlled directly or indirectly by such grantor, contributor, or distributor, if by the 30th day after the day on which such statement is filed, the organization has not been notified by the Commissioner or his delegate that its statement has failed to establish that such organization is an operating foundation. See subparagraph (6) of this paragraph for the effect of an adverse notice by the Internal Revenue Service.

(6) *Effect of notice by Internal Revenue Service concerning organization's notice or statement.* Subparagraph (4) and subdivision (iii) of subparagraph (5) of this paragraph shall have no effect:

(i) With respect to a grantor, contributor, or distributor to any organization for any period after the date on which the Internal Revenue Service makes notice to the public (such as by publication in the Internal Revenue Bulletin) that a grantor, contributor, or distributor to such organization can no longer rely upon the notice or statement submitted by such organization; and

(ii) Upon any grant, contribution, or distribution made to an organization on or after the date on which a grantor, contributor, or distributor acquired knowledge that the Internal Revenue Service has given notice to such organization that its notice or statement has failed to establish that such organization either is not a private foundation, or is an operating foundation, as the case may be.

(7) *Exceptions from notice.* Subparagraphs (1) and (2) of this pararaph are inapplicable to the following organizations:

(i) Churches, interchurch organizations of local units of a church, conventions or associations of churches, or integrated auxiliaries of a church, such as a men's or women's organization, religious school, mission society, or youth group;

(ii) Any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than $5,000 (as determined under paragraph (a)(3)(ii) of this section);

(iii) Subordinate organizations (other than private foundations) covered by a group exemption letter but only if the parent or supervisory organization submits a notice covering the subordinates;

(iv) Trusts described in section 4947(a)(1); and

(v) Any other class of organization that the Commissioner from time to time excludes from the notification requirements of section 508(b).

(8) *Voluntary filings by organizations excepted from filing notice.* Any organization excepted from the requirement of filing notice under section 508(b) by reason of subdivisions (i), (ii), and (v) of subparagraph (7) of this paragraph may receive the benefits of subparagraph (4) of this paragraph by filing such notice.

§ 1.508–2 Disallowance of certain charitable, etc., deductions.

(a) *Gift or bequest to organizations subject to section 507(c) tax—(1) General rule.* No gift or bequest made to an organization upon which the tax provided by section 507(c) has been imposed shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made:

(i) By any person after notification has been made by the organization under section 507(a)(1) or after notification has been made by the Commissioner under section 507(a)(2)(B), or

(ii) By a substantial contributor (as defined in section 507(d)(2)) in his taxable year which includes the first day on which action is taken by such organization which culminates in the imposition of tax under section 507(c) and any subsequent taxable year.

For purposes of subdivision (ii) of this subparagraph, the first day on which action is taken by an organization which culminates in the imposition of tax under section 507(c) shall be determined under the rules set forth in § 1.507–7(b)(1) and (2).

(2) *Exception.* Subparagraph (1) of this paragraph shall not apply if the entire amount of the unpaid portion of the tax imposed by section 507(c) is abated by the Commissioner under section 507(g).

(b) *Gift or bequest to taxable private foundation, section 4947 trust, etc.—(1) General rule.* (i) Except as provided in subparagraph (2) of this paragraph, no gift or bequest made to an organization shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made:

(*a*) To a private foundation or a trust described in section 4947(a)(2) in a taxable year for which it fails to meet the requirements of section 508(e) (determined without regard to section 508(e)(2)(B) and (C)), or

(*b*) To any organization in a period for which it is not treated as an organization described in section 501(c)(3) by reason of section 508(a).

(ii) For purposes of subdivision (i)(*a*) of this subparagraph the term "taxable year" refers to the taxable year of the donee or beneficiary organization. In the event a bequest is made to a private foundation or trust described in section 4947(a)(2) which is not in existence at the date of the testator's death (but which is created under the terms of the testator's will), the term "taxable year" shall mean the first taxable year of the private foundation or trust.

(iii) For purposes of subdivision (i)(*a*) of this subparagraph, an organization does not fail to meet the requirements of section 508(e) for a taxable year, unless it fails to meet such requirements for the entire year. Therefore, even if a donee organization fails to meet the requirements of section 508(e) on the date it receives a grant from a donor, the donor's grant will not be disallowed by operation of section 508(d)(2)(A) and subdivision (i)(*a*) of this subparagraph, if the organization meets the requirements of section 508(e) (determined without regard to section 508(e)(2)(B)

or (C)) by the end of its taxable year.

(iv) No deduction will be disallowed under section 508(d)(2)(A) with respect to a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 if during the taxable year in question, the private foundation or trust described in section 4947(a)(2) has instituted a judicial proceeding which is necessary to reform its governing instrument or other instrument in order to meet the requirements of section 508(e)(1). This subdivision shall not apply unless within a reasonable time such judicial proceedings succeed in so reforming such instrument.

(v) No deduction will be disallowed under section 508(d)(2)(A) and subdivision (i)(*a*) of this subparagraph for any taxable year beginning before January 1, 1972, with respect to a private foundation or trust described in section 4947 organized before January 1, 1970. See also § 1.508–3(g) regarding transitional rules for extending compliance with section 508(e)(1).

(vi) (*a*) In the case of a contribution or bequest to a trust described in section 4947(a)(2) other than to a trust to which subdivision (vii) of this subparagraph applies, no deduction shall be disallowed by reason of section 508(d)(2)(A) on the grounds that such trust's governing instrument contains no provisions with respect to section 4942. Similarly, if for a taxable year such trust is also a trust described in section 4947(b)(3), no deduction for such year shall be so disallowed on the grounds that the governing instrument contains no provision with respect to section 4943 or 4944.

(*b*) This subdivision may be illustrated by the following example:

Example. H executes a will on January 1, 1977, establishing a charitable remainder trust (as described in section 664) with income payable to W, his wife, for life, remainder to X university, an organization described in section 170(b)(1)(A)(ii). The will provides that the trust is prohibited from engaging in activities which would subject itself, its foundation manager or a disqualified person to taxes under section 4941 or 4945 of the Code. The will is silent as to sections 4942, 4943, and 4944. H dies February 12, 1978. Section 508(d)(2)(A) will not operate to disallow any deduction to H's estate under section 2055 with respect to such trust.

(vii) (*a*) In the case of a trust described in section 4947(a)(2) which by its terms will become a trust described in section 4947(a)(1) and the governing instrument of which is executed after March 22, 1973, the governing instrument shall not meet the requirements of section 508(e)(1) if it does not contain provisions to the effect that the trust must comply with the provisions of section 4942, or sections 4942, 4943, and 4944 (as the case may be) to the extent such section or sections shall become applicable to such trust.

(*b*) This subdivision may be illustrated by the following example:

Example. H executes a will on January 1, 1977, establishing a charitable remainder trust (as described in section 664) with income payable to W, his wife, for life, remainder in trust in perpetuity for the benefit of an organization described in section 170(c). By its terms the trust will become a trust described in section 4947(a)(1), and will become a private foundation. The will provides that the trust is prohibited from engaging in activities which would subject itself, its foundation manager or a disqualified person to taxes under sections 4941 or 4945 of the Code. The will is silent as to sections 4942, 4943, and 4944. H dies February 12, 1978. Unless the trust's governing instrument is amended prior to the end of the trust's first taxable year, or judicial proceedings have been instituted under subdivision (iv) of this subparagraph, section 508(d)(2)(A) will operate to disallow any deduction to H's estate under section 2055 with respect to such trust.

(viii) Since a charitable trust described in section 4947(a)(1) is not required to file a notice under section 508(a), section 508(d)(2)(B) and subdivision (i)(*b*) of this subparagraph are not applicable to such a trust.

(2) *Transitional rules.* Any deduction which would otherwise be allowable under section 642(c)(2), 2106(a)(2), or 2055 shall not be disallowed under section 508(d)(2)(A) if such deduction is attributable to:

(i) Property passing under the terms of a will executed on or before October 9, 1969,

(*a*) If the decedent dies after October 9, 1969, but before October 9, 1972, without having amended any dispositive provision of the will after October 9, 1969, by codicil or otherwise,

(*b*) If the decedent dies after October 9, 1969, and at no time after that date had the right to change the portions of the will which pertains to the passing of property to, or for the use of, an organization described in section 170(c)(2)(B) or 2055(a), or

(*c*) If no dispositive provision of the will is amended by the decedent, by codicil or otherwise, before October 9, 1972, and the decedent is on October 9, 1972, and at all times thereafter under a mental disability (as defined in § 1.642(c)–2(b)(3)(ii)) to amend the will by codicil or otherwise, or

(ii) Property transferred in trust on or before October 9, 1969,

(*a*) If the grantor dies after October 9, 1969, but before October 9, 1972, without having amended, after October 9, 1969, any dispositive provision of the instrument governing the disposition of the property,

(*b*) If the property transferred was an irrevocable interest to, or for the use of, an organization described in section 170(c)(2)(B) or 2055(a),

(*c*) In the case of a deduction under section 2106(a)(2) or 2055; if no dispositive provision of the instrument governing the disposition of the property is amended by the grantor before October 9, 1972, and the grantor is on October 9, 1972, and at all times thereafter under a mental disability (as defined in § 1.642(c)–2(b)(3)(ii)) to change the disposition of the property, or

(*d*) In the case of a deduction under section 642(c)(2)(A), if the grantor is at all times after October 9, 1969, and up to, and including, the last day of the taxable year for which the deduction under such section is claimed, under a mental disability (as defined in § 1.642(c)–2(b)(3)(ii)) to change the terms of the trust.

See also § 1.508–3(g) regarding the extension of time for compliance with section 508(e), § 1.664–1(f)(3)(ii) and (g) regarding the special transitional rules for charitable remainder annuity and unitrusts described in section 664 which were created prior to December 31, 1972, and § 20.2055–2(e)(4) of this chapter regarding the rules for determining if the dispositive provisions have been amended.

§ 1.508–3 Governing instruments.

(a) *General rule.* A private foundation shall not be exempt from taxation under section 501(a) for a taxable year unless by the end of such taxable year its governing instrument includes provisions the effects of which are:

(1) To require distributions at such times and in such manner as not to subject the foundation to tax under section 4942, and

(2) To prohibit the foundation from engaging in any act of self-dealing (as defined in section 4941(d)), from retaining any excess business holdings (as defined in section 4943(c)), from making any investments in such manner as to subject the foundation to tax under section 4944, and from making any taxable expenditures (as defined in section 4945(d)).

(b) *Effect and nature of governing instrument*—(1) *In general.* Except as provided in paragraph (d) of this section, the provisions of a foundation's governing instrument must require or prohibit, as the case may be, the foundation to act or refrain from acting so that the foundation, and any foundation managers or other disqualified persons with respect thereto, shall not be liable for any of the taxes imposed by sections 4941, 4942, 4943, 4944, and 4945 of the Code or, in the case of a split-interest trust described in section 4947(a)(2), any of the taxes imposed by those sections of chapter 42 made applicable under section 4947. Specific reference to these sections of the Code will generally be required to be included in the governing instrument, unless equivalent language is used which is deemed by the Commissioner to have the same full force and effect. However, a governing instrument which contains only language sufficient to satisfy the requirements of the organizational test under § 1.501(c)(3)–1(b) will not be considered as meeting the requirements of this subparagraph, regardless of the interpretation placed on such language as a matter of law by a State court in a particular jurisdiction, unless the requirements of paragraph (d) of this section are satisfied.

(2) *Corpus.* A governing instrument does not meet the requirements of para-

graph (a)(1) of this section if it expressly prohibits the distribution of capital or corpus.

(3) *Savings provisions.* For purposes of sections 508 (d)(2)(A) and (e), a governing instrument need not include any provision which is inconsistent with section 101(l) (2), (3), (4), or (5) of the Tax Reform Act of 1969 (83 Stat. 533) with respect to the organization. Accordingly, a governing instrument complying with the requirements of subparagraph (1) of this paragraph may incorporate any savings provisions contained in section 101(l) (2), (3), (4), or (5) of the Tax Reform Act of 1969 as a specific exception to the general provisions of paragraph (a) of this section. In addition, in the absence of any express provisions to the contrary, the exceptions contained in such savings provisions will generally be regarded as contained in a governing instrument meeting the requirements of subparagraph (1) of this paragraph.

(4) *Excess holdings.* For purposes of paragraph (a)(2) of this section, the prohibition against "retaining any excess business holdings (as defined in section 4943(c))" shall be deemed only to prohibit the foundation from retaining any excess business holdings when such holdings would subject the foundation to tax under section 4943(a).

(5) *Revoked ruling on status.* In the case of an organization which—

(i) Has been classified as an organization described in section 509(a) (1), (2), (3), or (4), and

(ii) Subsequently receives a ruling or determination letter stating that it is no longer described in section 509(a) (1), (2), (3), or (4), but is a private foundation within the meaning of section 509,

such organization shall have 1 year from the date of receipt of such ruling or determination letter, or the final ruling or determination letter if a protest is filed to an earlier one, to meet the requirements of section 508(e). Section 508(d)(2)(A) shall not be applicable with respect to gifts and bequests made during this 1-year period if such requirements are met within the 1-year period.

(6) *Judicial proceeding.* For purposes of paragraphs (a), (b)(5), (d)(2), and (e)(3) of this section, an organization shall be deemed to have met the requirements of section 508(e) within a year, if a judicial proceeding which is necessary to reform its governing instrument or other instrument is instituted within the year and within a reasonable time the organization, in fact, meets the requirements of section 508(e). For purposes only of paragraphs (b)(5), (d)(2), and (e)(3) of this section, if an organization organized before January 1, 1970, institutes such a judicial proceeding within such 1-year period, section 508 (e)(2)(C) shall be applied as if such proceeding had been instituted prior to January 1, 1972.

(c) *Meaning of governing instrument.* For purposes of section 508(e), the term "governing instrument" shall have the same meaning as the term "articles of organization" under § 1.501(c)(3)-1(b)(2). The bylaws of an organization shall not constitute its governing instrument for purposes of section 508(e).

(d) *Effect of State law*—(1) *In general.* A private foundation's governing instrument shall be deemed to conform with the requirements of paragraph (a) of this section if valid provisions of State law have been enacted which:

(i) Require it to act or refrain from acting so as not to subject the foundation to the taxes imposed by section 4941 (relating to taxes on self-dealing), 4942 (relating to taxes on failure to distribute income), 4943 (relating to taxes on excess business holdings), 4944 (relating to taxes on investments which jeopardize charitable purpose), and 4945 (relating to taxable expenditures); or

(ii) Treat the required provisions as contained in the foundation's governing instrument.

(2) *Validity.* (i) Any provision of State law described in subparagraph (1) of this paragraph shall be presumed valid as enacted, and in the absence of State provisions to the contrary, to apply with respect to any foundation that does not specifically disclaim coverage under State law (either by notification to the appropriate State official or by commencement of judicial proceedings) except as provided in subdivisions (ii) and (iii) of this subparagraph.

(ii) If such provision is declared invalid or inapplicable with respect to a class of foundations by the highest appellate court of the State or by the Supreme Court of the United States, the foundations covered by the determination must meet the requirements of section 508(e) within 1 year from the date on which the time for perfecting an application for review by the Supreme Court expires. If such application is filed, the requirements of section 508(e) must be met within a year from the date on which the Supreme Court disposes of the case, whether by denial of the application for review or decision on the merits.

(iii) In addition, if such provision of State law is declared invalid or inapplicable with respect to a class of foundations by any court of competent jurisdiction which decision is not reviewed by a court referred to in subdivision (ii) of this subparagraph, and the Commissioner makes notice to the general public (such as by publication in the Internal Revenue Bulletin) that such provision has been so declared invalid or inapplicable, then all foundations in such State must meet the requirements of section 508(e), without reliance upon such statute to the extent declared invalid or inapplicable by such decision, within 1 year from the date such notice is made public.

(iv) This subparagraph shall not apply to any foundation that is subject to a final judgment entered by a court of competent jurisdiction, holding the law invalid or inapplicable with respect to such foundation. See paragraph (b)(6) of this section for the effect of certain judicial proceedings that are brought within 1 year.

(3) *Conflicting instrument.*—For taxable years beginning after March 22, 1973 in order for a private foundation or trust described in section 4947(a)(2) to receive the benefit of coverage under any State statute which makes applicable the requirements of section 508(e)(1) (A) and (B), where the statute by its terms does not apply to a governing instrument which contains a mandatory direction conflicting with any of such requirements, such organization must indicate on its annual return required to be filed under section 6033(or section 6012 in the case of a trust described in section 4947(a)) that its governing instrument contains no mandatory directions which conflict with the requirements of section 508(e)(1) (A) or (B), as incorporated by the State statute. General language in a governing instrument empowering the trustee to make investments without being limited to those investments authorized by law will not be regarded as a mandatory conflicting direction.

(4) *Exclusion from statute.*—(i) For any taxable year beginning after March 22, 1973 in the case of a private foundation or trust described in section 4947(a)(2) subject to a State statute which makes applicable the requirements of section 508(e)(1) (A) and (B) to the governing instruments of such organizations, other than those which take action to be excluded therefrom (such as by filing a notice of exclusion or by instituting appropriate judicial proceedings), an organization will receive the benefit of such State statute only if it indicates on its annual return required to be filed under section 6033 (or section 6012 in the case of a trust described in section 4947(a)) that it has not so taken action to be excluded.

(ii) This paragraph permits certain organizations that are subject to the provisions of such a State law, to avoid changing their governing instruments in order to meet the requirements of section 508(e)(1). Since an organization which avoids the application of a provision or provisions of State law, such as by filing a notice of exclusion, is not entitled to the benefits of this paragraph, such an organization must meet the requirements of section 508(e)(1) without regard to this paragraph and except as provided in section 508(e)(2)(C) or paragraph (g)(1)(iii) of this section must change its governing instrument to the extent inconsistent with section 508 (e)(1).

(5) *Treatment of prevailing conflicting clause.* If provisions of State law are inapplicable to a clause in a governing instrument which is contrary to the provisions of section 508(e)(1), the requirements of section 508(e)(2)(C) and paragraph (g)(1)(iii) of this section are not satisfied by a provision of State law which purports to eliminate the need for litigation under such circumstances. Therefore, except as otherwise provided in this section unless the governing instrument is changed or litigation is com-

menced pursuant to section 508(e)(2)(B) by an organization organized before January 1, 1970, or pursuant to paragraph (g)(1)(ii) of this section, to amend the nonconforming provision to meet the requirements of section 508(e)(1)(A) and (B), then pursuant to section 508(e), such organization will not be exempt from taxation.

(6) *Retroactive application to grants or bequests.* If valid provisions of such a State law apply retroactively to a taxable year within which an organization has received a grant or request, section 508(d)(2)(A) shall not apply so as to disallow such grant or bequest, but only if such valid provisions of State law are enacted within 2 years of such grant or bequest.

(e) *Effect of section 508(e) upon section 4947 trusts*—(1) *Section 4947(a)(1) trusts.*—A charitable trust described in section 4947(a)(1) (unless also described in a paragraph of section 509(a)) is subject to all the provisions of paragraph (a) of this section.

(2) *Section 4947(a)(2) trusts.*—A split-interest trust described in section 4947(a)(2), as long as it is so described, is subject to the provisions of paragraph (a)(2) of this section, except to the extent that section 4947 makes any such provisions inapplicable to certain trusts and certain amounts in trust. The governing instrument of a trust described in section 4947(a)(2) may except amounts described in section 4947(a)(2)(A), (B), and (C) from the requirements of paragraph (a)(2) of this section. In the case of a trust having amounts transferred to it both before May 27, 1969, and after May 26, 1969, its governing instrument may except from the provisions of paragraph (a)(2) of this section only those segregated amounts excluded from the application of section 4947(a)(2) by reason of section 4947(a)(2)(C) and the regulations thereunder. Also, the governing instrument of such a trust may exclude the application of sections 4943 and 4944 for any period during which such trust is described in section 4947(b)(3)(A) or (B). See § 53.4947–1(c) of this chapter for rules relating to the applicability of section 4947 to split-interest trusts and § 1.508–2(b)(1)(vi) and (vii) for rules relating to the deductibility of grants or bequests to such trusts.

(3) *A section 4947(a)(2) trust becoming a section 4947(a)(1) trust.*—If the governing instrument of a trust described in section 4947(a)(2) meets the applicable requirements of paragraph (a)(2) of this section and such trust ceases to be so described and becomes instead a trust described in section 4947(a)(1), then such governing instrument must meet, prior to the end of 12 months from the date such trust first becomes described in section 4947(a)(1) (except as otherwise provided in this section) all the requirements of paragraph (a) of this section in order to comply with section 508(e).

(f) *Special rules for existing private foundations.*—(1) Pursuant to section 508(e)(2), section 508(e)(1) and paragraph (a) of this section shall not apply in the case of any organization whose governing instrument was executed before January 1, 1970:

(i) To any taxable year beginning before January 1, 1972;

(ii) To any period after December 31, 1971, during the pendency of any judicial proceeding begun before January 1, 1972, by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument in order to meet the requirements of section 508(e)(1); and

(iii) To any period after the termination of any judicial proceeding described in subdivision (ii) of this subparagraph during which its governing instrument or any other instrument does not permit it to meet the requirements of section 508(e)(1).

(2) For purposes of subparagraph (1) of this paragraph, and § 1.508–2(b)(1)(vi)(*a*), a governing instrument will not be treated as executed before the applicable date, if, after such date the dispositive provisions of the instrument are amended (determined under rules similar to the rules set forth in § 20.2055–2(e)(4) of this chapter).

(3) For purposes of subparagraph (1)(ii) and (iii) of this paragraph, a private foundation will be treated as meeting the requirements of section 508(e)(2)(B) and (C) if it has commenced a necessary and timely proceeding in an appropriate court of original jurisdiction and such court has ruled that the foundation's governing instrument or any other instrument does not permit it to meet the requirements of section 508(e)(1). Such foundation is not required to commence proceedings in any court of appellate jurisdiction in order to comply with section 508(e)(2)(C). See also § 1.508–2(b)(2).

(g) *Extension of time for compliance with section 508(e).* (1) Except as provided in subparagraph (2) of this paragraph, section 508(e)(1) shall not apply to any private foundation (regardless of when organized) with respect—

(i) To any taxable year beginning before the transitional date,

(ii) To any period on or after the transitional date during the pendency of any judicial proceeding begun before the transitional date by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument in order to meet the requirements of section 508(e)(1), and

(iii) To any period after the termination of any judicial proceeding described in subdivision (ii) of this subparagraph during which its governing instrument or any other instrument does not permit it to meet the requirements of section 508(e)(1).

(2) Subparagraph (1) of this paragraph shall apply only to gifts or bequests referred to in section 508(d)(2)(A) that are made before before the transitional date.

(3) For purposes of this paragraph, the term "transitional date" means the earlier of the following dates:

(i) The 91st day after the date on which corrective and clarifying regulations under section 170(b)(1)(A) and designated as § 1.170A–9 becomes final (or, in the case of certain medical research organizations and community trusts, the 91st day after the date on which corrective and clarifying regulations designated as § 1.170A–9 (b)(2) and (e)(10) et seq. become final), or

(ii) The 91st day after the date an organization receives a final ruling or determination letter holding that it is a private foundation under section 509(a).

§ 1.508–4 Effective date.

Except as otherwise provided, §§ 1.508–1 through 1.508–3 shall take effect on January 1, 1970.

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

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

Approved: December 16, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72–21990 Filed 12–21–72;8:45 am]

Title 30—Mineral Resources

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 74—COAL MINE DUST PERSONAL SAMPLER UNITS

Specifications of Sampler Unit

Correction

In F.R. Doc. 72–21568 appearing at page 26712 of the issue for Friday, December 15, 1972, in § 74.3(a)(8)(ii), first line, the date "December 15, 1973" should be inserted where indicated.

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGD 72–246N]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

St. Croix River, Minn.

This amendment adds regulations for the Still Water Highway Lift Bridge, mile 23.4, St. Croix River to permit necessary repairs to be made to the lift span of this bridge. These regulations will begin on April 15, 1973, and will be in effect for either 50 days or for the time necessary to complete the repairs, whichever is first.

This rule is issued without notice of proposed rule making. The Coast Guard has found that good cause exists for

taking this action on the basis that it would be contrary to the public interest to delay this work. The contract is scheduled to be let December 22, 1972, to give the contractor time to prepare for the work, and the State has requested a definite date be issued for the bridge closure.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding the following statement to subparagraph (16) of paragraph (g) of § 117.560 to read as follows:

§ 117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(g) * * *

(16) * * * From April 15, 1973, through either June 5, 1973, or through the date of completion of the work scheduled for the lift span, whichever is first, the draw need not open for the passage of vessels.

* * * * *

(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 April 15, 1973.

Dated: December 19, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-22120 Filed 12-21-72;8:47 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 15—Environmental Protection Agency

PART 15-1—GENERAL

Subpart 15-1.6—Debarred, Suspended, and Ineligible Bidders

Debarred, suspended, and ineligible bidders, Subpart 15-1.6, Chapter 15, Title 41, of the Code of Federal Regulations is hereby revised to take cognizance of the revisions to Subpart 1-1.6, Chapter 1, Title 41, of the Code of Federal Regulations published in the FEDERAL REGISTER November 2, 1972, Volume 37, No. 212.

Effective date. This regulation will become effective on its date of publication in the FEDERAL REGISTER (11-22-72).

Dated: December 19, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

Subpart 15-1.6—Debarred, Suspended, and Ineligible Bidders

Sec.
15-1.600 Scope of subpart.
15-1.602 Establishment, maintenance, and distribution of a list of concerns or individuals debarred, suspended, or declared ineligible.
15-1.602.1 Bases for entry on the debarred, suspended, and ineligible list.
15-1.603 Treatment to be accorded firms or individuals in debarred, suspended, or ineligible status.
15-1.604 Causes and conditions applicable to the imposition of debarment.
15-1.604-1 Procedural requirements relating to the imposition of debarment.
15-1.605 Suspension of bidders.
15-1.605-1 Causes and conditions under which EPA may suspend contractors.
15-1.605-4 Notice of suspension.
15-1.606 Agency procedures.

AUTHORITY: The provisions of this Subpart 15-1.6 issued under 40 U.S.C. 486(c), sec. 205(c), 63 Stat. 377, as amended.

§ 15-1.600 Scope of subpart.

This subpart prescribes the Environmental Protection Agency (EPA) policy and procedures for establishment, use, maintenance, and distribution of a debarred, suspended, and ineligible bidders list for debarring or suspending bidders for cause.

§ 15-1.602 Establishment, maintenance, and distribution of a list of concerns or individuals debarred, suspended, or declared ineligible.

(a) The Director, Contracts Management Division, is responsible for establishment and maintenance of a master consolidated list or file of firms and individuals who are administratively or legally debarred or suspended from EPA contracting and subcontracting and from whom bids and proposals will not be solicited as provided in § 1-1.603. This list will be known as the EPA Debarred, Suspended, or Declared Ineligible Bidders List.

(b) Collectively, the following documents shall constitute the EPA list:

(1) Consolidated list of current administrative debarments, suspensions, or ineligibles by executive agencies, and periodic supplements thereto, compiled and published by the Office of Compliance, General Services Administration (GSA). This publication is a combined list of such actions taken, including the basis therefor, from notifications furnished GSA by the Department of Defense and executive agencies and distributed to all executive agencies.

(2) Consolidated list of persons or firms against whom action has been taken for violations under public contracts concerning labor standard provisions, and periodic supplements thereto, compiled by the Comptroller General of the United States (GAO).

(3) Consolidated list of concerns and individuals debarred, suspended, or declared ineligible by the Environmental Protection Agency to participate in its procurement program under one or more of the bases set forth in § 1-1.602-1 and in accordance with this regulation.

(4) Consolidated list of persons or firms declared ineligible to participate in Government contracting or subcontracting by reason of noncompliance with the Equal Opportunity clause, compiled by the Office of Federal Contract Compliance of the Department of Labor (OFCC).

(c) The Director, Contracts Management Division, will effect direct distribution of the consolidated GSA, GAO, OFCC, and EPA lists to authorized personnel. The lists shall not be disclosed to the public (see § 1-1.602(c)).

§ 15-1.602-1 Bases for entry on the debarred, suspended, and ineligible list.

The Deputy Assistant Administrator for Administration makes the administrative determinations prescribed by § 1-1.602-1 (d), (f), and (g).

§ 15-1.603 Treatment to be accorded firms or individuals in debarred, suspended, or ineligible status.

The Deputy Assistant Administrator for Administration makes the determinations required by § 1-1.603 (a) and (e).

§ 15-1.604 Causes and conditions applicable to determination of debarment.

Determination to debar or take other action concerning a firm or individual for a cause or condition for a specified period of time as provided in § 1-1.604 shall be made by the Deputy Assistant Administrator for Administration. Whenever cause for debarment becomes known to any contracting officer, the matter shall be submitted, with recommendations of the Director, Contracts Management Division, to the Deputy Assistant Administrator for Administration for appropriate action. The documented file of the case will be included in the submission.

§ 15-1.604-1 Procedural requirements relating to the imposition of debarment.

(a) *Hearings.* Hearings requested in connection with debarment proceedings shall be conducted before the Deputy Assistant Administrator for Administration, or his designee. An opportunity shall be afforded to the firm or individual to appear with witnesses and counsel, to present facts or circumstances showing cause why such firm or individual should not be debarred. If the firm or individual elects not to appear, the reviewing authority will make the decision based on the facts on record and such additional evidence as may be furnished by the parties involved. After consideration of the facts, the reviewing authority shall notify the firm or individual of the final decision.

§ 15-1.605 Suspension of bidders.

§ 15-1.605-1 Causes and conditions under which EPA may suspend contractors.

Any contracting officer may recommend suspension of bidders for the causes and conditions set forth in § 1-1.605-1. These recommendations shall be accompanied by the documented file in the case and be submitted through the Director, Contracts Management Division, to the Deputy Assistant Administrator for Administration for determination.

§ 15–1.605–4 Notice of suspension.

The Director, Contracts Management Division, or his designee is responsible for preparing the notification to bidders of suspension as required by § 1–1.605–4. The notification will be prepared for the signature of the Deputy Assistant Administrator for Administration.

§ 15–1.606 Agency procedures.

The Director, Contracts Management Division, is responsible for complying with the provisions of § 1–1.606.

[FR Doc.72-22105 Filed 12-21-72;8:46 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 72-1122]

PART 73—RADIO BROADCAST SERVICES

Closed Circuit Tests of Emergency Broadcast System

Order. In the matter of closed circuit tests of emergency broadcast system (EBS) technical and program origination channels.

1. By Commission action on December 2, 1970, the Basic Emergency Broadcast System (EBS) Plan was amended to provide for random closed circuit broadcasts. The amendments were made effective December 23, 1970.

2. The first random closed circuit test of the EBS was conducted on January 11, 1971. The test disclosed a number of operational deficiencies.

3. On February 20, 1971 an employee of the U.S. Army Strategic Communications Command (STRATCOM) transmitted an emergency action notification in error resulting in considerable confusion.

4. The deficiencies disclosed by these incidents have been under intensive study by working groups I and V of the Broadcast Services Subcommittee, National Industry Advisory Committee. Recommendations have been received from the referenced working groups, as well as from an OTP working group, representing the various government agencies. While these recommendations for changes in the EBS were under consideration by the Commission another random closed circuit test was conducted on September 14, 1971. A large number of operational deficiencies were disclosed.

5. In view of the foregoing on October 14, 1971, the Commission ordered a suspension of closed circuit tests of the EBS until further notice.

6. The Commission completed its review of the recommendations and on April 5, 1972, adopted an order establishing the new EBS. OEP funded for equipment and services required for the new EBS which have been installed, and the system has been tested from both originating points to the networks and wire services. It is appropriate, therefore, that plans be developed for scheduled and random closed circuit tests of the entire national-level interconnecting systems.

7. *It is ordered,* Effective December 29, 1972, that the provisions of the Commission's order of October 14, 1971, are revoked. *It is further ordered,* That closed circuit tests of EBS will be authorized pursuant to the provisions of § 73.962 of the rules.

8. Authority for the adoption of this action is contained in section 1, 4(i), 4(o), and 303(r) of the Communications Act of 1934, as amended.

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

Adopted: December 13, 1972.

Released: December 18, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
BEN F. WAPLE,
Secretary.

[FR Doc.72-21998 Filed 12-21-72;8:46 am]

[FCC 72-1147]

PART 76—CABLE TELEVISION SERVICE

Performance Tests; Extension of Time

Memorandum opinion and order. In regard petitions for an extension of time for initial compliance with § 76.601 of the rules.

1. Section 76.601(c) of the Commission's rules requires the operator of each cable television system to conduct complete performance tests of that system at least once each calendar year (at intervals not to exceed 14 months). The performance tests are intended to determine the extent to which the system complies with all the technical standards set forth in § 76.605 of the rules. Section 76.601(c) became effective on March 31, 1972, and, therefore, the first performance tests are required to be conducted by December 31, 1972.

2. On September 22, 1972, the National Cable Television Association (NCTA) filed a petition requesting that the compliance date be postponed until December 31, 1973. NCTA explained that there is much uncertainty within the industry concerning the appropriate methodology for performing the tests, a present scarcity of appropriate testing equipment, and too few qualified engineering consultants to conduct the performance tests. NCTA further noted that for smaller systems the testing program has represented a particularly burdensome expense.

3. By Public Notice of October 16, 1972, interested parties were requested to comment on this matter to provide the Commission further insight into the problems resulting from the performance test requirement of § 76.601(c) and on the advisability of postponing for some period the date for compliance. We received comments (many of which requested an extension of the deadline) representing a substantial portion of the cable television industry, two engineering consulting firms, and the Association of Maximum Service Telecasters (AMST).

4. Based on the information we have received, there is little doubt that the necessity of complying with § 76.601(c) is causing many problems throughout the cable television industry. It was expected that some difficulty would inevitably result from our new rules. But as AMST has noted, cable systems have been on notice for more than a year that they would have to conduct performance tests and industry efforts to prepare for compliance very possibly could have been more strenuous. The fact is, however, that the industry on the whole cannot meet the requirements of § 76.601(c) by the end of this year. Clearly, some further amount of time is needed for dissemination of testing techniques, acquisition of equipment, and training of engineers. We expect that when these problems are addressed, cable operators will discover that the testing requirement need not be quite as burdensome and expensive as they believe it to be. It is noted that systems that were in operation before March 31, 1972 do not have to comply with the technical standards of § 76.605 until 1977; however, systems that began operation after March 31, 1972 are required to comply with § 76.605 upon commencement of service. We shall, therefore, postpone the deadline for complying with the performance tests requirement of § 76.601(c) for 1 year, until December 31, 1973, for cable systems that were operative by March 31, 1972.

Accordingly, it is ordered, That the final date for initial compliance with the cable television performance tests of § 76.601(c) is postponed until December 31, 1973, for all cable systems that were in operation on March 31, 1972. Other provisions of § 76.601 shall remain in effect.

Adopted: December 15, 1972.

Released: December 18, 1972.

FEDERAL COMMUNICATIONS COMMISSION[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-22000 Filed 12-21-72;8:46 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1, Amdt. 1-67]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Authority Regarding Emergency Rail Facilities Restoration Act

The purpose of the amendment is to delegate the Secretary's functions under

[1] Commissioner Johnson concurring in the result.

[1] Commissioner Robert E. Lee concurring in the result.

the Emergency Rail Facilities Restoration Act of 1972 (Public Law 92–591) to the Federal Railroad Administrator.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective December 12, 1972, § 1.49 of Part 1 of Title 49, Code of Federal Regulations, is amended by adding the following new paragraph at the end thereof:

§ 1.49 **Delegations to Federal Railroad Administrator.**

* * * * *

(o) Carry out the functions vested in the Secretary by the Emergency Rail Facilities Restoration Act of 1972 (Public Law 92–591).

(Sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on December 12, 1972.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc.72–21977 Filed 12–21–72;8:45 am]

[OST Docket No. 31]

PART 8—CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL

The purpose of this amendment to Title 49 is to add a new Part 8 establishing Department of Transportation procedures to implement Executive Order 11652, "Classification and Declassification of National Security Information and Material", issued by the President on March 8, 1972 (37 F.R. 5209, March 10, 1972), and which became effective June 1, 1972. The objective of the Executive order is to permit greater public availability of information without jeopardizing legitimate defense or foreign relations interests, by preventing overclassification of information and by providing for speedier declassification under automatic schedules. Implementation of the order is ensured through the establishment of an Interagency Classification Review Committee to assist the National Security Council.

The Department of Transportation regulations were approved by the Interagency Classification Review Committee on November 7, 1972, and the following parts affecting the public are published as required by Executive Order 11652 and the National Security Council Directive issued pursuant thereto on May 17, 1972.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Title 49, Code of Federal Regulations, is amended, effective December 12, 1972, by adding a new Part 8 as follows:

Sec.

8.1 Scope.
8.3 Applicability.
8.5 Definitions.
8.7 Spheres of responsibility.
8.9 Security Review Committee.
8.11 Authority to classify information.
8.13 Authority to downgrade or declassify.
8.15 Review of exempted and excluded material.
8.17 Procedures for submitting and handling requests for classification reviews.
8.19 Declassification of classified material after 30 years.
8.21 Burden of proof.
8.23 Classified material transferred to Department of Transportation.
8.25 Public availability of declassified information.
8.27 Access to historical researchers, former Presidential appointees and contractors.
8.29 Industrial security.

AUTHORITY: The provisions of this Part 8 issued under the authority of Executive Order 11652 (37 F.R. 5209, March 10, 1972), National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972), and sections 3 and 9 of the Department of Transportation Act (49 U.S.C. 1652 and 16557).

§ 8.1 Scope.

This part sets forth procedures affecting the public, for the classification, declassification and availability of information, in implementation of Executive Order 11652, "Classification and Declassification of National Security Information and Material."

§ 8.3 Applicability.

The provisions of this part apply to all elements of the Department of Transportation including the National Transportation Safety Board.

§ 8.5 Definitions.

As used in this part—

"Classified information" means official information which requires protection against unauthorized disclosure in the interest of the national security of the United States and which has been so designated. The specific degree of protection required is designated by the following classification categories:

(a) *Top secret.* That information or material which requires the highest degree of protection and the unauthorized disclosure of which could reasonably be expected to cause exceptionally grave damage to the national security.

(b) *Secret.* That information or material which requires a substantial degree of protection and the unauthorized disclosure of which could reasonably be expected to cause serious damage to the national security.

(c) *Confidential.* That national security information or material which requires protection and the unauthorized disclosure of which could reasonably be expected to cause damage to the national security.

"Classify" means to determine that official information requires, in the interest of national security, a specific degree of protection against unauthorized disclosure, coupled with a designation signifying that such a determination has been made.

"Declassify" means to determine that information no longer requires protection against unauthorized disclosure in the interest of national security. Material will be re-marked to reflect this determination.

"Downgrade" means to determine that classified information requires a lesser degree of protection against unauthorized disclosure in the interests of national security than that currently assigned. Material will be re-marked to reflect this determination.

§ 8.5 Spheres of responsibility.

(a) Pursuant to the provisions of section 7(B)(2) of Executive Order 11652, the Assistant Secretary for Administration is hereby designated as the senior staff officer of the Secretary of Transportation with assigned responsibilities to assure effective compliance with and implementation of the order, National Security Council Directives, and this part.

(b) In the discharge of these responsibilities, the Assistant Secretary for Administration shall be assisted by the Director of Investigations and Security who, in addition to other actions directed by this part, shall evaluate the overall application of and adherence to the security policies and requirements prescribed herein and who shall report his findings and recommendations to the Assistant Secretary for Administration, heads of administrations, Chairman, National Transportation Safety Board, and, as appropriate, to the Secretary.

(c) Secretarial Officers, heads of administrations, and the Chairman, National Transportation Safety Board, shall assure the effective administration of the provisions prescribed herein, that adequate personnel and funding are provided for this purpose, and that corrective actions which may be warranted are taken promptly.

§ 8.9 Security Review Committee.

(a) There is hereby established a Department of Transportation Security Review Committee which shall have authority to—

(1) Act on all suggestions and complaints not otherwise resolved with respect to the Department's administration of the Executive Order and implementing directives, including those regarding overclassification, failure to declassify, or delay in declassifying;

(2) Act on appeals of requests for classification reviews, and appeals of requests for records under section 552 of Title 5, United States Code, (Freedom of Information Act), when the initial denial is based on continued classification of the record; and

(3) Recommend to the Secretary, when necessary, appropriate administrative action to correct abuse or violation

of any provision of the Executive order and implementing directives.

(b) The Security Review Committee shall be composed of the Assistant Secretary for Administration who shall serve as Chairman, the General Counsel, and the Director of Investigations and Security. When matters affecting a particular administration or the National Transportation Safety Board are at issue, the Associate Administrator for Administration for that administration, the Chief of Staff for the U.S. Coast Guard, or the General Manager for the National Transportation Safety Board, as the case may be, shall participate as an ad hoc member, together with the Chief Counsel for the particular element.

(c) The Chairman shall submit to the Interagency Classification Review Committee quarterly reports of Departmental Committee actions on classification review requests, classification abuses, and unauthorized disclosure of classified information.

§ 8.11 Authority to classify information.

(a) Executive Order 11652 confers upon the Secretary of Transportation the authority to originally classify information as SECRET or CONFIDENTIAL with further authorization to delegate this authority.

(b) The following delegations of authority to originally classify information as "SECRET" or "CONFIDENTIAL", which may not be redelegated, are hereby made:

(1) *Office of the Secretary of Transportation.* The Under Secretary; Assistant Secretary for Policy and International Affairs; Assistant Secretary for Administration; Director of Investigations and Security; Director, Transportation Systems Center.

(2) *United States Coast Guard.* The Commandant; Assistant Commandant; Chief of Staff; Chief, Office of Marine Environment and Systems; Chief, Office of Operations; Chief, Intelligence Staff; Commander, Eastern Area; Commander, Western Area; Commanders, Coast Guard Districts; Commander, Coast Guard Activities Europe.

(3) *Federal Aviation Administration.* The Administrator; Deputy Administrator; Associate Administrator for Administration; Assistant Administrator for International Aviation Affairs; Director of Air Transportation Security; Regional Directors; Director, Aeronautical Center; Director, National Aviation Facilities Experimental Center.

(4) *National Transportation Safety Board.* Chairman of the Board; General Manager.

(c) Although the delegations of authority set out in paragraph (b) of this section are expressed in terms of positions, the authority is personal and is invested only in the individual occupying the position. The authority may not be exercised "by direction of" a designated official. The formal appointment or assignment of an individual to one of the identified positions or a designation in writing to act in the absence of one of these officials, however, conveys the authority to originally classify information as "Secret" or "Confidential."

(d) Previous delegations and redelegations of authority within the Department of Transportation to originally classify information "Top Secret," "Secret," or "Confidential" are hereby rescinded.

§ 8.13 Authority to downgrade or declassify.

Information originally classified by the Department may be specifically downgraded or declassified by the official authorizing the original classification or by his successor; by a supervisory official of either, or by higher authority; or by the Departmental Security Review Committee.

§ 8.15 Review of exempted and excluded material.

(a) *Background*—(1) *Classified material produced after June 1, 1972.*—Executive Order 11652 establishes a General Declassification Schedule under which classified material produced after June 1, 1972, becomes automatically downgraded and declassified at prescribed intervals. Exceptions to the General Declassification Schedule with respect to material produced after June 1, 1972, are—

(i) Material which is downgraded or declassified earlier than provided by the Schedule, based upon a predictable event or other development; and

(ii) Material which is exempt from automatic declassification because it may warrant protection for a period exceeding that provided by the Schedule.

Decisions to exempt material from the General Declassification Schedule may be made only by an official authorized to originally classify information as Top Secret, and only if the information falls within one of four categories established by the Executive order. Material which has been exempted from the General Declassification Schedule is subject to a mandatory classification review as specified in paragraph (b) of this section.

(2) *Classified material produced prior to June 1, 1972.*—Classified material produced prior to June 1, 1972, and which was marked group 1, group 2, or group 3 in accordance with the provisions of Executive Order 10501, as amended (26 F.R. 8932, Sept. 22, 1961), or which is not group marked, is excluded from automatic declassification, but is subject to a mandatory classification review as specified in paragraph (b) of this section.

(b) *Requirement for classification review.*—Classified material which is exempt from the General Declassification Schedule, and classified material which is excluded from automatic declassification shall be subject to a mandatory classification review for declassification purposes at any time after the expiration of 10 years from the date it was produced, provided that—

(1) A department or agency or a member of the public requests a review;

(2) The request describes the record with sufficient particularity to permit the record to be identified; and

(3) The record can be obtained with only a reasonable amount of effort.

(c) *Remarking.*—Material which no longer warrants classification as determined by the review shall be declassified, and so marked. Material which continues to warrant classification shall be marked to indicate that a review was conducted. Whenever possible, a date for automatic declassification shall be established and the material so marked.

§ 8.17 Procedures for submitting and handling requests for classification reviews.

(a) The Director of Investigations and Security, Office of the Secretary of Transportation, 400 Seventh Street SW, Washington, DC 20590, is hereby designated as the office to whom a member of the public or another department or agency should submit a request for a classification review of classified material produced by or under the primary cognizance of the Department. Elements of the Department which may receive a request directly shall immediately notify the Director.

(b) If the request for classification review involves material produced by or under the cognizance of the U.S. Coast Guard, the Federal Aviation Administration, or the National Transportation Safety Board, the Director shall forward the request to the headquarters security staff of the element concerned for action. If the request involves material produced by other Departmental elements, the Director shall serve as the office acting on the request.

(c) The office acting on the request shall—

(1) Immediately acknowledge receipt of the request and provide a copy of the correspondence to the Director. If a fee for search of records is involved pursuant to Part 7, Subpart H of the regulations of the Office of the Secretary (Part 7, Subpart H, of this subtitle), or, in the case of material of the National Transportation Safety Board, pursuant to the regulations of the National Transportation Safety Board (14 CFR, Part 401, Subpart C), the requester shall be so notified;

(2) Conduct a security review which shall include consultation with the office which produced the material and with source authorities when the classification, or exemption of material from automatic declassification, was based upon determinations by an original classifying authority; and

(3) Assure that the requester is notified of the determination within 30 days or given an explanation as to why further time is necessary, and provide a copy of the notification to the Director of Investigations and Security.

(d) Whenever a request is insufficient in the description of the record sought, the requester shall be asked to limit his request to records that are reasonably obtainable. If, in spite of these steps, the requester does not describe the records with sufficient particularity, or the record requested cannot be obtained with a

reasonable amount of effort, the requester shall be notified of the reasons why the request is denied and of his right to appeal the determination. Denial of a request to review based on the provisions of this subparagraph shall be taken only under the most extreme circumstances.

(e) If the determination reached is that continued classification is required, the notification to the requester shall include, whenever possible, a brief statement as to why the requested material cannot be declassified. The notification shall also advise the requester of his right to appeal the determination. A requester who wishes to appeal a classification review decision, or who has not been notified of a decision after 60 days, may submit his appeal to the Chairman, Security Review Committee, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

(f) If the determination reached is that continued classification is not required, the information shall be declassified and the material remarked. The office acting on the request shall then refer the request to the office originating the material or higher authority to determine if it is otherwise available for public release under the Freedom of Information Act (5 U.S.C. 552) and Part 7 of the regulations of the Office of the Secretary (Part 7 of this subtitle, "Public Availability of Information").

(1) If the material is available under the Freedom of Information Act, the requester shall be advised that the material has been declassified and is available. If the request involves the furnishing of copies and a fee is to be collected, the requester shall be so advised pursuant to Part 7, Subpart H of the regulations of the Office of the Secretary (Part 7, Subpart H, of this subtitle), or in the case of National Transportation Safety Board material, pursuant to the regulations of the National Transportation Safety Board (14 CFR, Part 401, Subpart C).

(2) If the material is not available under the Freedom of Information Act, the requester shall be advised that the material has been declassified but that the record is unavailable pursuant to the Freedom of Information Act, and that the provisions concerning procedures for reconsidering decisions not to disclose records, contained in Subpart G of Part 7 of the regulations of the Office of the Secretary (Part 7, Subpart G, of this subtitle), or in the case of National Transportation Safety Board material, in 14 CFR, Part 401, Subpart E, apply.

(g) Upon receipt of an appeal from a classification review determination based upon continued classification, the Departmental Security Review Committee shall immediately acknowledge receipt and act on the matter within 30 days. With respect to information originally classified by or under the primary cognizance of the Department, the Committee, acting for the Secretary, has authority to overrule previous determinations in whole or in part when, in its judgment, continued protection in the interest of national security is no longer required. When the classification of the material produced in the Department is based upon a classification determination made by another department or agency, the Security Review Committee shall immediately consult with its counterpart committee for that department.

(1) If it is determined that the material produced in the Department requires continued classification, the requester will be so notified and advised of his right to appeal the decision to the Interagency Classification Review Committee.

(2) If it is determined that the material no longer requires classification, it shall be declassified and remarked. The committee shall refer the request to the general counsel, or to the head of the operating administration concerned, or to the Chairman, National Transportation Safety Board, as the case may be, to determine if the material is otherwise available for public release under the Freedom of Information Act (5 U.S.C. 552) and the relevant regulations, and the provisions set forth in subparagraphs (1) and (2) of paragraph (f) of this section shall be followed. A copy of the response to the requester shall be provided to the committee.

(h) Requests for a classification review of material more than 30 years old shall be referred directly to the Archivist of the United States and the requester shall be notified of the referral. In this event, the provisions of § 8.19 apply.

§ 8.19 Declassification of classified material after 30 years.

(a) Classified material produced in the Department after June 1, 1972, which remains in a protected status, will become automatically declassified at the end of 30 full calendar years after the date of its original classification. If it appears, however, that continued protection is essential to the national security or that disclosure would place a person in immediate jeopardy, the matter shall be referred to the Secretary, through the Director of Investigations and Security. A determination that continued classification is warranted may be made only by the Secretary.

(b) Classified material produced before June 1, 1972, and which is more than 30 years old will be reviewed systematically for declassification by the Archivist of the United States by the end of the 30th full calendar year following the year in which it was originated. In his review, the Archivist will separate and keep protected only such material produced by the Department as is specifically identified by the Secretary as requiring protection. The Director of Investigations and Security is designated as the liaison officer for the Department with the Archivist for this purpose. Each administration shall advise the Director of Investigations and Security of classified material under its cognizance which is or becomes 30 years old. This notification shall also include recommendations for protection of the material considered to warrant continued classification in order that a determination by the Secretary may be obtained.

§ 8.21 Burden of proof.

For the purpose of determinations to be made under §§ 8.13, 8.15, and 8.17, the burden of proof is on the originating element to show that continued classification is warranted.

§ 8.23 Classified material transferred to the Department of Transportation.

(a) Classified material officially transferred to the Department pursuant to statute or Executive order in conjunction with a transfer of function, and not merely for storage purposes, shall be considered to have been originated by the Department for the purpose of downgrading and declassification.

(b) Classified material in the custody of the Department originated by a department or agency which has ceased to exist and whose functions and records were not officially transferred to another department shall be downgraded and declassified by the Department in accordance with the provisions of this part. If it appears that another department or agency may have an interest in the subject matter of the material from a classification standpoint, that department shall be advised of the nature of the material and the intention to downgrade or declassify. The notified department shall be allowed 30 days in which to express an objection, if it so desires, before action is taken. A difference of opinion which cannot be resolved shall be referred to the Departmental Security Review Committee which will consult with its counterpart committee for the respective department.

§ 8.25 Public availability of declassified information.

(a) It is a fundamental policy of the Department to make information available to the public to the maximum extent permitted by law. Information which is declassified for any reason loses its status as material protected in the interest of national security. Accordingly, declassified information shall be handled in every respect on the same basis as all other unclassified information. Declassified information is subject to the Departmental public information policies and procedures, with particular reference to regulations of the Office of the Secretary on public availability of information (Part 7 of this subtitle) and the Freedom of Information Act (5 U.S.C. 552).

(b) In furtherance of this policy, all classified material produced after June 1, 1972, which is of sufficient historical or other value to warrant preservation as permanent records in accordance with appropriate records administrative standards, and which becomes declassified, shall be systematically reviewed prior to the end of each calendar year for the purpose of making the material publicly available. To the maximum extent possible without destroying the integrity of the Department's files, all such material shall be segregated or set aside for public release upon request.

§ 8.27 Access to historical researchers, former Presidential appointees and contractors.

(a) *Historical researchers.*—(1) Persons outside the executive branch who are engaged in historical research projects may have access to classified information provided that—

(i) Access to the information will be clearly consistent with the interests of national security; and

(ii) The person to be granted access is trustworthy.

(2) The provisions of this paragraph apply only to persons who are conducting historical research as private individuals or under private sponsorship and do not apply to research conducted under Government contract or sponsorship. The provisions are applicable only to situations where the classified information concerned, or any part of it, was originated by the Department or Department contractors, or where the information, if originated elsewhere, is in the sole custody of the Department. If any person requests access to material originated in another agency or to information under the exclusive jurisdiction of the National Archives and Records Service, General Services Administration, he will be referred to the other agency or to the National Archives and Records Service.

(3) When a request for access to classified information for historical research is received, it will be referred to the appropriate local security office. The security office shall obtain from the applicant completed Standard Form 86 in triplicate, investigation data for sensitive position, and Standard Form 87, fingerprint chart; a statement in detail to justify access, including identification of the kind of information desired and the organization or organizations, if any, sponsoring the research; and a written statement (signed, dated, and witnessed) with respect to the following:

(i) That he will abide by regulations issued by the Department—

(*a*) To safeguard classified information; and

(*b*) To protect information which has been determined to be proprietary or privileged and is therefore not eligible for public dissemination.

(ii) That he understands that any classified information which he receives affects the security of the United States.

(iii) That he acknowledges an obligation to safeguard classified information or privileged information of which he gains possession or knowledge as a result of his access to files of the Department.

(iv) That he agrees not to reveal to any person or agency any classified information or privileged information obtained as a result of his access except as specifically authorized in writing by the Department and further agrees that he shall not use the information for purposes other than those set forth in his application.

(v) That he agrees to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information or material is contained therein.

(vi) That he understands that failure to abide by conditions of this statement will constitute sufficient cause for canceling his access to classified information and for denying him any future access, and may subject him to criminal provisions of Federal law as referred to in this statement.

(vii) That he is aware and fully understands that the provisions of Title 18, United States Code, Crimes and Criminal Procedures, and of the Internal Security Act of 1950, as amended, Title 50, United States Code, prescribe, under certain circumstances, criminal penalties for the unauthorized disclosure of information respecting the national security and for loss, destruction, or compromise of such information.

(viii) That this statement is made to the U.S. Government to enable it to exercise its responsibilities for the protection of information affecting the national security. That he understands that any material false statement which he makes knowingly and willfully will subject him to the penalties of Title 18, United States Code, section 1001.

(4) The security office shall process the forms in the same manner as specified for a preappointment national agency check for a critical-sensitive position. Upon receipt of the completed national agency check, the security office, if warranted, may determine that access by the applicant to the information will be clearly consistent with the interests of national security and the person to be granted access is trustworthy. If deemed necessary, before making its determination, the office may conduct or request further investigation. Before access is denied in any case, the matter will be referred through channels to the Director of Investigations and Security for review and submission to the Secretary for final denial.

(5) If access to Top Secret, intelligence, or communications security information is involved a full field investigation is required. However, this investigation shall not be requested until the matter has been referred through channels to the Director of Investigations and Security for determination as to adequacy of the justification and the consent of other agencies as required.

(6) When it is indicated that an applicant's research may extend to material originating in the records of another agency, approval must be obtained from the other agency prior to the grant of access.

(7) Approvals for access shall be valid for the duration of the current research project but no longer than 2 years from the date of issuance, unless renewed. If a subsequent request for similar access is made by the individual within 1 year from the date of completion of the current project, access may again be granted without obtaining a new National Agency Check. If more than 1 year has elapsed, a new National Agency Check must be obtained. The local security office shall promptly advise its security staff, headquarters, of all approvals of access granted under these provisions.

(8) An applicant may be given access only to that classified information which is directly pertinent to his approved project. He may review files or records containing classified information only in offices under the control of the Department. Procedures must be established to identify classified material to which he is given access. He must be briefed on local procedures established to prevent unauthorized access to the classified material while in his custody, for the return of the material for secure storage at the end of the daily working period, and for the control of his notes until they have been reviewed. In addition to the security review of the applicant's manuscript, the manuscript must be reviewed by appropriate offices to assure that it is technically accurate insofar as material obtained from the Department is concerned and is consistent with the Department's public release policies.

(b) *Former Presidential appointees.* Persons who previously occupied policy-making positions to which they were appointed by the President may be granted access to classified information or material which they originated, reviewed, signed, or received, while in public office, provided that—

(1) It is determined that such access is clearly consistent with the interests of national security; and

(2) The person agrees to safeguard the information, to authorize a review of his notes to assure that classified information is not contained therein, and that the classified information will not be further disseminated or published.

(c) *Contractors.* Classified information may be disclosed to DOT contractors, subcontractors, bidders, and grantees, and to contractors of other Government agencies, provided access to the information is necessary to the performance of the contract and required security clearances have been issued.

§ 8.29 Industrial security.

(a) *Background.* Executive Order 10865, as amended, Safeguarding Classified Information Within Industry (25 F.R. 1583, February 24, 1960) states,

> The Secretary of State, the Secretary of Defense, the Secretary of Transportation, the Commissioners of the Atomic Energy Commission, the Administrator of the National Aeronautics and Space Administration, respectively, shall, by regulation, prescribe such specific requirements, restrictions, and other safeguards as they consider necessary to protect—
>
> (1) Releases of classified information to or within U.S. industry that relate to bidding on, or the negotiation, award, performance, or termination of, contracts with their respective agencies; and
>
> (2) Other releases of classified information to or within industry that such agencies have responsibility for safeguarding. So far as possible, regulations prescribed by them under this order shall be uniform and provide for full cooperation among the agencies concerned.

Executive Order 10865 also prescribes criteria for the issuance of security clearances to industry personnel and requirements for the adjudication of controverted cases.

(b) *Implementing regulations.* Under an agreement between the Department of Defense and the Department of Transportation, regulations prescribed by the Secretary of Defense to fulfill the provisions of Executive Order 10865, as amended, have been extended to protect releases of classified information for which the Secretary of Transportation is responsible. Specifically, these regulations are:

(1) DOD 5220.22–R, Industrial Security Regulation;

(2) DOD 5220.22–M, Industrial Security Manual for Safeguarding Classified Information, together with supplements; and

(3) DOD 5220.6, Industrial Personnel Security Clearance Program.

These regulations are effective within the Department, which functions as a User Agency as prescribed in the regulations. Appropriate security staffs, project personnel, and contracting officers assure that actions required by the regulations are taken.

(c) *Liaison and coordination with Department of Defense.* The Director of Investigations and Security shall maintain liaison and coordination with the Department of Defense on behalf of the Department on overall industrial security matters. The Director shall develop such material as may be necessary to permit the Secretary to reach those determinations specifically reserved to him by Executive Order 10865, as amended, and the agreement between the Department of Defense and the Department of Transportation.

Issued in Washington, D.C., on December 12, 1972.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc.72–22013 Filed 12–21–72;8:46 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Revised S.O. 995; Amdt. 3]

PART 1033—CAR SERVICE

Appointment of Embargo Agents

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 14th day of December 1972.

Upon further consideration of Revised Service Order No. 995 (35 F.R. 7016, 36 F.R. 23726) and good cause appearing therefor:

It is ordered, That:

Section 1033.995 *Revised Service Order No. 995* (Appointment of embargo agents) be, and it is hereby amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the 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 notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–22020 Filed 12–21–72;8:46 am]

[Revised S.O. 1002, Amdt. 3]

PART 1033—CAR SERVICE

Car Distribution Directions; Appointment of Agents

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 14th day of December 1972.

Upon further consideration of Revised Service Order No. 1002 (35 F.R. 7016, 36 F.R. 23803), as amended, and good cause appearing therefor:

It is ordered, That:

Section 1033.1002 *Revised Service Order No. 1002* (Car distribution directions—appointment of agents) be, and it is hereby amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the 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 notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–22021 Filed 12–21–72;8:46 am]

[Revised S.O. 994, Amdt. 3]

PART 1034—ROUTING OF TRAFFIC

Rerouting of Traffic; Appointment of Agents

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 14th day of December 1972.

Upon further consideration of Revised Service Order No. 994 (35 F.R. 7017, 36 F.R. 23726) and good cause appearing therefor:

It is ordered, That:

Section 1034.994 *Revised Service Order No. 994 (Rerouting of traffic—*appointment of agents) be, and it is hereby amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the 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 notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 72–22019 Filed 12–21–72;8:46 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Deductibility and Inclusion in Gross Income of Family Allowances

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by January 22, 1973. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by January 22, 1973. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to provide revised rules for the treatment of an amount paid, or required to be paid, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent during the administration of the estate, the Income Tax Regulations (26 CFR Part 1) under sections 661 and 662 of the Internal Revenue Code of 1954 are amended to read as follows. These amendments are applicable to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

PARAGRAPH 1. Section 1.661(a)–2 is amended by revising paragraph (e) to read as follows:

§ 1.661(a)–2 Deduction for distributions to beneficiaries.

* * * * *

(e) The terms "income required to be distributed currently" and "any other amounts properly paid or credited or required to be distributed" include amounts paid, or required to be paid, during the taxable year pursuant to a court order or decree or under local law, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent for a limited period during the administration of the estate. The term "any other amounts properly paid or credited or required to be distributed" does not include the value of any interest in real estate owned by a decedent, title to which under local law passes directly from the decedent to his heirs or devisees.

* * * * *

PAR. 2. Section 1.602(a)–2 is amended by revising paragraph (c) to read as follows:

§ 1.662(a)–2 Currently distributable income.

* * * * *

(c) The phrase "the amount of income for the taxable year required to be distributed currently" includes any amount required to be paid out of income or corpus to the extent the amount is satisfied out of income for the taxable year. Thus, an annuity required to be paid in all events (either out of income or corpus) would qualify as income required to be distributed currently to the extent there is income (as defined in section 643(b)) not paid, credited, or required to be distributed to other beneficiaries for the taxable year. If an annuity or a portion of an annuity is deemed under this paragraph to be income required to be distributed currently, it is treated in all respects in the same manner as an amount of income actually required to be distributed currently. The phrase "the amount of income for the taxable year required to be distributed currently" also includes any amount required to be paid during the taxable year in all events (either out of income or corpus) pursuant to a court order or decree or under local law, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent for a limited period during the administration of the estate to the extent there is income (as defined in section 643(b)) of the estate for the taxable year not paid, credited, or required to be distributed to other beneficiaries.

* * * * *

PAR. 3. Section 1.662(a)–3 is amended by revising paragraph (b) to read as follows:

§ 1.662(a)–3 Other amounts distributed.

* * * * *

(b) Some of the payments to be included under paragraph (a) of this section are: (1) A distribution made to a beneficiary in the discretion of the fiduciary; (2) a distribution required by the terms of the governing instrument upon the happening of a specified event; (3) an annuity which is required to be paid in all events but which is payable only out of corpus; (4) a distribution of property in kind (see paragraph (f) of § 1.661(a)–2); (5) an amount applied or distributed for the support of a dependent of a grantor or a trustee or cotrustee under the circumstances specified in section 677(b) or section 678(c) out of corpus or out of other than income for the taxable year; and (6) an amount required to be paid during the taxable year pursuant to a court order or decree or under local law, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent for a limited period during the administration of the estate which is payable only out of corpus of the estate under the order or decree or local law.

* * * * *

[FR Doc.72-21993 Filed 12-21-72;8:45 am]

[26 CFR Part 1]

INCOME TAX

Qualified Export Receipts and Producer's Loans of a Domestic International Sales Corporation (DISC)

On October 4, 1972, notice of proposed rule making was published in the FEDERAL REGISTER in regard to regulations under section 993 of the Internal Revenue Code of 1954, relating to qualified export receipts and producer's loans of a domestic international sales corporation (DISC), as added by section 501 of the Revenue Act of 1971 (37 F.R. 20853). Notice is hereby given that so much of the proposed regulations as is contained in § 1.993–1(j)(3)(i), as set forth in the notice of proposed rule making, is hereby withdrawn.

Further notice is hereby given that, in lieu of the proposed rules which are so withdrawn, the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of the Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by January 22, 1973. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity

to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by January 22, 1973. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their request for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68 Stat. 917; 26 U.S.C. 7805).

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

On October 4, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 20853) regarding the amendment of the Income Tax Regulations (26 CFR Part 1) to conform such regulations to section 993 of the Internal Revenue Code of 1954, relating to qualified export receipts and producer's loans of a domestic international sales corporation (DISC), as added by section 501 of the Revenue Act of 1971. So much of the proposed regulations as is contained in § 1.993–1(j)(3)(i), as set forth in the notice of proposed rule making, is hereby withdrawn. The appendix to the above-mentioned notice of proposed rule making is amended as follows, and the following rules are hereby prescribed in lieu of the rules which are so withdrawn:

§ 1.993–1 Definition of qualified export receipts.

* * * * *

(j) *Excluded receipts.* * * *

(3) *Sales of export property accomplished by subsidy.* * * *

(i) The development loan program, or grants under the technical cooperation and development grants program of the Agency for International Development, or grants under the military assistance program administered by the Department of Defense, pursuant to the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151), unless the DISC shows to the satisfaction of the district director that, under the conditions existing at the time of the sale, the purchaser had a reasonable opportunity to purchase, on competitive terms and from a seller who was not a U.S. person, goods which were substantially identical to such property and which were not manufactured, produced, grown, or extracted (as described in § 1.993–3(c)) in the United States,

* * * * *

[FR Doc.72-22150 Filed 12-21-72;8:47 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 51]

SHELLED PECANS

Standards for Grades; Termination of Rule Making Proceeding

On August 26, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 17412–17413) regarding a proposed amendment to the U.S. Standards for Grades of Shelled Pecans (7 CFR 51.1430–51.1451). Interested persons were given until October 1, 1972, to submit written data, views, or arguments in connection with the proposal. Eight letters were received in response to the proposal. Four were from pecan shellers and growers indicating approval of the proposal. The other four were received from organizations representing pecan shellers, processors, growers, and end users who opposed the proposal. As a result of the views submitted, it was decided that no action shall be taken concerning the proposal and it is hereby withdrawn from consideration.

Dated: December 18, 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-22027 Filed 12-21-72;8:46 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 61]

[Docket No. 19660; FCC 72-1141]

DOMESTIC HANDLING OF INTERNATIONAL RECORD TRAFFIC

Inquiry and Proposed Tariff Revisions

In the matter of International Record Carriers' Scope of Operations in the continental United States, including possible revisions to the formula prescribed under section 222 of the Communications Act, Docket No. 19660, RM–690.

1. The Commission has pending before it various petitions and requests all of which relate to the domestic handling of international record traffic. Of greatest immediacy, are proposed tariff revisions filed by the international record common carriers, to become effective March 1, 1973, under which such carriers, rather than their customers, would absorb the landline transmission charges related to the pickup and delivery of international telegrams outside of the gateway cities in those carriers maintain offices. In essence, these pleadings may be grouped into three separate categories. The first and longest pending is a petition for rule making filed by ITT World Communications, Inc. (ITT) [1] wherein it is requested that the Formula for the Distribution of Outbound International Traffic (Formula) handled by Western Union Telegraph Co. (Western Union) be revised in various aspects. Second, Western Union has filed a petition that this Commission order and increase in the per word charges for the landline haul of full-rate messages from 6.5 cents per word to 13 cents per word with corresponding charges for other classes.[2] Third, there are the above-mentioned proposed tariff amendments, to become effective March 1, 1973, filed by the International Record Carriers under which they, rather than the customers, would pay the domestic transmission charge for international message telegrams sent by hinterland users directly to present gateway officers or sent by the carriers from such offices directly to hinterland users by telephone, telex, etc.; and applications filed by international carriers for authority to open offices in additional mainland cities.[3] The specific requests and proposals include the following:

(a) Proposed amendments filed by ITT, to its Tariff FCC No. 7 [4] which would permit ITT to absorb all charges incurred for the use of the various domestic communications media for direct customer access to the international carrier for the pickup and delivery of international message telegrams;

(b) Proposed amendments filed by Western Union International (WUI) to its Tariff FCC No. 12 [5] which would have the same effect as that in (a) above;

(c) Proposed amendments filed by RCA Global Communications, Inc. (RCAG) to its Tariff FCC No. 60 [6] which would have the same effect as that in (a) above;

(d) An application by ITT [7] under sections 214 and 222 of the Communications Act for authority to establish 15 operating points in the hinterland for the handling of telex and leased channel services and for the authority to use Wide Area Telephone Service (WATS) for the pickup and delivery of international message telegram traffic in the contiguous 48 States;

(e) An application of RCA Global Communications, Inc. (RCAG),[8] under section 214 to establish 18 operating points in the hinterland for the handling of telex and leased channel services; and

(f) Application of TRT Telecommunications, Inc. (TRT) [9] for authority under sections 214 and 222 to establish New York City as a gateway for leased channel services to points in Latin America and the Caribbean.

2. Finally, there is pending before us a petition for review of the action of the Chief, Common Carrier Bureau regarding an application of Western Union for authority to provide Mailgram service between the contiguous States and Ha-

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[1] Nov. 27, 1964. See RM–690.

[2] See petition of Western Union Telegraph Co., dated July 23, 1970.

[3] The "hinterland" is that territory in the contiguous 48 States beyond the limits of the gateways of an International Record Carrier.

[4] Specifically, 368th Revised Page 1, 151st Revised Page 1A, 11th Revised Page 9, 11th Revised Page 10, 13th Revised Page 11D, Seventh Revised Page 70A and Sixth Revised Page 70B.

[5] Specifically 75th Revised Page 1, Sixth Revised Page 9, Sixth Revised Page 81 and Sixth Revised Page 86.

[6] Specifically 300th Revised Page 1, 10th Revised Page 6, Eighth Revised Page 65 and Eighth Revised Page 66B.

[7] File No. T–C–2433, filed Sept. 20, 1971.

[8] File No. T–C–2498, filed Jan. 11, 1972.

[9] File No. T–C–2498, filed Sept. 1, 1972.

waii.[10] We are considering this matter separately, as it is not directly related to the questions described above, and expect shortly to issue a decision thereon.

3. All of the foregoing proposals and requests present a complex of issues which are essentially interrelated. They have a common genesis in the so-called domestic telegraph merger legislation which was enacted in 1943[11] and the changes and developments which have occurred since that time. The merger legislation permitted Western Union to merge with the Postal Telegraph Co. (Postal) upon the making of certain findings by the Commission. Western Union at the time was not only the major telegraph carrier within the United States, but also provided international telegraph services through its cable division. Postal also provided a more limited domestic message telegraph service and its facilities for pickup and delivery of international traffic were available to the international telegraph carriers. There was concern expressed that if the merger took place between Western Union and Postal, Western Union would be in a position to favor its own cable division in the handling of international telegraph traffic. The legislation proposed to address this problem in two ways: (1) By requiring the eventual divestment by Western Union of its international telegraph operations[12] and (2) by requiring that Western Union distribute outbound international telegraph traffic among the international record carriers and divide the charges for such traffic in accordance with a formula approved or prescribed by the Commission.[13] This formula was to be so designed as to insure equitable distribution of traffic and a reasonable division of the tolls for such traffic between the merged domestic carrier and the international carriers.

4. At the present time, the international record carriers provide, in addition to other services, pickup and delivery of international telegraph messages, at their expense, within the so-called gateway cities in which they operate.[14] These cities, for ITT, WUI, and RCAG, the three major record carriers, are New York, San Francisco, and Washington. TRT gateway cities are Miami and New Orleans (with the three major record carriers handling leased channel services at Miami). These carriers interconnect with Western Union, which handles international telegraph messages to and from users located outside the gateway cities, with Western Union receiving a portion of the charges for such messages in compensation for its landline services.

5. Both the concept of the gateway and the manner in which traffic may be delivered to points beyond the gateway have been in a constant state of evolution and development since 1943 as the needs of users developed and as technology evolved. As early as 1949 the Commission had occasion to review in detail the pickup and delivery practices of the carriers for traffic originating and terminating in the hinterland. "All America Cables and Radio, Inc.", 15 FCC 293 (Docket No. 9433). In that proceeding, we accepted the principle, reflected in the tariffs of certain international carriers, that hinterland users could forward outbound messages to an international carrier by telephone, TWX or otherwise and that overseas inbound messages addressed to persons in the hinterland could be delivered by such means where appropriate instructions had been given by the customer. In each instance the domestic handling would be at the customer's expense. We have also, on specific occasions when it appeared to be in the public interest, authorized the international carriers to extend their operations to points outside the gateway cities.[15]

6. Since the merger was authorized in 1943 there have been significant changes both in the composition of international record traffic and in the facilities and services available to handle such traffic. At the time of merger, international message traffic contributed the major portion of total international communications revenues, whereas it now contributes a minor portion of such revenues and a decreasing share of international record carrier revenues. In 1943, the primary, if not the only method of handling international message telegraph traffic in the hinterland, was through the domestic facilities of Western Union (and, prior to merger, of Postal). Since that time, there has been a rapid development in domestic teleprinter exchange and other services. Furthermore, the Commission has recently authorized Western Union to acquire the TWX facilities of American Telephone & Telegraph Co. (A.T. & T.) so that, combined with its own Telex service, it has a virtual monopoly over domestic teleprinter exchange traffic. Finally, telephone service has expanded tremendously since 1943 so that it is directly available to the vast majority of the people of the United States. A.T. & T. now offers a service (WATS) whereby, for a fixed monthly charge, a subscriber may make unlimited telephone calls anywhere in the United States. Such service is also offered in the inbound direction and permits subscribers to receive calls from anywhere in the United States at their expense. On the telegraph side, Western Union has, since the domestic merger, closed hundreds of its smaller offices throughout the country and in New York City in an effort to modernize its operations and to follow the shift from over-the-counter to telephone and machine-operated pickup and delivery.

7. As a result of these developments, an increasing amount of international telegraph message traffic is specifically routed via a particular international carrier, including messages filed directly with such carrier by hinterland users, and this trend is expected to continue in the years ahead.

8. It is within the context of the developments outlined above that it is necessary and timely to reevaluate the existing institutionalized methods and practices involved in the pickup and delivery of international traffic originating at or delivered to hinterland points outside of the established gateway cities, including the overall relationship between Western Union and the international record carriers so that the public will be assured of efficient and economic international record communications. We believe this objective will best be achieved by our consideration of all the foregoing matters in their totality.

9. Therefore, rather than now having independent consideration with a separate procedure for each of the above cited matters, we shall institute a general inquiry which will address, on a consolidated basis, the broad and important public interest issues posed by the "direct access" tariffs and the ITT and RCA applications to establish offices in the hinterland and to transmit certain types of traffic over lines to be leased from domestic carriers.[16] Such an inquiry will also treat the technological and operational changes which have taken place affecting the pickup and delivery of telegraph traffic, and the effects thereof on the existing arrangements for the division of tolls between Western Union and the international carriers, as well as the specific per word compensation currently in effect. Finally, the inquiry will give consideration to the current operation of the international formula, and determine whether current conditions and trends require modification of the formula. We will not at this time attempt to define the precise issues to be considered, nor will we now direct the parties to file either written comments on substantive matters or to participate in evidentiary hearings. Rather, as hereinafter prescribed, we will direct all interested parties to recommend specific issues to be considered in view of the matters discussed above, and the specific procedures

[10] Western Union proposed to transmit messages from the mainland to post offices in Hawaii for delivery to the addressees, using facilities leased from the Communications Satellite Corp. The Chief, Common Carrier Bureau advised Western Union by letter of Apr. 19, 1972 that its application was not accepted for filing in view of the section 222 proscription on Western Union overseas services. The Western Union application for review was filed on May 19 and will be acted on shortly.

[11] 47 U.S.C., 222(b)(1) (1964).

[12] 47 U.S.C. 222(c)(2) (1964).

[13] 47 U.S.C. 222(e)(1) (1964).

[14] See 47 U.S.C. 222(a)(5) (1964), which provides that the international carriers may accept or deliver international telegraph messages in those cities which constitute gateways approved by the Commission as points of entrance into or exit from the continental United States.

[15] E.g., we have permitted Press Wireless, an international carrier, to operate temporary pickup and delivery offices at national conventions and on similar occasions. We have also expanded the concept of the gateway to include areas beyond the corporate limits of gateway cities when we found good cause for so doing. Metropolitan Areas Case (Docket No. 10335) and Press Wireless, Inc., 21 FCC 511 (1956).

[16] We will give consideration to the TRT applications for authority to use New York City as a gateway at the same time.

by which such issues should be resolved in this Inquiry. These recommendations shall be the subject of informal conferences which will be called and conducted by the Chief, Common Carrier Bureau.

10. The Chief, Common Carrier Bureau, shall meet with respondents herein to consider the specific issues to be resolved and the procedures to be used in resolving such issues. Following such meetings, which shall be held with reasonable promptness, the Commission will issue a further memorandum opinion and order specifying issues and procedures to be followed. In such meetings the parties shall strive to resolve all disputed questions through written exchanges, negotiations or stipulation, rather than through cumbersome and time-consuming processes of an adversary proceeding.

11. Returning to the tariffs before us, we do have a threshold question relating to the pending tariffs to become effective on March 1, 1973, pursuant to which the international record carriers would be permitted to pickup or deliver traffic at no additional cost to the customer located outside of the gateway cities. For this purpose, the international carriers would use inward and outward WATS services of the telephone companies as well as TWX and Telex services of Western Union by which such international carriers would accept international message telegrams from points in the hinterland or deliver such messages to points in the hinterland. Western Union contends the tariff revisions should be rejected on the following grounds: (a) The practices contained in the filings are expressly prohibited by prior Commission decisions; (b) prior approval pursuant to section 222 is required to pickup and deliver in the hinterland; (c) prior approval under section 214 is required to extend service to the hinterland; (d) lawful joint through rates to points on the systems of the domestic carriers cannot be established by absorbing the charges of such carriers without their concurrence or a section 201(a) finding; (e) the proposed revisions are inconsistent with the legally filed tariff for Western Union's Telex service; (f) the interconnection arrangements proposed are inconsistent with existing through routes established by Western Union and the carriers and with the presently effective division of tolls authorized by the Commission; and (g) the revisions are not in the public interest in that they would jeopardize Western Union's plans to modernize its facilities to provide improved service.

12. The contentions of Western Union must be considered and evaluated in the light of the purposes, background and developments set forth hereinabove. First of all, we wish to make it clear that none of our prior decisions with respect to the handling of traffic in the hinterland accepts the Western Union premise that it was granted some form of exclusive right with respect to the pickup and delivery of international message traffic beyond the gateway cities. We have in the past rejected such contentions. (See paragraph 5 above.) Insofar as the argument with respect to section 214 is concerned, we believe that it is sufficient to note that a considerable number of past actions taken by Western Union are exactly contrary to the position it now takes. Thus, it has for several years been making use of the public telephone network, i.e., message toll telephone and WATS services, for the intercity pickup and delivery of both domestic and international telegraph traffic without having requested section 214 authorization. In essence, Western Union assumed, and we believe correctly so, that the use of the public telephone, TWX, of Telex services, as now contemplated by the record carriers, does not involve the construction or acquisition of a line or the operation of any such extended or additional line within the purview of section 214 of the Act. Accordingly, on the basis of precedent primarily established in connection with activities of Western Union, we find the section 214 argument to be without merit.

13. With respect to the section 222 argument of Western Union, it was the intent of Congress that the carriers be restricted to designated gateway cities in accepting or delivering international message telegraph traffic unless and until appropriate authorization under that section had been obtained from the Commission to extend those gateways or to create new ones. The key question, therefore, is whether, as contemplated under the proposed tariff revisions, the use of modern facilities which either did not exist or were in their relative infancy at the time this provision was enacted, were intended to be encompassed within the statutory ban. The above-described tariff filings do not involve or contemplate the duplication of facilities between the existing offices of the carriers and points of pickup and delivery in the hinterland. Rather, the international carriers propose to make use of the existing switched TWX and Telex networks of Western Union or the WATS telephone service network of A.T. & T. to facilitate the pickup and delivery of international traffic originating at or destined to points outside the existing gateways. Western Union or A.T. & T. are to be reimbursed for the use of their respective networks at published tariff rates. The difference between current practice and what is proposed in the tariffs at issue is the absorption by the international carriers of the charges associated with the customers' use of the Telex, TWX or WATS networks. From the user's standpoint, the practices will differ from those currently in effect only to the extent that there will be a reduction in the cost of direct access.

14. However, despite the fact that the carriers do not by their tariff revisions propose to establish offices in the hinterland, we believe that the proposals to absorb the charges for the domestic handling of international telegrams do raise a valid question as to whether section 222 applies to the subject tariff revisions. Specifically, the question is whether the use of the public telephone, TWX and Telex networks in the way proposed by the carriers constitutes a change in established gateways by such carriers which require prior approval by the Commission as contemplated by section 222 (a) (5) of the Communications Act and whether, in the absence of such prior approval, the proposed tariffs should be rejected.

15. In view of the importance of this threshold question, we feel that it should be promptly resolved, and, we will consider it separately from the other matters under consideration herein. The filing carriers have deferred the effective date of their respective tariff revisions until March 1, 1973, so that there is opportunity for the filing of briefs on the specific question whether the new practice proposed in these tariff revisions requires prior Commission authorization under section 222. Upon receipt of these briefs and any reply briefs which may be filed, we will hear oral argument. We will then make a determination as to the applicability of section 222 before undertaking any further consideration of the merits of the proposals. If, in deciding this matter, we conclude that section 222 authority is required, the tariffs will, of course, be rejected as conflicting with the statute and returned to the carriers who filed them. The carriers will then be free to file requests for authorization under section 222 to institute the proposed service. We emphasize that the briefs and oral argument we are ordering herein shall address only the narrow question of the applicability of section 222 to the proposal by the international carriers to absorb the costs of direct access by means of domestic Telex, TWX, and WATS telephone service, and whether approval by the Commission is required as a condition precedent to the filing of such tariffs. If this question is determined in the negative, the broader public interest issues presented by the practices embraced by the tariff provisions involved will be treated in the context of sections 201 and 202 of the Communications Act within the general inquiry we are hereby instituting.

16. The other arguments of Western Union for rejection are not persuasive. We do not think previous decisions are grounds to reject the proposed revisions. In "All America Cables and Radio," supra, we did not specifically address the question of whether payment of landline transmission costs by the international carriers rather than the customers would be unlawful, but, rather, permitted to become effective a tariff provision which required the customer to pay such costs. Nor do we think that a through route is sought to be established by the proposed revisions, in view of arrangements relating to interfacing of domestic and international Telex systems, which are not considered to be through routes. We agree that there is a conflict with Western Union's Telex tariff; however, there is serious question as to whether the relevant provisions of such tariff will be lawful should the proposed interna-

tional tariffs become effective. Insofar as Western Union argues inconsistency with the present through routes that it maintains with the record carriers, we think this question is subsumed by the section 222 question.

Accordingly, it is ordered, Pursuant to sections 4(i), 4(j), 201, 202, 205, 214, 222, and 403 of the Communications Act, that an inquiry is instituted to determine the nature and extent of the changes in technology, operation, and economics related to the handling of international record communications and what revisions are necessary or desirable in the public interest with respect to the various matters discussed herein, in light of such changes;

It is further ordered, That following the meeting referred to in paragraph 10, a further order shall be issued by the Commission, specifying issues and the procedures for their resolution;

It is further ordered, That the Western Union Telegraph Co., ITT World Communications Inc., RCA Global Communications, Inc., Western Union International, Inc., and TRT Telecommunications Corp. are named as parties respondent;

It is further ordered, That, in accordance with § 1.51(a)(3) of the Commission's rules and regulations, each entity named as a party herein shall, within 20 days of the release of this order, submit an original and 19 copies of a brief on the applicability of section 222 of the Act to the free direct access proposals contained in the ITT, WUI, and RCAG tariff revisions; that reply briefs may be filed within 10 days thereafter; and that oral argument on the matter will thereafter be held before the Commission en banc at Washington, D.C., at a date and time to be specified by subsequent order;

It is further ordered, That the applications of ITT World Communications Inc., RCA Global Communications, Inc., and TRT Telecommunications Corp. for additional gateway authority shall be retained for appropriate further action in accordance with any decision taken in the inquiry ordered herein; and

It is further ordered, That the petition of ITT World Communications Inc., RM-690, to revise the Formula for the Distribution of Outbound International Traffic handled by Western Union and the petition of The Western Union Telegraph Co. to increase the per word charges for the landline haul of international message telegrams shall be retained for appropriate further action in accordance with any decision reached in the inquiry ordered herein.

Adopted: December 13, 1972.

Released: December 18, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-21999 Filed 12-21-72;8:46 am]

[47 CFR Part 73]

[Docket No. 19622, ect.; FCC 72-1116]

PRIME TIME ACCESS RULE

Order Extending Time to File Comments

In the matter of consideration of the operation of, and possible changes in, the "prime time access rule", § 73.658(k) of the Commission's rules (Petitions of National Broadcasting Co., Inc., Midland Television Corp., Kingstip Communications, Inc., and MCA, Inc.), Docket No. 19622, RM-1967, RM-1935, RM-1940, RM-1929.

1. In the notice of proposed rule making and notice of inquiry instituting this proceeding (FCC 72-957, issued October 26, 1972), the dates for comments and reply comments were set as December 22, 1972 and January 29, 1973, respectively. On December 6, 1972 the Commission received a letter request for an extension of the first date to January 12, 1973, filed by Paul Dobin, Esq. on behalf of the licensee of Station WVEC-TV, Hampton, Va. Mr. Dobin states that the notice asks for material which requires the personal attention of the licensee and its officials, rather than counsel only, and that the busy holiday season prevents the preparation of meaningful comments by the licensee (and likely other licensees wishing to file comments) by the date presently set. It is also stated that this licensee has another problem in that it must also prepare a reply concerning employment practices in connection with its license renewal.

2. There is also to be considered the fact that some data, which may be relied on by parties in the proceeding, will not be completely available until the end of December. This is American Research Bureau (ARB) audience survey data for the November rating period, which gives both audience rating figures and the programs presented during prime time by stations. In view of both of these considerations, it is appropriate to extend the time for filing comments herein, to January 15, 1973. It is also appropriate to extend the time for reply comments, now due January 29, 1973.

3. In view of the foregoing: *It is ordered,* That the time for filing comments and reply comments in this proceeding, Docket 19622, is extended, to and including January 15, 1973 and February 12, 1973, respectively.

Adopted: December 14, 1972.

Released: December 18, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-22002 Filed 12-21-72;8:46 am]

[47 CFR Part 74]

[Docket No. 19661; FCC 72-1153]

TELEVISION AND FM TRANSLATOR STATIONS

Local Origination of Slide and Voice Announcements

In the matter of amendment of §§ 74.731(f) and 74.1231(f) of the rules pertaining to local origination of slide and voice announcements at television translator stations and voice announcements at FM translator stations, Docket No. 19661.

1. The President of the National Translator Association (NTA) has requested the Commission by letter to amend its rules to increase the period of time during which locally generated signals may be transmitted over UHF television broadcast translator stations. Section 74.731(f) of our rules currently permits the transmission of still photographs, slides and recorded voice announcements for a period not to exceed 20 seconds at intervals of no less than 1 hour. NTA requests that the 20-second period be increased to 30 seconds at intervals of no less than an hour. We cannot accept NTA's request as a petition for rule making because it does not comply with our rules governing petitions for rule making. However, for the reasons stated below, we have decided to propose rule making on our own motion.

2. NTA contends that, on the basis of experience, the 20-second limitation has proved to be unworkable. At the time the rule was promulgated ("Report and Order" in Docket No. 15971, 13 FCC 2d 305, 13 RR 2d 1577), according to NTA, television stations whose signals translators rebroadcast were using 20-second announcements, but the general practice now seems to be to use 30-second announcements. The result is that when a translator station originates its own announcements for 20 seconds, there is a 10-second residual announcement, originating at the primary station, appearing on the receiver of viewers. This, NTA says, is confusing to viewers and serves no beneficial purpose.

3. The study to which NTA refers was conducted by South Lane Television, Inc., the licensee of five UHF television translator stations in Cottage Grove, Oreg. South Lane has been a pioneer in the field of local origination of slide announcements by translators. The study, done between April 24 and April 30, 1972, was made on the basis of the insertion of 20-second announcements at normal commercial advertising breaks in the primary stations' programs. In each instance, at the conclusion of the translators' messages, the remaining portion of the primary stations' commercials which appeared on viewers' screens was timed and recorded. The residual time varied from 5 seconds to 40 seconds, but it was clear that in the majority of cases, the residual time was 10 seconds. From

this study, NTA has concluded that if the duration of the local slide announcements were increased from 20 seconds to 30 seconds, the problem would be largely solved.

4. Section 74.1231(f) of our rules permits the use of locally generated voice announcements on FM Broadcast Translator Stations under the same general conditions as § 74.731(f) permits the local generation of television pictures and sound. We therefore, in the interest of consistency, propose that the 20-second limit on locally generated voice announcements at FM Broadcast Translator Stations be increased to 30 seconds.

5. Authority for the action proposed herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before January 29, 1973, and reply comments on or before February 8, 1973. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

7. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished to the Commission.

8. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. (1919 M Street NW.).

Adopted: December 14, 1972.

Released: December 19, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-21997 Filed 12-21-72;8:46 am]

[47 CFR Part 76]

[Docket No. 19659; FCC 72-1148]

CABLE TELEVISION SYSTEMS

Performance Tests and Technical Standards; Inquiry

In the matter of amendment of Subpart K of Part 76 of the Commission's rules and regulations with respect to performance tests and technical standards for cable television systems, Docket No. 19659.

1. We have this day postponed the initial deadline for compliance with the cable television performance tests of § 76.601(c) of our rules. As a related matter, there seems to be a need to investigate alleged difficulties borne by smaller cable systems that must also comply with § 76.601(c). It has been argued that, for some systems, even a modest charge for conducting the performance tests represents a significant portion of the systems' gross revenues. Assuming these systems were able to afford their own testing equipment, it is further argued that their personnel lack the expertise to use the equipment properly. We have received many suggestions, ranging from exempting systems of some designated size from compliance with the performance tests, to formulating a more simplified set of technical standards and testing procedures for small systems.

2. Although the Commission understands that compliance with the new technical standards and performance test rules will be burdensome for some cable systems, the time has come when there simply must be assurance that subscribers will receive a worthwhile product. The Commission receives hundreds of subscriber complaints each year, many from subscribers to smaller cable systems. It would hardly be in the public interest to ignore obvious service problems, and it is not expected that we will exempt any class of cable system from compliance with our technical standards.

3. It does appear appropriate, however, to take the opportunity afforded by the 1 year postponement of the performance test deadline to initiate an inquiry and rule making proceeding to determine to what extent, if any, special problems borne by smaller systems might be alleviated. It is envisioned that this proceeding will terminate well before the new December 31, 1973 deadline to give affected systems ample time to comply with our rules. We request comment with respect to the following matters:

(1) What is a "smaller" cable television system in the context of the questions we are here raising? Should size be measured in terms of number of subscribers, annual gross revenue, miles of cable plant, or in some other manner?

(2) Are there modifications of our existing technical standards or performance test requirements that might reduce the burden on smaller systems while at the same time assuring a reasonable level of quality service to subscribers?

(3) What further steps can be taken to ease compliance with §§ 76.601(c) and 76.605 and be of particular help to smaller cable systems?

4. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested parties may file comments on or before February 28, 1973, and reply comments on or before March 28, 1973. All relevant and timely comments and reply comments will be considered before final action is taken in this proceeding. The Commission, additionally, in reaching a decision in this proceeding, may also take into account other relevant information before it.

5. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: December 13, 1972.

Released: December 18, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-22001 Filed 12-21-72;8:46 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 536]

[Docket No. 72-19]

COMMON CARRIERS BY WATER IN FOREIGN COMMERCE OF UNITED STATES AND CONFERENCES OF SUCH CARRIERS

Proposed Requirements Regarding Filing of Tariffs

The Commission's notice of proposed rule making in this proceeding was published May 20, 1972 (37 F.R. 10389). Interested parties were given opportunity to comment on the proposed rules.

Since publication of the proposed rules, the Commission is of the opinion that certain of the proposed requirements require modification.

Accordingly, the Commission's notice of proposed rule making in this proceeding is revised in the following respects:

1. In § 536.1 *Definitions*, proposed paragraphs (e), (g), (j), (o), and (s) are revised to read as set forth below, and a new paragraph (z) is proposed to be added:

§ 536.1 Definitions.

* * * * *

(e) *Local rates.* The term "local rates" means rates or charges for transportation over the route of a single carrier (or any one carrier participating in a conference tariff) between two points, the application of which is not contingent upon a prior or subsequent movement or any other separate consideration.

* * * * *

(g) *Through rates.* The term "through rates" means either (1) a local rate; or, (2) a joint rate; or (3) a combination of two or more local rates; or (4) a combination of proportional rates; for continuous transportation over a through route.

* * * * *

(j) *Through route.* The term "through route" means an arrangement for the continuous carriage of goods between origin and destination offered or performed by: (1) Two or more water car-

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[1] Commissioner Robert E. Lee concurring in the result.

riers in a movement entirely by water; or (2) one or more water carriers in connection with one or more other carriers when the origin and/or destination of the cargo lies beyond the port; or (3) a carrier which is a water carrier and also offers transportation services beyond the port.

* * * * *

(o) *Equalization.* The term "equalization" shall mean that allowance or payment made by a carrier to a shipper and/or consignee which, when deducted from the cost of transportation to or from the port served by the carrier, will equalize the costs actually incurred with the costs which would have been incurred had the cargo been routed to the nearest port.

* * * * *

(s) *Open rate.* The term "open rate" applies when a conference relinquishes or suspends ratemaking authority, in whole or in part, over a specified commodity or commodities, thereby permitting each individual carrier member of the conference to fix its own rates on such commodity or commodities.

* * * * *

(z) *Joint rates.* The term "joint rates" means rates or charges established by two or more carriers for transportation over the combined routes of such carriers between a port and a port, a point and a port, or a combination thereof.

2. In § 536.2 *Filing of tariffs; general,* proposed paragraph (p) is revised to read as set forth below:

§ 536.2 Filing of tariffs; general.

* * * * *

(p) Each carrier shall file with the Commission an information circular as set forth in Exhibit No. 8 within 90 days from the effective date of this part. Any completely new tariff filed on or after the effective date of this part must be accompanied by such an information circular, unless previously filed in the current calendar year. A revised circular or a written certification that none of the information has changed shall be filed on January 1 of each year thereafter.

Carrier participants in a conference tariff shall be responsible for the submission of their respective information circulars required.

3. In § 536.4 *Contents of tariffs,* proposed paragraphs (a) (4) (i) and (ii) are revised to read as set forth below:

§ 536.4 Contents of tariffs.

(a) * * *

(4) * * *

(i) A list of the ports covered by the tariff, or reference to an internal tariff page where such ports are listed. In lieu of such listing of ports, a statement of the range of ports served will be accepted, provided any exclusion of any port within the range and any restriction applying at any port within the range are specifically stated.

(ii) Whenever tariff application is shown by identification of a range of ports in lieu of listing of ports, such range of ports must be within a geographical area generally served by the carrier or carriers participating in the tariff.

* * * * *

4. In § 536.4 *Contents of tariffs,* proposed paragraphs (b) (10) (ii) and (vi) are revised to read as set forth below:

§ 536.4 Contents of tariffs.

(b) * * *

(10) * * *

(ii) *Effective date rule.* Every tariff shall contain a rule which sets forth in clear and definite terms the time at which rate changes become applicable on any particular shipment. Such time may not be earlier than the date the carrier received the goods for transportation nor later than the date the vessel sails. The effective date applicable to through intermodal shipments accepted at an inland point, must be the date the cargo is delivered to the originating carrier.

* * * * *

(vi) Surcharges and/or arbitraries. Every tariff shall contain the following rule:

Whenever more than one surcharge and/or arbitrary under the control of the carrier (or conference), which are stated in percentages, are imposed upon the same shipment, such surcharges and/or arbitraries shall first be combined and the aggregate shall be applied in computing the additional charges.

5. In § 536.5 *Statement of rates,* proposed paragraph (o) is revised to read as set forth below:

§ 536.5 Statement of rates.

* * * * *

(o) Temporary or special or emergency rates or rates conditioned upon an expiration date or other factor shall be shown under the same commodity or generic heading or class in the same place in the tariff as the ordinarily applicable rates. See Exhibit No. 5. If only a portion of particular rates or other provisions will expire with a specified date, a notation to that effect shall clearly be shown in connection with such item, as indicated in Exhibit No. 2.

6. In § 536.15 *Special rules governing the filing of tariffs containing rates and charges and/or rules and regulations for through intermodal transportation,* in proposed paragraph (d) *Statement of rates,* subparagraph (1) is revised to read as set forth below:

§ 536.15 Special rules governing the filing of tariffs containing rates and charges and/or rules and regulations for through intermodal transportation.

(d) * * *

(1) Except as otherwise provided in this part, tariffs naming through intermodal rates shall show the through rate together with the port-to-port division, rate or charge that is to be collected by the water carrier subject to regulation under the Shipping Act, 1916. The port-to-port portion may be shown in (i) a column adjacent to a column containing the through rate or (ii) directly under the commodity description or the through rate: *Provided, however,* That if by an arrangement for through transportation, the through rate is apportioned among the participating carriers by a constant percentage, the percentage division may be published in the form of a rule.

The schedule for filing comments on the proposed rules in this proceeding is hereby revised to afford interested parties time to consider the revisions embodied herein along with the earlier proposal.

Interested persons may participate in this rule making proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 22, 1973, an original and 15 copies of their views or arguments pertaining to the proposed amended rules. All suggestions for changes in the text as set out above should be accompanied by drafts of the language thought necessary to accomplish the desired change and by statements and arguments in support thereof.

The Federal Maritime Commission, Bureau of Hearing Counsel, shall participate in the proceeding and shall file reply to comments on or before February 19, 1973, serving an original and 15 copies on the Federal Maritime Commission and one copy to each party who filed written comments. Answers to Hearing Counsel's replies shall be submitted to the Federal Maritime Commission on or before March 12, 1973.

By order of the Federal Maritime Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.72-22016 Filed 12-21-72;8:46 am]

Notices

DEPARTMENT OF THE INTERIOR

Geological Survey

[Power Site Cancellation 274]

BIGHORN RIVER BASIN, WYO.

Power Site Cancellation

Correction

In F.R. Doc. 72-21268, appearing on page 26442, of the issue for Tuesday, December 12, 1972, under the land description heading "Sixth Principal Meridian", the eighth line from the bottom reading "Sec. 29, NE½NE¼ and S½NE¼;" should now read "Sec. 29, NE¼NE¼ and S½NE¼;".

Office of Hearings and Appeals

[Docket No. M 73-17]

BURGESS MINING AND CONSTRUCTION CORP.

Petition for Modification of Mandatory Safety Standard

In regard to petition of Burgess Mining and Construction Corp. for modification of application of Mandatory Safety Standard (30 CFR 77.103); Bibb Strip Operation and Johns Strip Operation.

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), notice is given that Burgess Mining and Construction Corp., Post Office Box 26340, Birmingham, AL 35226, filed on December 11, 1972, a petition to modify the application of § 77.103 of the Secretary's implementing regulation (30 CFR 77.103) to its surface coal mines in Alabama called the Bibb Strip and Johns Strip Operations.

Section 77.103 of the regulations, as amended to become effective November 1, 1972 (37 F.R. 22377), provides:

§ 77.103 Electrical Work; qualified person. (a) Except as provided in paragraph (f) of this section, an individual is a qualified person within the meaning of Subparts F, G, H, I, and J of this Part 77 to perform electrical work (other than work on energized surface high-voltage lines) if:

(1) He has been qualified as a coal mine electrician by a State that has a coal mine electrical qualification program approved by the Secretary; or,

(2) He has at least 1 year of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and has satisfactorily completed a coal mine electrical training program approved by the Secretary; or,

(3) He has at least 1 year of experience, prior to the date of the application required by paragraph (c) of this section, in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and he attains a satisfactory grade on each of the series of five written tests approved by the Secretary as prescribed in paragraph (b) of this section.

* * * * *

Petitioner requests the Secretary to modify the application of the above-quoted standard so as to permit it to have electrical equipment inspected, repaired, or installed by an independent electrical contracting firm which is licensed to perform electrical installations by the city of Birmingham, county of Jefferson, or State of Alabama. Petitioner, in effect, asks that the employees of the independent contracting firm be classified as "qualified" persons within the meaning of § 77.103.

The reasons given by petitioner for seeking the above-described modification are that (1) its equipment is primarily diesel-powered since its seven draglines are comprised of four Lima 2400's, two 183-M Marions, and one Bucyrus 480, (2) its preparation plant contains only one electrical panel which controls the crusher and conveyors, (3) any electrical repairs or installations which it requires are performed by an independent contracting firm which hires fully qualified and competent people licensed to perform electrical installations, but which claims that it cannot justify having its employees take 90 hours of training to qualify under a Bureau of Mines' program in return for the 10 to 15 hours of work per year for which such employees would be utilized, and (4) it cannot use its own employees for such electrical work because none of them have had 1 year of experience in the type of electrical work required to qualify them, and even if an employee had such experience, he would only perform 10 to 15 hours of work each year of that nature while the remainder of his time would be spent performing duties within other classifications, and that sort of an arrangement would violate the seniority provisions of petitioner's labor agreement.

For the foregoing reasons, petitioner believes that the requested modification of the application of § 77.103 should be granted.

Parties interested in this petition should, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file their answers or comments with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director, Office of Hearings and Appeals.

DECEMBER 15, 1972.

[FR Doc.72-21972 Filed 12-21-72;8:45 am]

Office of the Secretary

DONALD B. GREGG

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of October 14, 1972.

Dated: November 9, 1972.

DONALD B. GREGG.

[FR Doc.72-21973 Filed 12-21-72;8:45 am]

NICHOLAS A. RICCI

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) Delete: CAMCO, Weight Watchers, Add: Oil Shale Corp., Market Facts.
(3) No change.
(4) No change.

This statement is made as of November 7, 1972.

Dated: November 7, 1972.

NICHOLAS A. RICCI.

[FR Doc.72-21975 Filed 12-21-72;8:45 am]

JOHN ROLFING

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of November 14, 1972.

Dated: November 14, 1972.

JOHN A. ROLFING, Jr.

[FR Doc.72-21976 Filed 12-21-72;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

COMMERCIAL FISHING VESSEL INSURANCE

Conference Notice

The National Marine Fisheries Service, U.S. Department of Commerce, is holding a public conference on Commercial Fishing Vessel Insurance. The conference will be held on January 9 and 10, 1973, in the Auditorium, Smithsonian Museum of History and Technology Building (Constitution and 14th Street NW.), Washington, D.C.

The purpose of the conference will be to achieve a current perspective and to discuss realistic solutions of fishing vessel insurance problems.

For additional information, contact Mr. Morton M. Miller, U.S. Department of Commerce, National Marine Fisheries Service, Washington, D.C. 20235, or call (202) 343-6907.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-22005 Filed 12-21-72;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP MF3515]

DEXTER CORP.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)) notice is given that a petition (FAP MF3515) has been filed by the Dexter Corp., 1 Elm Street, Windsor Locks, CT 06096, proposing that § 121.234 *Lignin Sulfonates* (21 CFR 121.234) be amended to provide for the safe use of lignin sulfonates derived from the sulfite digestion of abaca (*Musa textilis*) as an alternate source of lignin sulfonate for addition to animal feeds.

Dated: December 18, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-21960 Filed 12-21-72;8:45 am]

NEW ENGLAND FEED CO.

Zoalene Premix; Notice of Withdrawal of Approval of New Animal Drug Application

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 et seq., 21 U.S.C. 360(b)) and under authority delegated to the Commissioner (21 CFR 2.120), the following notice is issued:

At the request of New England Feed Co., 177 Milk St., Boston, MA 02109 and in accordance with § 135.28(d) (21 CFR 135.28(d)), notice is given that approval of NADA (new animal drug application) No. 36-382V for Zoalene Premix which contains zoalene and 3-nitro-4-hydroxyphenylarsonic acid is hereby withdrawn.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (12-22-72).

(Sec. 512, 82 Stat. 343-351 et seq., 21 U.S.C. 360(b))

Dated: December 15, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-21959 Filed 12-21-72;8:45 am]

Health Services and Mental Health Administration

PUBLIC SAFETY SYSTEMS, INC.

Research on Alcohol Abuse and Alcoholism; Authorization of Confidentiality

Pursuant to the authority vested in the Secretary of Health, Education, and Welfare by section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (84 Stat. 1853; 42 U.S.C. 4582), all persons who—

1. Are employed by Public Safety Systems, Inc., Santa Barbara, Calif., and

2. Have, in the course of such employment, access to information which would identify individuals who are the subjects of the research on alcohol abuse and alcoholism conducted pursuant to the Department of Health, Education, and Welfare contract numbered HSM-42-72-179, are hereby authorized to protect the privacy of individuals who are the subjects of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals.

As provided in section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (84 Stat. 1853; 42 U.S.C. 4582),

Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

This authorization does not authorize employees of Public Safety Systems, Inc. to refuse to reveal the names or other identifying characteristics of individuals who are the subjects of the research conducted pursuant to the Department of Health, Education, and Welfare contract numbered HSM-42-72-179 to qualified personnel of the National Institute on Alcohol Abuse and Alcoholism for the purpose of management or financial audits, or program evaluation. Such personnel will hold any identifying information so obtained strictly confidential in accordance with 42 CFR 1.103.

This authorization is applicable to all information obtained pursuant to the DHEW contract numbered HSM-42-72-179 which would identify individuals who are the subjects of the research conducted under such contract.

Dated: December 13, 1972.

MORRIS E. CHAFETZ,
Director, National Institute on Alcohol Abuse and Alcoholism.

BERTRAM S. BROWN,
Director, National Institute of Mental Health.

[FR Doc.72-21966 Filed 12-21-72;8:45 am]

UNIVERSITY OF MICHIGAN

Research on Alcohol Abuse and Alcoholism; Authorization of Confidentiality

Pursuant to the authority vested in the Secretary of Health, Education, and Welfare by section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (84 Stat. 1853; 42 U.S.C. 4582), all persons who—

1. Are employed by the University of Michigan, Ann Arbor, Mich., and

2. Have, in the course of such employment, access to information which would identify individuals who are the subjects of the research on alcohol abuse and alcoholism conducted pursuant to the Department of Health, Education, and Welfare contract numbered HSM-42-72-192, are hereby authorized to protect the privacy of individuals who are the subjects of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals.

As provided in section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (84 Stat. 1853; 42 U.S.C. 4582),

Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

This authorization does not authorize employees of Public Safety Systems, Inc., to refuse to reveal the names or other identifying characteristics of individuals who are the subjects of the research conducted pursuant to the Department of Health, Education, and Welfare contract numbered HSM-42-72-179 to qualified personnel of the National Institute on Alcohol Abuse and Alcoholism for the purpose of management or financial audits, or program evaluation. Such personnel will hold any identifying information so obtained strictly confidential in accordance with 42 CFR 1.103.

This authorization is applicable to all information obtained pursuant to the

DHEW contract numbered HSM–42–72–179 which would identify individuals who are the subjects of the research conducted under such contract.

Dated: December 13, 1972.

MORRIS E. CHAFETZ,
Director, National Institute on Alcohol Abuse and Alcoholism.

BERTRAM S. BROWN,
Director, National Institute of Mental Health.

[FR Doc.72–21965 Filed 12–21–72;8:45 am]

Office of Education

EDUCATIONAL PROGRAMS FOR MIGRATORY CHILDREN

Notice of Establishment of Closing Date for Receipt of Applications for Program Grants

The Elementary and Secondary Education Act of 1965, title I, section 141(c)(1), as amended, 20 U.S.C. 241e(c)(1), authorizes the Commissioner of Education to approve applications from State Education Agencies for grants to establish or improve programs of education for migratory children of migratory agricultural workers.

Notice is hereby given that applications for grants under this program, which are to be funded from appropriations for fiscal year 1973, must be received by the U.S. Office of Education no later than January 31, 1973. Application forms as well as further information may be obtained from the ESEA Ttile I Migrant Programs Branch, Division of Compensatory Education, Bureau of Elementary and Secondary Education, Washington, D.C. 20202.

(20 U.S.C. 241e(c)(1))

Dated: December 15, 1972.

JOHN R. OTTINA,
Acting U.S. Commissioner of Education.

[FR Doc.72–22025 Filed 12–21–72;8:46 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

INTERIM STANDARD MICROWAVE LANDING SYSTEM

Invitation for Comments on Policy Statement

The national DOT/DOD/NASA program for the development of a microwave landing system (MLS) to eventually replace the VHF/UHF ILS is proceeding on schedule. The FAA looks forward to successful completion of this program and implementation of an improved low approach landing capability toward the end of the decade. It is recognized, however, that new requirements for low approach service are evolving which should not remain unfulfilled while awaiting the advent of the new system.

It is therefore the intention of the FAA to encourage the continued installation of VHF/UHF ILS systems wherever it is technically feasible and economically justifiable. At those sites that present difficult installation problems, flexible siting criteria will be applied to ensure both lateral and vertical guidance with the lowest possible minimums at the lowest cost. It is also the intention of the FAA to select an interim standard microwave landing system which can be used at locations where a VHF/UHF ILS will not perform in an effective manner, or where the needs for low approach service would be better served by the use of the interim standard MLS. For any particular location, full consideration will be given to the nature of the operational requirement and to the economics of the situation, including the cost of airborne avionics equipment.

The interim standard MLS selected by the FAA will serve as an adjunct to the existing system, necessary to fulfill some immediate aviation growth needs during a transition period. A standard performance specification will be prepared upon which to base the selection of the interim standard MLS. Full consideration will be given to numerous systems which have been developed through industry initiative. The FAA will also assess performance requirements, economic aspects, avionics procurement methods and other factors associated with system selection. Through appropriate rulemaking action, the FAA will propose that this interim standard MLS, competitively selected in accordance with the specification, be the only system eligible for ADAP funding and be considered a public use facility. This interim standard MLS will also be eligible for F. & E. funding.

By direction of the FAA Administrator, an interim standard MLS working group, cochaired by the Director, Quiet Short-Haul Air Transportation System Office, and Chief, Program Management Staff, Office of the Associate Administrator for Operations, is charged with implementing this policy and preparing the performance specification.

In order to ensure that the system selected will meet the broadest spectrum of user requirements in the most efficient and economic manner, each user and potential user of the interim standard MLS is requested to comment on the operational, technical, and economic aspects involved. Please address all comments to the Interim Standard MLS Working Group, Attention: Mr. D. Sheftel, AQS–1, or Mr. L. Parrish, AOP–4, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

Issued in Washington, D.C., on December 12, 1972.

J. H. SHAFFER,
Administrator.

[FR Doc.72–21980 Filed 12–21–72;8:46 am]

Federal Railroad Administration

[FRA E.O. 2]

CERTAIN UTLX TANK CARS

Emergency Order Prohibiting Use

FRA investigation revealed that certain tank cars built to DOT specification 112A400W have a structural inadequacy which results in tank shell cracking and possible leakage of hazardous lading. These cars are used to transport highly flammable liquified petroleum gases of the same class of material involved in the Laurel, Miss., Crescent City, Ill., Houston, Tex., and East St. Louis, Ill., accidents.

The shells of these tank cars are susceptible to cracking and failure in the bolster area. Cracks in pressure vessels are serious. As a result of the forces of train action and classification, cracks may develop and cause leaks in these pressure tank cars. Product leakage may ignite and since these cars usually operate in groups, a fire resulting from a leak in one car could cause "explosion" of adjacent cars due to massive fire impingement on their shells. In such an event, there would be a substantial danger to railroad employees and the general public since the adjoining tank cars or parts thereof may be hurled hundreds of feet when ruptured.

I have thoroughly reviewed and carefully considered this matter. I therefore conclude that our inspections and investigation show that the tank cars listed below are in unsafe condition and thereby create an emergency situation involving a hazard of death or injury to persons affected by the use of such equipment. Therefore, pursuant to authority contained in section 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. section 423) delegated to me under section 1.49(n) of the Regulations of the Secretary of Transportation (49 CFR 1.49(n)), I hereby issue this order prohibiting further use of the cars listed below by any railroad effective 12:01 a.m. on December 21, 1972:

UTLX 83095–83184.
UTLX 83267–83339.
UTLX 83341–83449.

An opportunity for review of this order shall be provided in accordance with section 554 of title 5 of the United States Code.

A civil penalty of not less than $250 nor more than $2,500 will be assessed for each violation of this order and each day of such violation will constitute a separate offense (45 U.S.C. section 438).

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

JOHN W. INGRAM,
Administrator.

[FR Doc.72–22135 Filed 12–21–72;8:47 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-329, 50-330]

CONSUMERS POWER CO.

Notice of Issuance of Construction Permits for Midland Plants, Units 1 and 2

Notice is hereby given that, pursuant to the initial decision of the Atomic Safety and Licensing Board, the Deputy Director for Reactor Projects, Directorate of Licensing, has issued construction permits Nos. CPPR-81 and CPPR-82 to Consumers Power Co. for the construction of the Midland plant, units 1 and 2, two pressurized water reactors, on the applicant's site on the south shore of the Tittabawassee River, in Midland Township, Midland County, Mich., adjacent to the Dow Chemical Co.'s main industrial complex in the city of Midland. The reactors are designed for initial operation at 2,452-megawatts thermal for each unit.

The initial decision and construction permits Nos. CPPR-81 and CPPR-82 are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545 and at the Grace Dow Memorial Library, 1710 West St. Andrews Road, Midland, Mich. 48640. Copies of the construction permits may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 15th day of December 1972.

For the Atomic Energy Commission.

R. C. DEYOUNG,
Assistant Director for Pressurized Water Reactors, Directorate of Licensing.

[FR Doc.72-22011 Filed 12-21-72;8:46 am]

[Docket No. 50-160]

GEORGIA INSTITUTE OF TECHNOLOGY

Proposed Issuance of Construction Permit and Amended Facility Operating License

The Atomic Energy Commission ("the Commission") is considering the issuance of a construction permit and subsequently an amended facility operating license to the Georgia Institute of Technology (Georgia Tech) in Atlanta, Ga. The proposed permit would authorize Georgia Tech to make modifications to its existing research reactor which are necessary for operation of the reactor at power levels up to 5 megawatts (thermal), and the amended license subsequently would authorize 5-megawatt operation and an increase from 11 kilograms to 33 kilograms in the quantity of contained uranium 235 that Georgia Tech is authorized to receive, possess, and use in connection with operation of the reactor, in accordance with Georgia Tech's application received by the Commission's regulatory staff on March 11, 1968, as amended.

Since December 1964, Georgia Tech has been authorized (under facility operating license No. R-97) to operate the reactor at 1 megawatt (thermal). The reactor is of a heterogeneous type, heavy-water moderated, cooled, and reflected. It is located on Georgia Tech's campus in Atlanta, Ga., and is used for research and development. The increase in the operating power level of the reactor will facilitate Georgia Tech's desired maximum utilization of the reactor for research and development activities.

The Commission has found that the application received on March 11, 1968, and amendments thereto dated July 13, 1971, October 22, 1971, June 23, 1972, October 30, 1972, and November 13, 1972, comply with the requirements of the Atomic Energy Act of 1954, as amended ("the Act"), and the Commission's regulations published in 10 CFR Chapter I. Prior to issuance of the proposed construction permit, the Commission will have made the remainder of the findings required by the Act and the Commission's regulations which are set forth in the proposed permit. Upon issuance of the permit, Georgia Tech will be required to execute an amended indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

Upon completion of the modifications to the reactor in compliance with the terms and conditions of the construction permit and the application, as amended, and in the absence of good cause to the contrary, the Commission will issue to Georgia Tech (without prior notice) an amended Class 104.c facility license authorizing operation of the reactor at power levels up to 5 megawatts (thermal) since the application is complete enough to permit evaluation of the safety of the operation of the facility at the increased power level, in the manner and location proposed. Prior to the issuance of the license, the facility will be inspected by a representative of the Commission to determine whether it has been modified in accordance with the application and the provisions of the construction permit. The amended operating license will not be issued until the Commission makes the findings required by the Act and the Commission's regulations which are set forth in the proposed amended license, and concludes that the issuance of the amended license will not be inimical to the common defense and security or to the health and safety of the public.

Within 30 days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to these actions, see (1) the application by Georgia Tech received by the Commission's regulatory staff on March 11, 1968, and amendments thereto, (2) the proposed construction permit, (3) proposed amended facility license, and (4) the Commission's related safety evaluation, all of which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. A copy of each of items (2), (3), and (4) may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing. Prior to issuance of the amended facility operating license the proposed revised technical specifications for facility operating license No. R-97 will be made available in the above public document room.

Dated at Bethesda, Md., this 19th day of December 1972.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Operating Reactors, Directorate of Licensing.

[FR Doc.72-22065 Filed 12-21-72;8:46 am]

[Docket No. PRM-50-6]

MAPLETON INTERVENORS

Notice of Filing of Petition for Rule Making

Notice is hereby given that Irving Like, Esquire, 200 West Main Street, Babylon, NY 11702, by letter dated August 24, 1972, has filed, in behalf of the Mapleton Intervenors, with the Atomic Energy Commission a petition for rule making to repeal § 50.10(b)(2) of 10 CFR Part 50 which permits the procurement or manufacture of reactor pressure vessels or other major components of the nuclear steam supply system without prior issuance of a construction permit. The petitioners also request the Commission adopt new rules and regulations:

(i) Which would prohibit the procurement or manufacture of the reactor pressure vessel or any components necessary to the proper and effective performance of the emergency core cooling system in light water reactors, without first obtaining a construction permit;

(ii) Which would incorporate the recommendations for changes in regulations and corrective action set forth in a document annexed to the petition entitled "Quality Assurance of Nuclear Power Plants—Analysis and Report with Recommendations for Changes in AEC Regulations and Corrective Action," dated December 28, 1971 by Roger G. Langevin.

The petitioners contend that the current regulation, § 50.10(b)(2) of 10 CFR Part 50 is contrary to law and a disservice to the public interest.

The petitioners further contend:

(i) The regulation prevents the issue of the adequacy of the quality control and quality assurance relating to the fabrication of the reactor pressure vessel and other components vital to the effective performance of the ECCS from being litigated in an adversary public

hearing before the Atomic Safety and Licensing Board which must ultimately decide whether to issue a construction permit for such facility.

(ii) The regulation precludes the Atomic Safety and Licensing Board from imposing conditions on the manner of procurement and fabrication, and prevents the ASLB from supervising or controlling the progress of fabrication, and its compliance with applicable codes, standards, or criteria.

(iii) The regulation disables the ASLB from prescribing, in advance of fabrication, the type and frequency of inspections and the manner of compliance to be imposed upon the fabrication process itself. It relegates the ASLB to judging the issue of compliance only after the construction has been completed.

Thus, the petitioners contend, the effect of the regulation is to remove a critical safety issue, to wit, the quality control and quality assurance aspects of the fabrication of ECCS components, from the public hearing process contemplated by the Atomic Energy Act and the licensing regulations of the AEC.

The petitioners claim that the current regulation violates the Atomic Energy Act, referencing certain documents filed in Commission Dockets Nos. 50–329 and 50–330 (Matter of Consumers Power Co., Midland plant, units 1 and 2).[1]

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC. A copy of the petition may be obtained by writing the Rules and Proceedings Branch at the below address.

In connection with the subject petition, it should be noted that regulations pertaining to the procurement and fabrication of components of licensed nuclear facilities have already been promulgated by the Commission in Part 50. Standards and requirements for manufacture of various components of utilization facilities have been prescribed by the Commission in § 50.55a of Part 50 which requires fabrication of such components in accordance with specified codes and standards. The Commission has also adopted a regulation (Appendix B of 10 CFR Part 50) specifying the quality assurance requirements for the design, construction, and operation of these structures, systems, and components of nuclear powerplants and fuel reprocessing plants that prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public.

AEC compliance inspectors are charged with the responsibility of assuring that such regulatory standards and requirements applicable to facility components are met. In carrying out this responsibility, AEC inspectors examine the quality control and quality assurance records kept by both the reactor vendor and the license applicant. They maintain continuing surveillance of the component manufacturer's operations, including the observation of actual work in progress, on a sampling basis.

A final determination as to the adequacy of the construction of the facility is made at the operating license stage. Until the conclusion of that stage, all the procurement and fabrication activity is at the applicant's own risk.

All interested persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Rules and Proceedings Branch, Office of Administration Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 60 days after publication of this notice in the FEDERAL REGISTER.

Dated at Germantown, Md., this 13th day of December 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[1] Since the petitioner expresses concern with the review of the emergency core cooling system, it is assumed that the petition is directed at § 50.10(c)(2), as well as § 50.10(b)(2). Paragraph (c), rather than Paragraph (b), is applicable to reactors having emergency core cooling systems. It has the same exclusion for procurement of components.

FR Doc.72-22012 Filed 12-21-72;8:46 am]

[Dockets Nos. 50-338, 50-339]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Hearing

The Virginia Electric and Power Co. (the licensee) is the holder of construction permits Nos. CPPR-77 and CPPR-78 (the construction permits), issued by the Atomic Energy Commission on February 19, 1971. The construction permits authorize the licensee to construct two pressurized water nuclear reactors, designated as the North Anna Power Station Units 1 and 2, at the licensee's site near Mineral, in Louisa County, Va. Each reactor is designed for initial operation at approximately 2775 megawatts (thermal).

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 to September 9, 1971. Notice is hereby given, pursuant to the Atomic Energy Act of 1954, as amended, 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 permit 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, any person whose interest may be affected by this proceeding may file a petition for leave to intervene 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 intrests 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, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., 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).

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 permit 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.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the licensee not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

In the event that this proceeding 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 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 appropriate, 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 licensee's Environmental Report dated March 15, 1972, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., between the hours of 8:30 a.m. and 5 p.m. Monday through Friday and at the office of Dean P. Agee, Executive Secretary, Board of Supervisors, Louisa County Courthouse, Louisa, Va., between the hours of 8:30 a.m. to 4:30 p.m. Monday through Friday and 8:30 a.m. to 12 noon on Saturday. As they become available, the following documents also will be available at the above locations:

(1) The Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; and (2) the Commission's final detailed statement on environmental considerations. Copies of item (2), when available, 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, pursuant to 10 CFR 2.785 an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 19th day of December 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-22066 Filed 12-21-72;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24283 etc.]

AIR CARRIER REORGANIZATION INVESTIGATION

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on January 3, 1973, at 10 a.m., local time, in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge E. Robert Seaver.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on July 28, 1972, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 18, 1972.

[SEAL] E. ROBERT SEAVER,
Administrative Law Judge.

[FR Doc.72-22032 Filed 12-21-72;8:46 am]

[Docket No. 24476; Order 72-12-87]

COMPANIA ECUATORIANA DE AVIACION, S.A.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of December, 1972.

In the matter of application of Compania Ecuatoriana de Aviacion, S.A. for amendment of its foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958.

By Order E-11734, approved August 26, 1957, the Board issued a foreign air carrier permit to Compania Ecuatoriana de Aviacion, S.A. authorizing the carrier to engage in foreign air transportation of persons, property, and mail between Ecuador, the intermediate points Cali, Colombia, and Panama City, Panama, and the terminal point, Miami, Fla.

On May 16, 1972 Ecuatoriana filed an application for amendment of its permit so as to obtain authority to serve Bogota, Colombia, as an intermediate point on its route to Miami, Fla.

In granting Ecuatoriana an Ecuador-Cali-Panama City-Miami route, the Board found that the carrier met the fitness standards of the Act and that its services were in the public interest. Ecuatoriana has performed its presently authorized services successfully. It currently serves the Ecuador-Miami market daily with DC-8 equipment. An Ecuador-Miami route, via intermediate points, is provided for in the United States-Ecuador bilateral Air Transport Services Agreement, and Ecuatoriana has been designated by its government to serve

Bogota as an intermediate point on its route to the United States. The carrier has obtained authority from the Government of Colombia to operate this service.

In view of the facts set forth, the Board tentatively finds and concludes that: (a) It is in the public interest to amend the foreign air carrier permit held by Compania Ecuatoriana de Aviacion, S.A. so as to authorize the carrier to engage in foreign air transportation of persons, property, and mail between a point or points in Ecuador; the intermediate points Cali and Bogota, Colombia, and Panama City, Panama; and the terminal point Miami, Fla.; (b) Ecuatoriana is fit, willing, and able to provide the above-described foreign air transportation and to conform to the provisions of the act and the rules, regulations, and requirements of the Board thereunder; and (c) the public interest requires that the exercise of the privileges that would be granted in Ecuatoriana's amended permit should be subject to the terms, conditions, and limitations contained in the attached proposed form of permit, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

Accordingly, it is ordered, That:

1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions herein, and why a foreign air carrier permit substantially in the form attached to this order should not be issued, subject to the approval of the President pursuant to section 801 of the act;

2. Any interested person having objections to the tentative findings and conclusions set forth herein or to the issuance of the proposed foreign air carrier permit shall file such objections within 10 days after the date of service of this order, and file with the Board and serve on the persons named in paragraph 5 a memorandum of objection specifying the part or parts of the tentative findings and conclusions or permit objected to and stating the specific grounds of any such objections; [1]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the board: *Provided,* That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

4. In the event no objections are filed, all further procedural steps shall be deemed waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. Copies of this order shall be served upon the following: Compania Ecuatoriana de Aviation, S.A., Braniff International, and the Bureau of Operating Rights of the Civil Aeronautics Board.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[1] Since provision is made for the filing of objections to this order, petitions for reconsideration of this order will not be entertained.

SPECIMEN PERMIT

CIVIL AERONAUTICS BOARD

PERMIT TO FOREIGN AIR CARRIER
(as amended)

Compania Ecuatoriana de Aviacion, S.A. is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows: Between a point or points in Ecuador; the intermediate points Cali and Bogota, Colombia, and Panama City, Panama; and the terminal point Miami, Fla.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Ecuador for Ecuadorian international air service.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Ecuador shall be parties.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1 million or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the docket section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the docket section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted hereby shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on _____ _____. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the route hereby authorized from the routes which may be operated by airlines designated by the Government of Ecuador, or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Ecuador, in lieu of the holder hereof, or (3) upon the termination or expiration of the Air Transport Services Agreement between the Government of the United States and the Government of Ecuador, signed January 8, 1947, as amended January 10, 1951: *Provided, however,* That if prior to the occurrence of the event specified in clause (3) of this paragraph, the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Ecuador are or shall become parties, then and in that event this permit is continued in effect during the period provided in such treaty, convention, or agreement.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the _____.

[SEAL]

Secretary.

Issuance of this permit to the holder approved by the President of the United States on _____ in Order _____.

[FR Doc.72-22037 Filed 12-21-72;8:46 am]

[Docket No. 23333; Order 72-12-40]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority December 9, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted for expedited January 1, 1973 effectiveness at the 14th meeting of the Joint Specific Commodity Rates Board held in Geneva in November 1972, names additional specific commodity rates, as well as a new expiration date for an existing rate, as set forth in the attachment hereto.[1] These rates reflect reductions from the otherwise applicable general cargo rates.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the condition hereinafter ordered.

Accordingly, it is ordered, That:

[1] Filed as part of the original document.

Agreement CAB 23424, R–1 through R–3, be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purpose of tariff publications, provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-22034 Filed 12-21-72;8:46 am]

[Docket No. 23333; Order 72-12-76]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority December 15, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 3 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names an additional specific commodity rate, as set forth below, reflecting a reduction from general cargo rates; and was adopted pursuant to an unprotested notice to the carriers and promulgated in an IATA letter dated December 7, 1972.

Specific commodity item No.	*Description and rate*
0300	Fish and seafood, N.E.S.; 15 United Kingdom pence (approximately 39 United States cents) per kg; minimum weight 500 kgs.; from Guam to Tokyo/Osaka.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the condition hereinafter ordered.

Accordingly, it is ordered, That:

Agreement CAB 23426 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-22036 Filed 12-21-72;8:46 am]

[Docket No. 23486; Order 72-12-60]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Delayed Inaugural Flights

Issued under delegated authority December 14, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 3 of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above-designated CAB agreement number.

The agreement would permit Northwest Airlines, Inc., to postpone to a date not later than May 2, 1973, the performance of its inaugural flights between Osaka and Seoul.

Pursuant to authority duly delegated by the Board in the Board's regulations 14 CFR 385.14:

It is not found that Resolution 300 (Mail 394) 200h, which is incorporated in Agreement CAB 23423 affects air transportation within the meaning of the Act.

Accordingly, it is ordered, That:

Jurisdiction is disclaimed with respect to Agreement CAB 23423.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-22035 Filed 12-21-72;8:46 am]

[Docket No. 24809]

TACA INTERNATIONAL AIRLINES, S.A.

Foreign Air Carrier Permit Renewal; Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on January 9, 1973, at 10 a.m., e.s.t., in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned administrative law judge.

Dated at Washington, D.C., December 18, 1972.

[SEAL] WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc.72-22033 Filed 12-21-72;8:46 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19274; FCC 72R-373]

ACTION RADIO, INC.

Memorandum Opinion and Order Enlarging Issues

In regard application of Action Radio, Inc., for renewal of license of radio station KTLK, Denver, Colo., Docket No. 19274, File No. BR–1969.

1. By order and notice of apparent liability, FCC 71–678, 36 F.R. 12640, published July 2, 1971, the Commission designated the renewal application of Action Radio, Inc. (Action), for hearing under issues to determine whether the licensee had engaged in various instances of misconduct in the operation of its facilities (Issues 1–8), and whether Action had made misrepresentations to the Commission's staff during an investigation of the alleged misconduct (Issue 9). Now before the Review Board is a motion to enlarge issues, filed by Action on September 29, 1972,[1] wherein the applicant seeks the addition of a meritorious programing issue to this proceeding.

2. The Review Board agrees with the Broadcast Bureau to the extent that it contends that Action's motion was not timely filed, and that good cause for the late filing has not been shown. However, since enlargement will not unduly disrupt the proceeding and will not prejudice any party, the Board is of the view that the public interest would be better served if petitioner is nevertheless afforded an opportunity to make a showing of its past program record in mitigation of any adverse findings under Issues 1–8.[2] Cf. Med-

[1] The Broadcast Bureau filed an opposition to the motion on Oct. 12, 1972, to which Action filed a reply on Oct. 25, 1972.

[2] As noted by the Bureau, the Board has recently held that the evidence adduced under a meritorious programing issue cannot be used to mitigate the significance of misrepresentations to the Commission. KFPW Broadcasting Co., 33 FCC 2d 313, 23 RR 2d 515 (1972). Therefore, the issue being added herein has no relevance to the resolution of existing Issue No. 9.

ford Broadcasters, Inc., 18 FCC 2d 817, 16 RR 2d 897 (1969). We will not, however, expand the scope of the meritorious programing issue, as requested by petitioner, to encompass nonprograming matters. As pointed out by the Bureau, petitioner cites no precedent to support this aspect of its request, and a determination of whether the station has "otherwise served the needs of its community" would create a virtually "boundless" issue and could have an extremely dilatory effect on the conduct of the proceeding. The Board has, in the past, denied other requests to broaden the scope of this issue,[3] and we perceive no valid reason for expanding it here.

3. *Accordingly, it is ordered,* That the motion to enlarge issues, filed September 29, 1972, by Action Radio, Inc., is granted to the extent indicated herein, and is denied in all other respects; and

4. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether the past programing of Station KTLK has been meritorious, particularly with regard to public service programs, so as to constitute a countervailing factor in the resolution of this case insofar as it relates to Issues 1 through 8.

5. *It is further ordered,* That the burdens of proceeding with the introduction of evidence and proof under the issues added herein SHALL BE on Action Radio, Inc.

Adopted: December 12, 1972.

Released: December 15, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary.

[FR Doc.72-22003 Filed 12-21-72;8:45 am]

SUBCOMMITTEE TASK FORCE, PBX ADVISORY COMMITTEE

Recommendation of Experimental Program

DECEMBER 7, 1972.

An experimental program developed by a subcommittee task force of the PBX Procedures and Enforcement Subcommittee has been recommended to the FCC.

The experimental program "* * * among other things, is intended to serve as a means of developing the relative costs of administering and managing any ultimate program of certification and enforcement. * * * the program transfers the right to furnish, install, and maintain existing types of connecting arrangements (deemed accepted by current carrier use), while allowing carriers to retain control function through installation maintenance and testing."

The Commission expects to invite public comments on the recommendations made in the experimental program report, as part of an FCC proceeding on revised interstate and wide area telephone rates (in the matter of proposals for new or revised classes of interstate and foreign message toll telephone service (MTS) and wide area telephone service (WATS), Docket No. 19528).

Copies of the report are not available at the FCC, but may be purchased from the National Technical Information Service, Port Royal Road, Springfield, Va. 22151. (PB 213001, Experimental Program of the Procedures and Enforcement Subcommittee for the Interconnection of Customer-Provided PBX Connecting Arrangements) costs $3. The report may also be ordered in microfiche form for 95 cents.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-22004 Filed 12-21-72;8:45 am]

[Report 627]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

DECEMBER 18, 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 1 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 cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix 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.

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.

[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 cut-off 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).

APPENDIX

DECEMBER 18, 1972.

APPLICATIONS ACCEPTED FOR FILING:

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

4105-C2-P-73—Mobilfone of Kansas (KAQ625), replace transmitter and change the antenna system operating on 152.09 MHz at 3 miles north of Manhattan, Kans.

4106-C2-P-73—South Shore Radio-Telephone, Inc. (KSB591), for additional facilities to operate on 152.21 MHz at location No. 2: 9727 South Central Avenue, Oak Lawn, IL.

4107-C2-P-73—Lee Telephone Co. (KJU797), for additional facilities to operate on 152.60 MHz at Martinsville, Va.

4108-C2-AL-(2)-73—Mahaffey Message Relay, consent to assignment of license from Mahaffey Message Relay, assignor, to Mahaffey Message Relay, Inc., assignee. Station: KDT223 and KRS656, Memphis, Tenn.

4035-C2-P-73—Illinois Bell Telephone Co. (KSC881), replace transmitter operating on 459.950 MHz test at 85 West Congress, Chicago, IL.

4176-C2-P-73—Ooltewah-Collegedale Telephone Co. (New), for a new 1-way station to operate on 158.10 MHz at 2 miles southwest of Collegedale, Whiteoak Mountain, Tenn.

4177-C2-P-73—Northwestern Bell Telephone Co. (KAA812), for additional facilities to operate on 454.450, 454.475, 454.525, and 454.550 MHz at 118 South 19th Street, Omaha, NE.

4179-C2-P-73—Electrocom Corp. (KCB891), for additional facilities to operate on 35.58 MHz at a new site described as Wood Hill, Andover, Mass.

4181-C2-P-(7)-73—Radiocall, Inc. (KUA215), for additional facilities to operate on 152.03, 152.06, 152.09, 152.12, 152.15, 152.18, and 152.21 MHz at the following new locations, location No. 4: 2261 Kalia, Honolulu, HI, location No. 5: Mauna Kapu, Oahu, Hawaii, location No. 6: Koko Head, Honolulu, Hawaii, and location No. 7: Ulupau Head, Haneohe, Hawaii.

4182-C2-P-73—Kankakee Telephone Answering Service, Inc. (New), for a new 1-way station to operate on 152.24 MHz at 1335 East Locust, Kankakee, IL.

[3] See, *e.g.*, Chronicle Broadcasting Co., 18 FCC 2d 120, 16 RR 2d 494 (1969); United Television Co., Inc., FCC 70R-246, 19 RR 2d 625; and The Jack Straw Memorial Foundation, 26 FCC 2d 97, 20 RR 2d 492 (1970).

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

4183–C2–P–73—Mobilfone of Kansas (New), for a new 2-way station to operate on 152.06 MHz at 2 miles east of McPherson, Kans.

4184–C2–P–73—Coalinga Radio Telephone Service (KSV959), reorient the repeater antenna operating on 72.40 MHz at location No. 1: On Joaquin Ridge, near Coalinga, Calif. and relocate the control facilities operating on 75.40 MHz at location No. 2 to: 840 San Joaquin Coalinga, CA.

4185–C2–P–73—Radiofone Corporation of New Jersey (New), for a new 1-way station to operate on 152.24 MHz at Route No. 9 and Harbor Inn Road, south of Toms River, N.J.

4186–C2–P–73—Mobilfone (New), for a new two-way station to operate on 152.090 MHz at 800 block of East Reunion Street, 0.9 mile northeast of Granbury, Tex.

4187–C2–P–73—Two-Way Radio of Carolina, Inc. (KLF612), replace transmitter, change antenna system, and relocate facilities operating on 152.24 MHz at location No. 1 to: First Union Tower, Charlotte, N.C.

4188–C2–P–73—Same (KIY441), change the antenna system and relocate facilities operating on 454.125 MHz to First Union Tower, Charlotte, N.C.

4189–C2–P–(6)–73—Puerto Rico Communications Authority (New), for a new two-way station to operate on 152.51, 152.54, 152.57, 152.60, 152.63, and 152.66 MHz at Monte del Estado, Public Road No. 120, km. 15.2, Maricao, P.R.

4190–C2–P–(6)–73—Same (New), same as above except, to be located at El Yunque, Road No. 191, Luquillo, P.R.

4191–C2–P(5)–73—Same (New), to operate on 152.78, 152.69, 152.72, 152.75, and 152.81 MHz at Cerro de Punta, 3.1 km. south of Jayuya, P.R.

4191–C2–P–73—Southern Bell Telephone & Telegraph Co. (KIQ514), change the antenna system operating on 152.69 MHz and add 152.54 MHz, replace test transmitter operating on 157.95 MHz and add 157.80 MHz at 400 southwest Second Avenue, Gainesville, FL.

4193–C2–P–(4)–73—Pacific Telephone & Telegraph Co. (KMD345), change the antenna system operating on 35.38 MHz 152.51 and 152.63 MHz at 1.5 miles northeast of Ventura, Calif.

Major amendment

4851–C2–P–72—Tri-Cities Answering Service, Inc. (KEK296), amended to add 158.70 MHz at location No. 2: Mount Prospect, near Binghamton, N.Y. See Public Notice No. 582, February 7, 1972.

8821–C2–P–(2)–72—Sigma Communications (KCC484), amended to change base frequencies from 454.275 and 454.325 MHz to 454.175 and 454.150 MHz. See Public Notice No. 601, June 19, 1972.

8927–C2–P–72—Mobilfone (KKA403), amended to add 152.12 MHz at location No. 3: near Edinburg, Tex. See Public Notice No. 602, June 26, 1972.

195–C2–P–73—Long Island Telephone Co. (KEJ885), amended to add 454.250 MHz at a new site: 920 Crooked Hill Road, Brentwood, NY. See Public Notice No. 606, July 24, 1972.

941–C2–P–(3)–73—Anserphone of Durham (KRH657), relocate facilities on 158.70 MHz to: 111 Cocoran Street, Durham, NC. See Public Notice No. 610, August 21, 1972.

Correction

4688–C2–P–72—Ten four Communication (New), correct to read: No change, base frequency to remain 454.350 MHz. See Public Notice No. 582, February 7, 1972.

3986–C2–P–73—Services Unlimited, Inc. (KIY449), correct to read: Replace transmitter operating on 152.21 MHz. See Public Notice No. 626, December 11, 1972.

POINT-TO-POINT MICROWAVE RADIO SERVICE

4024–C1–P–73—Western Tele-Communications, Inc. (New), Beebeetown, Iowa. C.P. for a new station. Change proposed station location to 2.3 miles west of Beebeetown, Iowa, at latitude 41°31′34″ N., longitude 95°47′55″ W. Correct frequencies and azimuth to 3730V MHz on azimuth 215°01′ toward Omaha, Nebr., and 3730V MHz on azimuth 42°48′ toward Definance, Iowa.

4025–C1–P–73—Same (New), Defiance, Iowa. C.P. for a new station. Change proposed station location to 3.8 miles west-northwest of Defiance, Iowa, at latitude 41°50′16″ N., longitude 95°24′43″ W. Correct frequencies and azimuth to 3770V MHz on azimuth 223°03′ toward Beebeetown, Iowa, and 3770V MHz on azimuth 104°20′ toward Audubon, Iowa.

4026–C1–P–73—Same (New), Audubon, Iowa. C.P. for a new station. Change proposed station location to 5 miles east of Audubon, Iowa, at latitude 41°43′28″ N., longitude 94°49′40″ W.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

Correct frequencies and azimuth to 3730V MHz on azimuth 284°44′ toward Defiance, Iowa, and 3730H MHz on azimuth 49°26′ toward Bayard, Iowa.

4027–C1–P–73—Same (New), Bayard, Iowa. C.P. for a new station. Change proposed station location to 5.9 miles north-northeast of Bayard, Iowa, at latitude 41°55′52″ N., longitude 94°30′14″ W. Correct frequencies and azimuth to 3770H MHz on azimuth 229°38′ toward Audubon, Iowa, and 3770H MHz on azimuth 100°57′ toward Woodward, Iowa.

4028–C1–P–73—Same (New), Woodward, Iowa. C.P. for a new station. Change proposed station location to 1.1 miles southeast of Woodward, Iowa, at latitude 41°50′35″ N., longitude 93°54′23″ W. Correct frequencies and azimuth to 3730H MHz on azimuth 281°21′ toward Bayard, Iowa, and 3730H MHz on azimuth 130°39′ toward Des Moines, Iowa.

4029–C1–P–73—Same (New), Ewart, Iowa. C.P. for a new station. Change proposed station location to 1.8 miles southwest of Ewart, Iowa, at latitude 41°37′15″ N., longitude 92°38′23″ W. Correct frequencies and azimuth to 3770V MHz on azimuth 285°21′ toward Mingo, Iowa, and 3770V MHz on azimuth 89°50′ toward Williamsburg, Iowa.

4030–C1–P–73—Same (New), Williamsburg, Iowa. C.P. for a new station. Change proposed station location to 3.2 miles southwest of Williamsburg, Iowa, at latitude 41°37′14″ N., longitude 92°03′07″ W. Correct frequencies and azimuth to 3730H MHz on azimuth 92°41′ toward Downey, Iowa, and 3730V MHz on azimuth 270°14′ toward Ewart, Iowa.

4031–C1–P–73—Same (New), Downey, Iowa. C.P. for a new station. Change proposed station location to 2.2 miles southwest of Downey, Iowa, at latitude 41°35′42″ N., longitude 91°22′48″ W. Correct frequencies and azimuth to 3770H MHz on azimuth 81°56′ toward Plainview, Iowa, and 3770H MHz on azimuth 273°07′ toward Williamsburg, Iowa.

4032–C1–P–73—Western Tele-Communications, Inc. (New), Plainview, Iowa. C.P. for a new station. Change proposed station location to 0.9 mile south-southeast of Plainview, Iowa, at latitude 41°39′28″ N., longitude 90°46′27″ W. Correct frequencies and azimuth to 3730H MHz on azimuth 106°30′ toward Shady Beach and 3730H MHz on azimuth 262°20′ toward Downey, Iowa.

4033–C1–P–73—Same (New), Shady Beach, Ill. C.P. for a new station. Change proposed station location to 2.0 miles southeast of Shady Beach, Ill., at latitude 41°31′17″ N., longitude 90°10′08″ W. Correct frequencies and azimuth to 3770H MHz on azimuth 286°54′ toward Plainview, Iowa, and 3770V MHz on azimuth 38°33′ toward Hazelhurst, Ill.

4034–C1–P–73—Same (New), Hazelhurst, Ill. C.P. for a new station. Change proposed station location to 0.3 mile northwest of Hazelhurst, Ill., at latitude 41°58′03″ N., longitude 89°41′30″ W. Correct frequencies and azimuth to 3730H MHz on azimuth 71°16′ toward Byron, Ill., and 3730V MHz on azimuth 218°52′ toward Shady Beach, Ill.

3746–C1–P–67—Eastern Microwave, Inc. (KEM36), Hatch Hill, 2.0 miles southeast of Georgetown, N.Y. Latitude 42°45′10″ N., longitude 75°41′56″ W. This application is proposing to add frequency 6301.0V MHz toward Sentinel Heights, N.Y. on azimuth 301°57′, is reinstated—pursuant to request of Eastern's counsel.

3747–C1–P–67—Same (KEM59), Sentinel Heights, N.Y. Latitude 42°56′40″ N., longitude 76°07′08″ W. This application is proposing to add frequencies 5960.0H, 5989.7V, 6019.3H, 6078.6H, and 6108.3V MHz toward North Syracuse, N.Y., is reinstated—pursuant to request of Eastern's counsel.

4089–C1–P–73—South Central Bell Telephone Co. (KLG21), 100 Brunie Street, Hattiesburg, MS. Latitude 31°19′36″ N., longitude 89°17′37″ W. C.P. to correct azimuth and replace transmitter on frequency 6375.2H MHz toward Eastabutchie, Miss.

4090–C1–P–73—Western States Telephone Co., Inc., c/o Continental Telephone Company of California. 1.2 miles north of Woodruff Butte (Navajo) Ariz. Latitude 34°47′59″ N., longitude 110°02′37″ W. C.P. for a new station on frequencies 6301.0H and 6419.6H MHz toward Cerro Montosa, Ariz.; frequency 6390.0H MHz toward Porter Mountain, Ariz.; frequency 6271.4H MHz toward Holbrook, Ariz.

4091–C1–P–73—Same (New), State Road 73, Pinetop, Ariz. Latitude 34°07′35″ N., longitude 109°56′15″ W. C.P. for a new station on frequency 10,975V MHz toward Porter Mountain, Ariz.

4092–C1–P–73—Same (New), 4.2 miles north of Pinetop, Porter Mountain, Ariz. Latitude 34°12′18″ N., longitude 109°56′24″ W. C.P. for a new station on frequency 6078.6V MHz toward Snowflake, Ariz.; frequency 6019.3H MHz toward Woodruff Butte, Ariz.; frequency 11,385V MHz toward Pinetop, Ariz.

4093–C1–P–73—Western States Telephone Co., Inc. c/o Continental Telephone Company of California (KPR51), Snowflake, Ariz. Latitude 34°30′17″N., longitude 110°05′05″W. C.P. for a new station on frequency 6330.7V MHz toward Porter Mountain, Ariz.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

4094C1–P–73—Same (KPR49), 121 Buffalo Street, Holbrook, Ariz. Latitude 34°54'13''N., longitude 110°09'30''W. C.P. for a new station on frequency 6019.3H MHz toward Woodruff Butte, Ariz.

4095–C1–P–73—Same (KPX27), 19 miles northwest of Springerville, Cerro Montosa, Ariz. Latitude 34°16'25''N., longitude 109°34'32''W. C.P. to correct coordinates, ground elevation and azimuth on frequencies 5989.7H, 6108.3H MHz toward Woodruff Butte, Ariz.

4112–C1–ML–73—The Mountain States Telephone & Telegraph Co. (KOV59), 285 Second Avenue, Yuma, Ariz. Latitude 32°43'18''N., longitude 114°37'16''W. Modification of license to change polarization from V to H on frequencies 5967.4H, 6026.7H MHz toward Yuma Proving Ground, Ariz.

4113–C1–P–73—Florida Telephone Corp. (KIP43), 319 East Broadway, Ocala, Fla. Latitude 29°11'09''N., Longitude 82°07'55''W. C.P. to change antenna system, power, location and replace transmitter on frequency 6345.5H MHz toward Flemington, Fla.

4114–C1–P–73—Southwestern Bell Telephone Co. (KTQ98), 5.4 miles northeast of Slaton, Tex. Latitude 33°29'46''N., longitude 101°34'13''W. C.P. to add frequency 4170V MHz toward Lubbock, Tex.

4115–C1–P–73—Same (KTQ97), 1408 Broadway, Lubbock, Tex. Latitude 33°35'06''N., Longitude 101°51'01''W. C.P. to add frequency 3950V MHz toward Slaton, Tex.

4116–C1–ML–73—The Ohio Bell Telephone Co. (KQM37), Shalersville, 2.2 miles south-southeast of Mantua, Ohio. Latitude 41°14'50''N., longitude 81°12'45''W. Modification of license to change polarization from H to V on frequency 11115V MHz toward Warren, Ohio.

4117–C1–ML–73—Same (KQM38), 3526 Ridge Road, Warren, Ohio. Latitude 41°12'30''N., longitude 80°46'55''W. Modification of license to change polarization from H to V on frequency 11565V MHz toward Shalersville, Ohio.

4118–C1–P–73—Southeastern Telephone Co. (KJA73), Crestview, Fla. Latitude 30°45'26''N., longitude 86°34'22''W. C.P. to change power and replace transmitter on frequencies 6034.2H, 6152.8H MHz toward Mossy Head, Fla.

4119–C1–P–73—Same (KYC79), off Highway 90, Mossy Head, Fla. Latitude 30°44'37''N., longitude 86°19'19''W. C.P. to replace transmitter, to change power and to change polarization from H to V on frequencies 6256.5V, 6375.2V MHz toward Crestview, Fla.; frequencies 6226.9V, 6345.5V MHz toward Defuniak Springs, Fla.

4120–C1–P–73—Southeastern Telephone Co. (KYC78), 224 West Baldwin Avenue, Defuniak Springs, Fla. Latitude 30°43'14''N., longitude 86°06'59''W. C.P. to change power and replace transmitters on frequencies 5945.2H, 6063.8H MHz toward Mossy Head, Fla.

4121–C1–P–73—The Western Union Telegraph Co. (KNE78), 23 miles east-northeast of Santa Marie, Plowshare, Calif. Latitude 35°03'00''N., longitude 120°02'24''W. C.P. to add frequency 6123.1H MHz toward Olive Canyon, Calif.

4122–C1–P–73—Same (KNJ78), 5.6 miles south of Cuyama, Olive Canyon Peak, Calif. Latitude 34°50'57''N., longitude 119°36'34''W. C.P. to add frequency 6345.5H MHz toward Plowshare, Calif.; frequency 6375.2H MHz toward Mount Able, Calif.

4123–C1–P–73—Same (KNJ77), 14.1 miles west of Frazier Park, Mount Able, Calif. Latitude 34°49'45''N., longitude 119°12'10''W. C.P. to add frequency 6093.5H MHz toward Olive Canyon, Calif.; frequency 6123.1H MHz toward Antelope Hill, Calif.

4124–C1–P–73—Same (KNJ76), 11.3 miles north of Sandberg, Antelope Hill, Calif. Latitude 34°54'07''N., longitude 118°40'16''W. C.P. to add frequency 6286.2H MHz toward Mount Able, Calif.; frequency 6375.2V MHz toward Mount McDill, Calif.

4125–C1–P–73—Same (New), 4 miles southeast of Leona Valley, Mount McDill, Calif. Latitude 34°33'58''N., longitude 118°15'14''W. C.P. for a new station on frequency 6034.2V MHz toward Antelope Hill, Calif.; frequency 6123.1V MHz toward Saddle Rock, Calif.

4126–C1–P–73—Same (New), 3.1 miles southwest of Cornell, Saddle Rock, Calif. Latitude 34°05'33''N., longitude 118°49'26''W. C.P. for a new station on frequency 6286.2V MHz toward Mount McDill, Calif.

4127–C1–P–73—Same (KQN43), 3 miles southeast of Romney, W. Va. Latitude 39°18'38''N., longitude 78°43'02''W. C.P. to change antenna system and emission designator on frequencies 5974.9H, 6093.5H MHz toward Mount Savage, Md.

4128–C1–P–73—Same (KVU96), 3 miles northwest of Mount Savage, Md. Latitude 39°42'30'' N., longitude 78°55'45''W. C.P. to change antenna system and emission designator on frequencies 6226.9H, 6345.5H MHz toward Bakersville, Pa.; frequencies 6197.2H, 6315.8H MHz toward Romney, W. Va.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

4129–C1–P–73—Same (KVU97), 3 miles west of Bakersville, Pa. Latitude 40°03'56''N., Longitude 79°15'34''W. C.P. to change antenna system and emission designator on frequencies 5945.2H, 6063.8H MHz toward Mount Savage, Md.; frequencies 5974.9H, 6093.5H MHz toward Fort Site, Pa.

4130–C1–P–73—Same (KGB42), 2 miles north of Pittsburgh, Fort Site, Pa. Latitude 40°28'46''N., longitude 80°00'10''W. C.P. to change antenna system and emission designator on frequencies 6197.2H, 6315.8H MHz toward Bakersville, Pa.

4154–C1–P–73—The North-Eastern Pennsylvania Telephone Co. (New), 720 Main Street, Forest City, PA. Latitude 41°39'09'' N., longitude 75°27'58'' W. C.P. for a new station on frequency 11,245.0VH MHz toward Elk Dale, Pa., via passive reflector (resubmitted application).

4155–C1–P–73—Same (New), 2.3 miles north of Elk Dale, Pa. Latitude 41°42'54'' N., longitude 75°33'40'' W. C.P. for a new station on frequency 11,035.0VH toward Forest City, Pa., via passive reflector; frequency 11,075.0VH MHz toward New Milford, Pa., via passive reflector (resubmitted application).

4156–C1–P–73—Same (New), New Milford, Pa. Latitude 41°52'38'' N., longitude 75°43'40'' W. C.P. for a new station on frequency 11,365.0VH MHz toward Elk Hill, Pa., via passive reflector (resubmitted application).

4244–C1–P–73—Video Microwave, Inc. (New), C.P. for a new station at WFMY–TV studios, at Phillips Avenue and White Street, Greensboro, N.C. Latitude 36°05'59'' N., longitude 79°45'47'' W. Frequency 5974.8V MHz on azimuth 355°55' toward Nantes Mountain, 3.8 miles northeast of Martinsville, Va.

4245–C1–P–73—Same (New), C.P. for a new station at Nantes Mountain, 3.8 miles northeast of Martinsville, Va. Latitude 36°43'04'' N., longitude 79°49'04'' W. Frequency 6286.2H MHz on azimuth 330°25' toward Poor Mountain, 4.5 miles southeast of Elliston, Va.

4246–C1–P–73—Same (New), C.P. for a new station at Poor Mountain, 4.5 miles southeast of Elliston, Va. Latitude 37°11'42'' N., longitude 80°09'24'' W. Frequency 5945.2H MHz on azimuth 351°50' toward Potts Mountain, Jefferson National Forest, Craig County, Va.; 10,815.0V MHz on azimuth 69°15' toward WDBJ–TV studios at 2001 Colonial Avenue SW., Roanoke, VA.

4247–C1–P–73—Same (New), C.P. for a new station at Potts Mountain, Jefferson National Forest, Craig County, Va. Latitude 37°32'30'' N., longitude 80°13'09'' W. Frequency 6404.8V MHz on azimuth 301°05' toward Keeney Knob, 5 miles southwest of Blue Sulphur Springs, W. Va.

4248–C1–P–73—Same (New), C.P. for a new station at Talcott, 5 miles southwest of Blue Sulphur Springs, W. Va. Latitude 37°46'24'' N., longitude 80°42'19'' W. Frequency 6004.5H MHz on azimuth 319°39' toward Gauley Mountain, 1.3 miles northwest of Ansted, W. Va.

4249–C1–P–73—Same (New), C.P. for a new station at Gauley Mountain, 1.3 miles northwest of Ansted, W. Va. Latitude 38°09'11'' N., longitude 81°06'52'' W. Frequency 6345.5V MHz on azimuth 297°54' toward Charleston, W. Va.

4250–C1–P–73—Same (New), C.P. for a new station in Charleston, W. Va. Latitude 38°21'24'' N., longitude 81°36'19'' W. Frequency 10,815.0V MHz on azimuth 236°55' toward WCHS–TV studios at 1111 Virginia Street East, Charleston, WV.

4194–C1–P–73—American Microwave and Communications, Inc. (KSV61), Walsh, Mich. Latitude 46°21'18'' N., longitude 86°11'03'' W. C.P. (a) to add frequency 5937.8V MHz toward Manistique, Mich., on azimuth 184°55' and (b) to change polarity of existing frequencies 6100.9 MHz and 6175.0 MHz to vertical toward Manistique. (Informative: AMC proposes to deliver the signal of WKBD–TV, Detroit, Mich., to Manistique TV Cable Co., Inc., in Manistique.)

4195–C1–P–73—Eastern Microwave, Inc. (KEG41), 8 miles east-southeast of Canisteo, N.Y. Latitude 42°12'16'' N., longitude 77°29'23'' W. C.P. to add frequencies 5960.0H MHz, 6019.3H MHz, and 6078.6H MHz toward Springwater (KEA27), N.Y., on azimuth 343°55'.

4196–C1–P–73—Same (KEA27), 3 miles west of Springwater, N.Y. Latitude 42°38'21'' N., longitude 77°39'34'' W. C.P. to add frequencies 11,425.0V MHz, 11,585.0V MHz, and 11,505.0V MHz toward Attica, N.Y., on azimuth 296°25'.

4197–C1–P–73—Same (New), 4 miles east-southeast of Attica, N.Y. Latitude 42°50'15'' N., longitude 78°12'20'' W. C.P. for a new station—frequencies 10,735.0V MHz, 11,135.0V MHz, and 10,815.0V MHz toward Buffalo, N.Y., on azimuth 283°04'.

4198–C1–P–73—Same (New), Buffalo, N.Y. Latitude 42°56'33'' N., longitude 78°49'53'' W. C.P. for a new station—(a) frequencies 11,425.0H MHz, 11,585.0H MHz, and 11,505.0V MHz

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

toward Lackawanna, latitude 42°48'35" N., longitude 78°49'00" W., N.Y., on azimuth 175°20' and (b) frequencies 11,425.0H MHz, 11,585H MHz, and 11,505.0V MHz toward Niagara Falls, latitude 43°06'39" N., longitude 79°01'39" W., N.Y., on azimuth 319°32'. (Informative: Eastern proposes to provide the television signals of WPIX–TV, WOR–TV, and WNEW–TV, all of New York City, to STV Cable TV, Inc., in Niagara Falls, N.Y., and to Comtax Telcom Corp. in Lackawanna, N.Y.)

4199–C1–P–73—Eastern Microwave, Inc. (KZA85), Boone Mountain, 5 miles east of Brockport, Pa. Latitude 41°14'56" N., longitude 78°38'33" W. C.P. (a) to add frequency 6108.3V MHz toward Du Bois, Pa., on azimuth 205°52'; (b) to add frequency 6108.3V MHz toward Kane, Pa., on azimuth 348°33'; (c) to change output power associated with frequencies 5989.7V MHz and 6049.0V MHz toward Kane to 0.375 watt; and (d) to add frequency 6108.3V toward Reynoldsville, Pa., on azimuth 221°20'. (Informative: Eastern, in addition to the above technical changes, proposes to provide the television signal of WNEW–TV to CATV systems in Du Bois, Kane, Reynoldsville, and Sykesville, Pa. A waiver of section 21.701(i) of the FCC rules is requested by Eastern.)

4200–C1–P–73—Eastern Microwave, Inc. (KGP37), Chestnut Ridge, 10 miles north-northeast of Clearfield, Pa. Latitude 41°09'50" N., longitude 78°21'23" W.: C.P. (a) to add frequency 6212.1H MHz and change output power on frequencies 6271.4H MHz and 6330.7H MHz to 2.5 watts toward Boone Mountain (KZA85), Pa., on azimuth 291°39'; (b) to change output power on frequencies 6212.1H MHz, 6271.4H MHz, and 6330.7H MHz to 5 watts toward Tyrone Mountain (KZA86), Pa., on azimuth 177°01'; (c) to change output power on frequency 6330.7V MHz to 1.25 watts toward Philipsburg, Pa.; (d) to change antenna system at Philipsburg; and (e) to change output power on frequencies 6212.1H MHz, 6271.4H MHz, and 6330.7H MHz to 1.25 watts toward Clearfield, Pa.

4201–C1–P–73—Eastern Microwave, Inc. (KZA85), Boone Mountain, 5 miles east of Brockport, Pa. Latitude 41°14'56" N., longitude 78°38'33" W.: Modification of C.P. (1888–C1–P–69) to increase transmitter output power from 0.350 watt to 0.375 watt toward Reynoldsville, Pa.

4202–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 5960.0H MHz toward Littleton, latitude 44°19'07" N., longitude 71°44'38" W., New Hampshire, on azimuth 278°50'. (Informative: Racom proposes to deliver the signal of WSBK–TV, Boston, Mass., to Diversified Communications in Littleton, N.H.)

4203–C1–P–73—United Video, Inc. (WOJ38), 3 miles east-northeast of Osco, Ill. Latitude 41°21'16" N., longitude 90°12'42" W.: Modification of C.P. (930–C1–P–71) to add frequencies 10,735.0V MHz, 10,895.0V MHz, and 11,055.0V MHz toward new point of communication at Rock Island, latitude 41°29'05" N., longitude 90°35'07" W., Ill., on azimuth 294°58'. (Informative: United proposes to deliver the television signals of WGN–TV, WFLD, and WTTV, Chicago, Ill., to CATV system in Rock Island, Ill.)

4204–C1–P–73—United Video, Inc. (New), 0.4 mile east of Schram City, Ill. Latitude 39°10'09" N., longitude 89°26'48" W.: C.P. for a new station—frequencies 6212.0H MHz and 6330.7H MHz toward Taylorville, Ill., on azimuth 23°53'.

4205–C1–P–73—Same (New), 3 miles southeast of Taylorville, Ill. Latitude 39°30'43" N., longitude 89°15'02" W.: C.P. for a new station—(a) frequencies 5960.0H MHz and 6078.6H MHz toward Springfield, latitude 39°45'06" N., longitude 89°34'38" W., Ill., on azimuth 313°37' and (b) frequency 5960.0H MHz toward Decatur, latitude 39°47'55" N., longitude 88°56'33" W., Ill., on azimuth 39°37'. (Informative: United proposes (a) to deliver the television signals of KPLR–TV and KETC of St. Louis, Mo., to CATV system at Springfield, Ill., and (b) to deliver KPLR–TV to CATV system at Decatur, Ill. A waiver of section 21.701(i) of the FCC rules is requested by United.)

4206–C1–P–73—Eastern Microwave, Inc. (KEM44), Mount Pisgah, 0.3 mile north of Saranac Lake, N.Y. Latitude 44°20'24" N., longitude 74°07'42" W.: C.P. to change transmitter associated with frequency 5987.5V MHz and to increase output power to 1.5 watts on path toward Lake Placid, N.Y. Azimuth 129°50'.

4207–C1–P–73—American Television & Communications Corp. (New), 0.8 mile southeast of Winnebago, Minn., latitude 43°45'40" N., longitude 94°09'02" W.: C.P. for a new station—frequency 6108.3V MHz toward Fairmont, Minn., on azimuth 241°53'.

4208–C1–P–73—Same (New), 1.2 miles southwest of Fairmont, Minn., latitude 43°38'05" N., longitude 94°28'30" W.: C.P. for a new station—frequency 6286.2V MHz toward Esterville, Iowa, on azimuth 226°50'.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

4209–C1–P–73—Same (New), 1.0 mile south of Esterville, Iowa, latitude 43°23'00" N., longitude 94°50'30" W.: C.P. for a new station—frequency 5945.2H MHz toward Spencer, Iowa, on azimuth 218°39'.

4210–C1–P–73—Same (New), 0.5 mile southeast of Spencer, Iowa, latitude 43°07'17" N., longitude 95°07'38" W.: C.P. for a new station—frequency 6256.5V MHz toward Cherokee, Iowa, on azimuth 222°14'.

4211–C1–P–73—Same (New), 1.0 mile north of Cherokee, Iowa, latitude 42°45'50" N., longitude 95°34'00" W.: C.P. for a new station—frequency 6004.5V MHz toward Storm Lake, Iowa, on azimuth 112°48'.

4212–C1–P–73—Same (New), 1.0 mile northwest of Storm Lake, Iowa, latitude 42°39'25" N., longitude 95°13'25" W.: C.P. for a new station—frequency 6197.2H MHz toward Ida Grove, Iowa, on azimuth 214°22'.

4213–C1–P–73—Same (New), 1.8 miles northwest of Ida Grove, Iowa, latitude 42°22'04" N., longitude 95°29'24" W.: C.P. for a new station—frequency 5945.2V MHz toward Denison, Iowa, on azimuth 162°12'.

4214–C1–P–73—Same (New), 0.7 mile north of Denison, Iowa, latitude 42°01'25" N., longitude 95°20'35" W.: C.P. for a new station—frequency 6197.2H MHz toward Woodbine, Iowa, on azimuth 206°26'.

4215–C1–P–73—Same (New), 8.2 miles southeast of Woodbine, Iowa, latitude 41°39'12" N., longitude 95°35'25" W.: C.P. for a new station—frequency 6315.9V MHz toward Council Bluffs, Iowa, on azimuth 206°02'.

4216–C1–P–73—Same (New), 3.0 miles northeast of Council Bluffs, Iowa, latitude 41°17'54" N., longitude 95°49'12" W.: C.P. for a new station—frequency 6063.8V MHz toward Ashland, Nebr., on azimuth 241°50'.

4217–C1–P–73—Same (New), Ashland, Nebr., latitude 41°06'53" N., longitude 96°16'05" W.: C.P. for a new station—frequency 6226.9V MHz toward Lincoln, Nebr., on azimuth 218°15'.

4218–C1–P–73—Same (New), Lincoln, Nebr., latitude 40°47'26" N., longitude 96°36'19" W.: C.P. for a new station—frequency 5945.2H MHz toward Brainard, Nebr., on azimuth 327°55'.

4219–C1–P–73—Same (New), 3.0 miles northeast of Brainard, Nebr. (latitude 41°12'46" N., longitude 96°57'22" W.): C.P. for a new station—frequency 6256.5V MHz toward Seward, Nebr., on azimuth 196°10'.

4220–C1–P–73—Same (New), 2.5 miles northeast of Seward, Nebr. (latitude 40°55'45" N., longitude 97°03'52" W.): C.P. for a new station—frequency 6034.2V MHz toward York, Nebr., on azimuth 256°23'.

4221–C1–P–73—Same (New), York, Nebr. (latitude 40°50'44" N., longitude 97°35'38" W.): C.P. for a new station—frequency 6315.9H MHz toward Aurora, Nebr., on azimuth 270°17'.

4222–C1–P–73—Same (New), 1 mile south of Aurora, Nebr. (latitude 40°50'47" N., longitude 98°00'52" W.): C.P. for a new station—frequency 6063.8H MHz toward Grand Island (latitude 40°54'56" N., longitude 98°23'44" W.), Nebr., on azimuth 283°37'. (*Informative:* ATC proposes to deliver the signal of WTCN–TV, Minneapolis, Minn., to Grand Island Multi-Vue TV system at Grand Island, Hastings, and Kearney, Nebr. A waiver of section 21.701(i) of the FCC rules is requested by ATC.)

4223–C1–P–73—Eastern Microwave, Inc. (KEM58), Helderberg Mountain, 1.75 miles northwest of Salem, N.Y. (latitude 42°38'12" N., longitude 73°59'45" W.): C.P. to add frequency 6241.7V MHz toward Mount Greylock (KCL72), Mass., on azimuth 89°45'.

4224–C1–P–73—Same (KCK70), Mount Greylock, Mass. (latitude 42°38'14" N., longitude 73°09'56" W.): C.P. to change frequency 5937.5H MHz to 5989.7H MHz and to add frequency 6167.6H MHz toward Beech Hill (KCK71), N.H., on azimuth 70°52'.

4225–C1–P–73—Same (KCK71), Beech Hill, 7 miles east of Marlboro, N.H. (latitude 42°-54'41" N., longitude 72°04'11" W.): C.P. to add frequencies 11,425.0H MHz and 11,585.0H MHz toward new point of communication at Manchester, N.H., on azimuth 78°22'.

4226–C1–P–73—Same (New), Manchester, 3.65 miles west-southwest of Pinardville, N.H. (latitude 42°58'59" N., longitude 72°35'19" W.): C.P. for a new station—frequencies 10,975.0V MHz and 10,815.0V MHz toward Wood Hill, Mass., on azimuth 140°09'.

4227–C1–P–73—Same (New), Wood Hill, 2.2 miles southwest of Lawrence, Mass. (latitude 42°39'17" N., longitude 71°13'05" W.): C.P. for a new station—frequencies 11,385.0V MHz and 11,305.0V MHz toward Boston (Prudential Building), Mass., on azimuth 162°04'. (*Informative:* Eastern proposes to deliver the television signals of WOR–TV and WPIX–TV, New York, N.Y., to Malden Cablevision Company TV Communications Corp. at Boston, Mass., for subsequent service to Malden, Everett, and Medford, Mass.)

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

4251–C1–P–73—American Television Relay, Inc. (KPS43), any temporary-fixed location within territory of applicant: Modification of license (1063–C1–R–66) to delete frequency 6350.0 MHz and to add frequency bands 3700–4200 MHz, 5925–6425 MHz, and 10,700–11,700 MHz to its present temporary-fixed authorization (1063–C1–R–66).

4252–C1–P–73—American Telephone & Telegraph Co. (WBP73), White Horse, Hamilton Square Road, 2 miles southwest of Hamilton Square, N.J. Latitude 40°12'32" N., longitude 74°41'12" W. C.P. to add frequency 6123.1H MHz toward Columbus, N.J.

4253–C1–P–73—Same (WBP72), 2.7 miles northeast of Columbus, N.J. Latitude 40°05'11" N., longitude 74°40'13" W. C.P. to add frequency 6375.2V MHz toward Hamilton Square, N.J.; frequency 6375.2V MHz toward Cedar Brook No. 2, N.J.

4254–C1–P–73—Same (KVU94), 1.9 miles northwest of Cedar Brook, N.J. Latitude 39°-44'41" N., longitude 74°54'48" W. C.P. to add frequency 6123.1H MHz toward Columbus, N.J.

4255–C1–P–73—The Pacific Telephone & Telegraph Co. (KMO89), 516 Third Street, Santa Rosa, CA. Latitude 38°26'21" N., longitude 122°42'48" W. C.P. to modify transmitters on frequencies 10,775V, 11,015H MHz toward Cloverdale, Calif.

4256–C1–P–73—Same (KMO90), 5 miles north of Cloverdale, Calif. Latitude 38°53'01" N., longitude 122°59'33" W. C.P. to modify transmitters on frequencies 11,425H, 11,665V MHz toward Santa Rosa, Calif.; frequencies 11,385V, 11,625H MHz toward Ukiah, Calif.

4257–C1–P–73—Same (KNL51), 305 West Stephenson Street, Ukiah, Calif. Latitude 39°-08'53" N., longitude 123°12'30" W. C.P. to modify transmitters on frequencies 10,735H, 10,975V MHz toward Cloverdale, Calif.

4259–C1–P–73—United Video, Inc. (WAY25), Joplin, Mo. Latitude 37°04'49" N., longitude 94°33'25" W. C.P. to add frequency 10,895.0H MHz toward Pittsburg, Kans. on azimuth 335°22'.

4260–C1–P–73—Same (New), 1 mile south of Pittsburg, Kans. Latitude 37°21'00" N., longitude 94°42'45" W. C.P. for a new station on frequencies 11,425.0V, 11,585.0V MHz toward Nevada, Mo. (*Informative:* United proposes to deliver the television signals of KPLR–TV and KETC of St. Louis, Mo., to Nevada TV Cable Co. in Nevada, Mo.)

4264–C1–AL–(6)–73—Microrelay of New Mexico, Inc. Application for consent to assignment from the stockholders of Microrelay of New Mexico, assignors to American Television Relay, Inc., assignees for Stations: KLN76-Corona, N. Mex.; KLN77-Boyscout Mountain, N. Mex.; KLR72-Hagerman, N. Mex.; KLR73-Rosehill, N. Mex.; KSV93-Albuquerque, N. Mex.; KSV94-Albuquerque, N. Mex.

POINT TO POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)

Major Amendments

627–C1–P–72—Western Tele-Communications, Inc. (New), Omaha, Nebr. C.P. for a new station. Change proposed station location to 7.6 miles southwest of Omaha, Nebr. Change coordinates from latitude 41°15'30", longitude 95°56'19" to latitude 41°12'57", longitude 96°05'10". Correct frequencies and azimuth to 3770 V MHz on azimuth 34°49' toward Beebeetown, Iowa.

633–C1–P–72—Same as above (New), Mingo, Iowa. C.P. for a new station. Change proposed station location to 1.2 miles southwest of Mingo, Iowa, at latitude 41°45'08", longitude 93°18'10". Correct frequencies and azimuth to 3730 V MHz on azimuth 240°21' toward Des Moines, Iowa, and 3730 V MHz on azimuth 104°35' toward Ewart, Iowa.

634–C1–P–72—Same as above (New), Des Moines, Iowa. 2.2 miles northeast of Des Moines, Iowa, at latitude 41°37'59", longitude 93°34'52". C.P. for a new station. Correct frequencies and azimuth to 3770 H MHz on azimuth 310°52' toward Woodward, Iowa, and 3770 V MHz on azimuth 60°10' toward Mingo, Iowa.

644–C1–P–72—Same as above (New), Byron, Ill. C.P. for a new station. Change proposed station location to 3.6 miles south-southwest of Byron, Ill., at latitude 42°04'16", longitude 89°16'43". Correct frequencies and azimuth to 3770 V MHz on azimuth 70°35' toward Kings, Ill., and 3770 H MHz on azimuth 251°33' toward Hazelhurst, Ill.

645–C1–P–72—Same as above (New), Kings, Ill. 4.8 miles south of Belvedere, Ill., at latitude 42°11'15", longitude 88°49'53". C.P. for a new station. Correct frequencies and azimuth to 3730 H MHz on azimuth 111°51' toward Starks and 3730 V MHz on azimuth 250°53' toward Byron, Ill.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—continued

647–C1–P–72—Same as above (New), Starks, Ill. C.P. for a new station. Change proposed station location to 1.4 miles east-southeast of Starks, Ill., at latitude 42°05'05", longitude 88°29'20". Correct frequencies and azimuth to 3770 H MHz on azimuth 105°46' toward Chicago, Ill., and 3770 H MHz on azimuth 292°04' toward Kings, Ill.

650–C1–P–72—Same as above (New), Chicago, Ill., John Hancock Building at latitude 41°53'56", longitude 87°37'24". C.P. for a new station. Correct frequencies and azimuth to 3730 H MHz on azimuth 286°21' forward Starks, Ill.

DECEMBER 18, 1972.

4879–C1–P–66—Eastern Microwave, Inc. (KEM59), Sentinel Heights, N.Y. Latitude 42°56'40" N., longitude 76°07'08" W. Application amended (a) to change site location at Manlius, N.Y., to latitude 43°02'12" N., longitude 76°01'02" W.; (b) to change azimuth toward Manlius to 38°56'; and (c) to change frequency 5930.4V MHz toward Camillus, Liverpool, and Manlius, N.Y., on azimuths 306°53', 337°27', and 38°56', respectively.

1118–C1–P–73—United Video, Inc. (New), 4.2 miles west-southwest of Union Star, Mo. Latitude 39°58'04" N., longitude 94°31'21" W.: Application amended to relocate station to foregoing coordinates—frequency 6197.2V MHz toward Gentry, Mo., on azimuth 05°56'.

1119–C1–P–73—Same (New), 2.3 miles west of Gentry, Mo. Latitude 40°20'16" N., longitude 94°28'20" W.: Application amended to relocate station to foregoing coordinates—frequency 5974.8H MHz toward Benton, Iowa, on azimuth 00°57'.

1120–C1–P–73—Same (New), 5 miles west of Benton, Iowa. Latitude 40°42'22" N., longitude 94°27'51" W.: Application amended to relocate station to foregoing coordinates—frequency 6226.9V MHz toward Creston, Iowa, on azimuth 10°04'.

1121–C1–P–73—Same (New), 2 miles northwest of Creston, Iowa. Latitude 41°04'48" N., longitude 94°22'35" W.: Application amended to change azimuth toward Winterset, Iowa, to 45°34'. Frequency 5945.2V MHz.

1122–C1–P–73—Same (New), 0.2 mile northwest of Winterset, Iowa. Latitude 41°22'07" N., longitude 93°59'05" W.: Application amended to relocate station to foregoing coordinates—frequency 6226.9V MHz toward Urbandale, Iowa, on azimuth 37°04'.

1844–C1–P–70—United Video, Inc. (New), Scullin, Okla. Latitude 34°32'09" N., longitude 96°51'40" W.: Application amended to change the polarity of frequencies 6286.2 MHz and 6345.5 MHz to vertical toward Byars, Okla., on azimuth 330°00'.

1846–C1–P–70—Same (New), 2.70 miles southeast of Woods, Okla. Latitude 35°25'00" N., longitude 97°14'27" W.: Application amended (a) to add frequencies 10,735.0H MHz and 10,895.0H MHz toward Carney, Okla., on azimuth 24°27', and (b) to delete frequencies 10,775.0V MHz and 10,935.0V MHz toward Carney.

1849–C1–P–70—Same (New), Watchorn, 7 miles east-southeast of Red Rock, Okla. Latitude 36°26'20" N., longitude 97°03'25" W.: Application amended (a) to add frequencies 11,665.0H MHz and 11,345.0H MHz toward Ponca City, Okla., on azimuth 02°58' and (b) to delete frequencies 11,385.0V MHz and 11,545.0V MHz toward Ponca City.

3401–C1–P–73—American Television & Communications Corp. (New), 1 mile east of Wells, Minn. Latitude 43°44'42"N., longitude 93°42'20"W.: Application amended to add frequency 6330.7H MHz toward Winnebago, Minn., on azimuth 273°01'. (NOTE: See file Nos. 4207 thru 4222–C1–P–73, this notice.)

CORRECTION

3815–C1–P–73—South Central Bell Telephone Co. (KJG50), correct to read: Approximately 2 miles southwest of Brownsville, Tenn. Latitude 35°34'49"N., longitude 89°17'32"W. C.P. to add frequencies 4090H MHz toward Arlington, Tenn.

MULTIPOINT DISTRIBUTION SERVICE

4052–C5–P–73—Texas Microwave, Inc. (New), 0.56 mile north of Amboy, Little Rock, Ark. Latitude 32°31'21"N., longitude 93°45'00"W. C.P. for a new station on frequencies 2150.2V (Aural), 2152.325V(Visual), 2154.0V(Aural), and 2158.5V(Visual). (Primary Service Area: Little Rock, Ark.)

4053–C5–P–73—Same (New), Beck Building, corner of Travis and Edwards, Shreveport, La. Latitude 32°31'21"N., longitude 93°45'00"W. C.P. for a new station on frequencies 2150.2V (Aural), 2152.325V(Visual), 2154.0V(Aural), and 2158.5V(Visual). (Primary Service Area: Shreveport, La.

MULTIPOINT DISTRIBUTION SERVICE—continued

4104–C5–P–73—American Television & Communications Corp. (New), 1 mile northeast of Sioux Falls, S. Dak. Latitude 43°33'33"N., longitude 96°40'02"W. C.P. for a new station on frequencies 2150.25H(Aural) and 2154.75H(Visual). (Primary Service Area: Sioux Falls, S. Dak.)

3982–C5–P–73—Otis L. Hale, doing business as Mobilfone Communications (New), 200 West Capitol, Little Rock, AR. Latitude 34°44'41"N., longitude 92°16'23"W. C.P. for a new station on frequencies 2150.25H(Aural) and 2154.75H(Visual). (Primary Service Area: Little Rock, Ark.)

4172–C5–P–73—International Television Corp. (New), 400 Travis Street, Shreveport, LA. Latitude 32°30'51"N., longitude 93°45'02"W. C.P. for a new station on frequencies 2154.75V(Visual) and 2150.25V(Aural). (Primary Service Area: Shreveport, La.)

4173–C5–P–73—Shreveport Signal Co. (New), Town House, Cotton and Common Streets, Shreveport, LA. Latitude 32°30'32"N., longitude 93°45'00"W. C.P. for a new station on frequencies 2154.75H(Visual) and 2150.25(Aural). (Primary Service Area: Shreveport, La.)

4174–C5–P–73—American Television & Communications Corp. (New), 1 mile south of city, Appleton, Wis. Latitude 44°13'32"N., longitude 88°22'43"W. C.P. for a new station on frequencies 2150.25H(Aural) and 2154.75H(Visual). (Primary Service Area: Appleton, Wis.)

[FR Doc.72–21931 Filed 12–21–72;8:45 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1260]

GATEWAY EXPORT CO.

Order of Revocation

On November 16, 1972, Frank J. Monne, doing business as Gateway Export Co., 2008 Hillyer Place NW., Washington, DC 20009, voluntarily surrendered his Independent Ocean Freight Forwarder License No. 1260 for revocation.

By virtue of the authority vested in me by the Federal Maritime Commission as set forth in manual of orders, Commission Order No. 1 (revised) section 7.04(f) (dated May 1, 1972);

It is ordered, That Independent Ocean Freight Forwarder License No. 1260 of Frank J. Monne, doing business as Gateway Export Co., be and is hereby revoked effective December 15, 1972, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Frank J. Monne, doing business as Gateway Export Co.

AARON W. REESE,
Managing Director.

[FR Doc.72–22015 Filed 12–21–72;8:46 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY SUPPLY TECHNICAL ADVISORY TASK FORCE—REGULATION AND LEGISLATION

Notice of Meeting and Agenda; Opened to Public

Agenda for meeting, Supply-Technical Advisory Task Force—Regulation and Legislation.

Conference Room 2043 of the Federal Power Commission, 441 G Street NW., Washington, DC, January 11, 1973, 9 a.m.

Presiding: Dr. Paul J. Root, FPC Survey Coordinating Representative and Secretary.

1. Call to order and introductory remarks —Dr. Root.
2. Review of developments since the meeting of November 16, 1972—Mr. R. Earle Wright, Director—Supply-Technical Advisory Task Force—Regulation and Legislation.
3. Review of the majority report—Mr. Wright.
4. Review of report submitted by Dr. David Schwartz and any additional reports or comments submitted to the task force.
5. Discussion of coverage of environmental aspects of task force work programs—Mr. Wright.
6. Status of assigned work programs and estimated date for completion—Mr. Wright.
7. Other business.
8. Adjournment—Dr. Root.

This meeting is open to the public.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72–21985 Filed 12–21–72;8:45 am]

[Docket No. E–7820]

ARIZONA PUBLIC SERVICE CO.

Notice of Proposed Changes in Rates and Charges

DECEMBER 15, 1972.

Take notice that Arizona Public Service Co. (Company) tendered for filing on July 14, 1972, as supplemented on September 12, 1972, proposed changes in its FPC Rate Schedule No. 38, Amendment No. 2 as proposed provides for additional transmission services to the other party, Southern California Edison Co. (Edison). By letter filed October 4, 1972, the Company advised the Commission that only paragraphs 3.5 through 3.9 of Amendment No. 2 should be considered for filing. The proposed effective date for paragraphs 3.5, 3.7, 3.8, and 3.9 is March 1, 1972, and for paragraph 3.6, May 22, 1969.

The Company requests waiver of the requirements of § 35.13(b) of the Commission's regulations on the grounds that the amendment provides for clarifying and technical changes.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72–21984 Filed 12–21–72;8:45 am]

[Docket No. E–7885]

CENTRAL HUDSON GAS & ELECTRIC CORP.

Notice of Proposed Changes in Rates and Charges

DECEMBER 19, 1972.

Take notice that Central Hudson Gas & Electric Corp. (Central Hudson) on December 4, 1972, tendered for filing proposed changes in its FPC Rate Schedule No. 42 to become effective on January 1, 1973. The proposed changes would reduce Central Hudson's revenues from jurisdictional sales and services by approximately $63,363 annually.

Central Hudson in its filing states that the reason for the proposed reduction in its charges is that the book costs of the transmission facilities are less than previously estimated, which reduces the related fixed charges and estimated operations and maintenance expense.

Copies of this filing were served on the other two parties to the transmission agreement: Consolidated Edison Co. of New York, Inc., and Niagara Mohawk Power Corp.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 26, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72–22052 Filed 12–21–72;8:46 am]

[Docket No. RP72–151]

EL PASO NATURAL GAS CO.

Notice of Filing of Proposed Restructured Rates

DECEMBER 19, 1972.

Take notice that El Paso Natural Gas Co. (El Paso), on November 30, 1972,

tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 3, to become effective on January 1, 1973. The proposed changes would revise the increased rates proposed in this proceeding as a result of restructuring of those rates to provide rate levels consistent with the Seaboard cost classification procedure.

El Paso says that as it understands the Commission's statements in its order issued November 7, 1972, in Dockets Nos. RP71-137 and RP72-151, El Paso may be exposed to making refunds of demand charges, while being required to absorb undercollections of commodity charges to the extent that the commodity charge in a demand-commodity rate is below that indicated by the Seaboard procedure. El Paso states that it cannot undertake any such risk of revenue loss.

El Paso says that by making the instant filing it does not concede the propriety of the position taken by the Commission respecting rate design in the order of November 7, 1972, and that the instant filing should not be construed as agreement on the part of El Paso to such position or waiver on the part of El Paso of its rights to propose a different rate design in any proceeding.

El Paso states that the tariff sheet containing the proposed restructured rates, Substitute Tenth Revised Sheet No. 10, also conforms to the form of purchased gas adjustment (PGA) clause prescribed by § 154.38(d)(4) of the Commission's regulations under the Natural Gas Act, in accordance with the Commission's order issued July 31, 1972, in this proceeding. In the event that El Paso's request to substitute the restructured rates for those originally suspended in Docket No. RP72-151 is not granted it encloses with its filing an alternative tariff sheet, designated as Tenth Revised Sheet No. 10, also modified to conform with § 154.38(d)(4) of the regulations, and containing the increased rates proposed in El Paso's notice of change in rates filed in Docket No. RP72-151 and suspended until January 1, 1973.

A copy of the filing was served on all parties of record in Docket No. RP72-151, the affected Northwest Division System customers of El Paso and interested State regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should on or before December 26, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein, with the exception of those persons who have filed petitions to intervene in Docket No. RP72-151 must file petitions to intervene in accordance with the Commission's rules. The filing is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc. 72-22049 Filed 12-21-72;8:46 am]

[Docket No. CI70-355]

HIGH CREST OILS, INC.

Further Notice of Petition to Amend [1]

DECEMBER 19, 1972.

Take further notice that on October 4, 1972, High Crest Oils, Inc. (Petitioner), 2640 One Calgary Place, 330 Fifth Avenue SW., Calgary, AB, Canada, filed in Docket No. CI70-355 a petition to amend the order accompanying Opinion No. 618 (47 FPC —)[2] issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act by authorizing, inter alia, the sale of natural gas to Northern Natural Gas Co. (Northern) from the Tiger Ridge Field, Blaine and Hill Counties, Mont., at an increased rate, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was authorized on May 11, 1972, by the order accompanying Opinion No. 618 to sell natural gas to Northern at the rate of 15.5 cents per Mcf at 14.65 p.s.i.a. pursuant to a contract dated May 8, 1969, which Petitioner submitted as its FPC gas rate schedule. By supplemental agreement dated July 31, 1972, Petitioner and Northern have amended the contract of May 8, 1969, by providing for a rate of 23.5 cents per Mcf at 15.025 p.s.i.a., subject to B.t.u. adjustment, effective November 1, 1972; revising the dedication from Petitioner's interest in 118,977 to 97,033 acres; increasing the reserve dedication from 300 million to 350 million Mcf of gas; increasing the reimbursement for any future tax increase from 75 percent to 85 percent; and changing the contractual pressure base from 14.65 p.s.i.a. to 15.025 p.s.i.a. Petitioner has not commenced the sale of natural gas to Northern; and by telegram filed November 28, 1972, has advised the Commission that it does not intend to commence service pending Commission action on the instant petition to amend.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 29, 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. Persons who have heretofore filed in any of the dockets in the consolidated proceeding in Docket No. CP70-69, et al., need not file again.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22048 Filed 12-21-72;8:46 am]

[Docket No. E-7887]

IDAHO POWER CO.

Notice of Application

DECEMBER 18, 1972.

Take notice that on December 7, 1972, Idaho Power Co. (Applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the States of Idaho, Oregon, Nevada, and Wyoming, with its principal business office at Boise, Idaho, filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of up to 750,000 shares of its common stock, par value $5 per share. Said shares will have an aggregate par value of $3,750,000.

The net proceeds from the issuance and sale of the common stock will be applied to the payment of short-term, unsecured promissory notes outstanding (estimated at $21 million) at the time of the sale of the common stock. The issuance of the common stock is a part of Applicant's program for financing its construction expenditures for 1973, which construction expenditures are presently estimated at $95,739,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-21930 Filed 12-21-72;8:45 am]

[Docket No. RP71-107]

NORTHERN NATURAL GAS CO.

Notice of Proposed Change in Tariff

DECEMBER 19, 1972.

Take notice that Northern Natural Gas Co. (Northern) on December 7, 1972,

[1] Notice of the instant petition to amend was issued Oct. 26, 1972, in Docket No. G-13324, et al., and published in the FEDERAL REGISTER on Oct. 31, 1972, 37 F.R. 23216. This notice was not served on all the parties in the consolidated proceeding in Docket No. CP70-69, et al.

[2] Northern Natural Gas Company, et al., Docket No. CP70-69, et al.

tendered for filing as part of its FPC gas tariff, Third Revised Volume No. 1, First Revised Sheet No. 6A, which has the effect of combining presently effective operational areas E and F into one new operational area designated E–F. An effective date of January 5, 1973, is requested.

Northern states that with the advent of a new supply of gas authorized pursuant to Commission Opinion No. 618 which is now flowing into the northern end of Northern's system, the system operations do not require two operational areas. Northern further states that the combining of these operational areas will give more operating flexibility to Northern's utility customers that have communities located in both the currently effective operational areas E and F.

Northern requests waiver to the extent necessary of the notice requirements of § 154.22 under § 154.51 of the regulations.

Copies of the filing have been served upon all jurisdictional customers and upon interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 29, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22050 Filed 12-21-72;8:46 am]

[Docket No. E-7867]

OHIO POWER CO.

Notice of Proposed Changes in Rates and Charges

DECEMBER 19, 1972.

Take notice that Ohio Power Co. (Ohio) on December 4, 1972, tendered for filing proposed changes in its FPC Rate Schedule No. 18. The filing consists of Supplement No. 4 to the above rate schedule and would increase Ohio's revenues from jurisdictional sales and services by $840,000 annually, based on the test period ended June 30, 1972. The changes reflected in the supplement involve primarily increased demand and energy charges and a revised fuel adjustment clause. The proposed effective date is January 3, 1973.

Ohio states that the proposed rate increase is occasioned by increases in the cost of providing electric service, increased costs of capital and increased construction requirements. Further, Wheeling Electric Co., Ohio's affiliate and sole customer under the above rate schedule, has advised Ohio that it does not object to the proposed supplement. No facilities will be installed or modified in order to supply the service under the proposed rate.

Ohio requests that the 60-day prior notice requirements of the Commission's regulations be waived to the extent necessary to permit the supplement to be made effective on January 3, 1973, and that it be accepted for filing by the Commission without suspension.

Copies of this filing were served on Wheeling Electric Co. and interested State commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22051 Filed 12-21-72;8:46 am]

[Docket No. CI72-261]

STEPHENS PRODUCTION CO.

Notice of Petition to Amend

DECEMBER 18, 1972.

Take notice that on December 11, 1972, Stephens Production Co. (Petitioner), 115 North 12th Street, Fort Smith, AR 72901, filed in Docket No. CI72-261 a petition to amend the order of the Commission heretofore issued in said docket pursuant to section 7(c) of the Natural Gas Act, authorizing on January 20, 1972 the sale for resale of natural gas to and the exchange of natural gas with Arkansas Louisiana Natural Gas Co. (Arkla) within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

Under the order issued by the Commission in the subject docket, and pursuant to a contract dated October 11, 1971, between Petitioner and Arkla, Petitioner delivers to Arkla approximately 15,000 Mcf of gas per day from the Massard Field, Sebastian County, Ark., during the winter period November 1 to May 1. At Arkla's request Petitioner may make additional volumes available up to a total of 25,000 Mcf per day. In addition Arkla may elect to receive additional gas from May 1, 1972, to October 31, 1972. Arkla may pay 28 cents per Mcf at 14.65 p.s.i.a. for all or part of the gas received from Petitioner or Arkla may, at its option, repay Applicant for volumes which will become available when Arkla's pipeline authorized in Docket No. CP70-267 commences operation. Petitioner states that Arkla has exercised its right under the original contract between the parties to extend the contract for an additional year.

In accordance with the terms of the contract dated October 11, 1971, as amended November 16, 1972, Petitioner seeks authorization to extend the certificate heretofore issued in this docket for a period of 1 year, beginning January 28, 1973, and to increase from 28 cents to 30 cents per Mcf the rate for all gas not returned in kind by Arkla.

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 December 29, 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-21983 Filed 12-21-72;8:45 am]

[Docket No. E-7909]

OHIO POWER CO.

Notice of Rate Change

DECEMBER 20, 1972.

Take notice that on June 6, 1972, Ohio Power Co. filed a proposed modification to the facilities and operating agreement dated December 6, 1962, between Duquesne Light Co. and Ohio Power Co. The agreement is designated Ohio Power Co. Rate Schedule FPC No. 33. Modification No. 3 provides for an increase in the demand charge for short-term power of from $0.30 per kilowatt per week to $0.40 per kilowatt per week and a change in the reduction of weekly demand charges in the event that the supplying party is unable to fulfill any part of its commitment from $0.06 per kilowatt per day to one-sixth of the total weekly demand charge for each day (except Sundays) any such reduction is in effect.

A certificate of concurrence to the proposed modification of the agreement has been filed by Duquesne Light Co. and Ohio Power Co.

The application states that as a result of the proposed modification the terms and conditions of the reciprocal service between Ohio and Duquesne

Light Co. are the same as those contained in a number of filings including those between Ohio Power Co. and other companies for similar services.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing herein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc. 72-22168 Filed 12-21-72;10:39]

FEDERAL RESERVE SYSTEM

CHARTER NEW YORK CORP.

Acquisition of Bank

Charter New York Corp., New York, N.Y., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the Nanuet National Bank, Nanuet, N.Y. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 11, 1973.

Board of Governors of the Federal Reserve System, December 15, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-22010 Filed 12-21-72;8:46 am]

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive of September 19, 1972

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on September 19, 1972.[1]

The information reviewed at this meeting suggests a substantial increase in real output of goods and services in the current quarter, although well below the unusually large rise recorded in the second quarter. In July and August, wages and prices advanced somewhat more rapidly on balance than in the immediately preceding months, while the unemployment rate remained substantial. Foreign exchange market conditions have remained quiet in recent weeks and the central bank reserves of most industrial countries have continued to change little. In July, the large excess of U.S. merchandise imports over exports persisted.

In August on average, growth slowed in the narrowly and broadly defined money stock and in the bank credit proxy, but in recent weeks the money stock has been expanding more strongly. Since mid-August, interest rates on Treasury bills have increased sharply, while yields on most other market securities have advanced more moderately.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conductive to sustainable real economic growth and increased employment, abatement of inflationary pressures, and attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, while taking special account of the effects of possible bank regulatory changes, developments in credit markets, and international developments, the Committee seeks to achieve bank reserve and money market conditions that will support more moderate growth in monetary aggregates over the months ahead.

By order of the Federal Open Market Committee, December 6, 1972.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc.72-22008 Filed 12-21-72;8:46 am]

FIDELITY AMERICAN BANKSHARES, INC.

Order Approving Acquisition of Bank, Mortgage Co., and Finance Co.

Fidelity American Bankshares, Inc., Lynchburg, Va., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire voting shares of Citizens Bank and Trust Company of Charlottesville, Charlottesville, Va. (Bank), through the acquisition of 90 percent or more of the voting shares of Citizens Commonwealth Corp. (Citizens Corporation), a one-bank holding company owning all of the shares of Bank.

Applicant has also applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire shares of Citizens Mortgage Corp., Charlottesville, Va. (Citizens Mortgage) and Blue Ridge Finance Corp., Crozet, Va. (Blue Ridge), both of which are also wholly owned subsidiaries of Citizens Corp. Citizens Mortgage engages or proposes to engage in the activities of making real estate and commercial loans and of servicing such loans for itself and other institutional lenders, and of acting as agent in the sale of mortgage cancellation insurance. Finance Co. engages in such commercial finance activities as are authorized under the Virginia Small Loan Act, and in the sale of related credit life, and credit accident, and health insurance. The types of activities that Citizens Mortgage engages in or proposes to engage in and that Blue Ridge engages in have been determined by the Board to be closely related to the business of banking (12 CFR 225.4(a)).

Notice of receipt of the applications has been given in accordance with 3 and 4 of the Act, and the time for filing comments and views has expired. The Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act.

Applicant, the eighth largest banking organization in Virginia, controls 11 banks with aggregate deposits of $423 million representing 4.6 percent of deposits of commercial banks in Virginia.[1] Acquisition of Bank (deposits of $36.8 million) would increase Applicant's share of deposits in the State by 0.4 percentage points and would not alter its ranking in the State nor result in a significant increase in the concentration of banking resources in Virginia.

Bank operates its main office and four branch offices in the city of Charlottesville. Bank is one of four banking organizations serving Charlottesville and, as of June 30, 1970, ranked as the third largest of the four banking organizations in the city of Charlottesville and Albemarle County (which approximates the relevant banking market) with 17 percent of commercial bank deposits in the market. The closest offices of any of Applicant's banking subsidiaries and Bank are 45 miles apart, and consummation of the proposal would not eliminate any existing competition between Bank and any of Applicant's banking subsidiaries. Further, it appears unlikely that significant future competition between Bank and Applicant's present subsidiaries would be eliminated by consummation of the proposal in the light of the distances separting Applicant's subsidiaries and Bank, and Virginia's restrictive branching laws. While Applicant could enter the market by establishing a de novo bank, the market area's population, economic growth, and number of banking offices as well as other facts of record, indicate that the market is not particularly attractive for de novo entry. Affiliation with Applicant may stimulate competition by making it easier for Bank to expand the range of its services. Thus, competitive considerations appear to be consistent with approval of the application.

The financial and managerial resources of Applicant, its subsidiary banks, and Bank are regarded as generally

[1] The Record of Policy Actions of the Committee for the meeting of Sept. 19, 1972, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

[1] Banking data are as of Dec. 31, 1971, unless otherwise noted, and reflect holding company formations and acquisitions approved by the Board through Oct. 31, 1972.

satisfactory.[2] Although new services will not be introduced into the market, Bank's affiliation with Applicant will assist Bank in making available services Bank does not presently offer such as automatic payroll preparation and other computer services, and accounts receivable financing. Accordingly, considerations related to the convenience and needs of the communities to be served are consistent with and lend some support to approval of the application. It is the Board's judgment that the proposed acquisition of Bank would be in the public interest and the application should be approved.

Citizens Mortgage was organized by Citizens Corporation in 1969 for the purpose of making real estate loans and servicing such loans for itself and other institutional lenders and has its sole office in Charlottesville. As of May 31, 1972, it had only six loans totalling approximately $50,000 outstanding. Citizens Mortgage does not compete with any of Applicant's subsidiaries, nor is it a significant competitor in the Charlottesville area. Considering the mortgage company's current level of operations, its acquisition by Applicant is akin to de nova entry by Applicant. Affiliation with Applicant would provide Citizens Mortgage with a source of additional capital funds to expand its operations, particularly in the area of second mortgage loans. It does not appear that any existing or potential competition would be eliminated by consummation of the present proposal, nor is there any evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects upon the public interest.

Blue Ridge was organized in 1968 by a group of local investors, including certain officers and directors of Citizens Corporation, and was acquired by Citizens Corp. on January 1, 1970. Blue Ridge operates its main office in Crozet, Va., and has a branch office in Charlottesville. It ranks as the seventh largest of nine consumer finance companies operating in the city of Charlottesville and Albemarle County. It had $368,000 of outstanding loans representing 7.6 percent of the loans of consumer finance companies in the above described area, as of December 31, 1971. Blue Ridge also engages in the sale of credit life and credit accident and health insurance directly related to its extensions of credit. No affiliate of Applicant operates in Blue Ridge's market area and approval of the present proposal will not eliminate any existing competition between Applicant's subsidiaries, or Bank, and Blue Ridge, nor does it appear likely that significant future competition would be foreclosed by approval of the present proposal. There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects upon the public interest. Moreover, affiliation with Applicant would provide Blue Ridge with increased access to capital funds and thus increase Blue Ridge's capacity to meet the public demands for this type of credit. Based upon the foregoing, and other considerations in the record, the Board has determined that the public interest factors that it is required to consider regarding the proposed acquisition of Citizens Mortgage and of Blue Ridge are favorable and that the applications should be approved.

Citizens Corporation directly and indirectly holds title or option to property occupied by Bank together with certain other properties which are designated for future expansion of banking or related activities of Citizens Corporation's subsidiaries. It appears that the size of these holdings is somewhat larger than would be needed by Citizens Corporation and its subsidiaries in the foreseeable future. In this connection, Applicant has committed itself to the disposal of one of the two parcels of real estate held for future expansion by Citizens Corporation in proximity to Citizens Corporation's headquarters within 1 year from the date of this approval.

On the basis of the record, the applications to acquire Bank, Citizens Mortgage, and Blue Ridge are approved for the reasons summarized above. The acquisition of Bank shall not be consummated: (a) Before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority. The determinations, as to Citizens Mortgage and Blue Ridge, are subject to the conditions set forth in § 225.4(c) of regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[3] effective December 14, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-22007 Filed 12-21-72;8:46 am]

[2] See Board order of Oct. 18, 1972, approving the applications of Fidelity American Bankshares, Inc., to acquire Citizens National Bank of Herndon, Herndon, Va., and Fairfield National Bank of Highland Springs, Highland Springs, Va.

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Governor Bucher.

FIRST NATIONAL HOLDING CORP.

Proposed Acquisition of Woods-Tucker Leasing Corp.

First National Holding Corp., Atlanta, Ga., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire substantially all of the voting shares of Woods-Tucker Leasing Corp., Hattiesburg, Miss. Notice of the application was published on November 7, 1972, in the Hattiesburg American, a newspaper circulated in Hattiesburg, Miss.

Applicant states that the proposed subsidiary would engage in the activities of leasing of personal property and equipment, or acting as agent, broker, or adviser in leasing of such property. Such activities will be conducted at offices in Hattiesburg, Miss. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 11, 1973.

Board of Governors of the Federal Reserve System, December 15, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-22009 Filed 12-21-72;8:46 am]

SECURITIES AND EXCHANGE COMMISSION

[File 500-1]

TRIEX INTERNATIONAL CORP.

Order Suspending Trading

DECEMBER 14, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Triex International Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, That trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period commencing at 10 a.m., e.s.t., on December 15, 1972, and continuing through December 24, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-2213 Filed 12-21-72;8:47 am]

TARIFF COMMISSION

[TEA-F-47]

DAINTY MAID FOOTWEAR, INC.

Petition for a Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962 on behalf of Dainty Maid Footwear, Inc., Gettysburg, Pa., the U.S. Tariff Commission, on December 18, 1972, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in Items 700.43, 700.45, and 700.55 of the Tariff Schedules of the United States) produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is 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.

Issued: December 19, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-21957 Filed 12-21-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 141]

Assignment of Hearings

JANUARY 19, 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 61231 Sub 68, Ace Lines, Inc., now assigned January 17, 1973, at Chicago, Ill., is postponed indefinitely.

MC 106497 Sub 68, Parkhill Truck Co., now assigned January 29, 1973, at Chicago, Ill., hearing is postponed indefinitely.

MC 13487 Sub 3, Bessette Transport, Inc., now assigned January 15, 1973, at Boston, Mass., hearing is postponed indefinitely.

MC-FC-73782, Beal's Express, Inc., Thurmont, Md.—transferee—and Western Express, Inc., Baltimore, Md., transferor, now assigned January 24, 1973, at Washington, D.C., is postponed to January 31, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC-133095 Sub 34, Texas Continental Express, Inc., now January 16, 1973, at Boston, Mass., is canceled and transferred to modified procedure.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-22017 Filed 12-21-72;8:46 am]

[Section 5a Application 106, Amdt. 1]

HOUSEHOLD GOODS FORWARDERS TARIFF BUREAU

Application for Amendment to Agreement

DECEMBER 8, 1972.

The Commission is in receipt of an application in the above-entitled proceeding for approval of an amendment to the agreement therein approved. Filed November 28, 1972 by: Alan F. Wohlstetter, Executive Secretary and General Counsel, Household Goods Forwarders Tariff Bureau, 1700 K Street NW., Washington, DC 20006. The amendment involves: Revision of Article III, section 1, to broaden the territorial scope to include the State of Alaska.

The complete amended application may be inspected at the Office of the Commission in Washington, D.C.

Any person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigation and determine the matters involved without public hearing.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-22018 Filed 12-21-72;8:46 am]

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PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions and Modifications and Supersedeas Decisions

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

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 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 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.

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

Modifications and supersedeas decisions to area wage determination decisions. Modifications and Supersedeas Decisions to Area Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 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 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.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, 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 has been set forth in the original Area Wage Determination Decision.

SET FORTH BELOW IN THIS DOCUMENT ARE THE FOLLOWING

Modifications to Area Wage Determination Decisions for specified localities in the following States (the numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State):

California:	
AP–235	Sept. 15, 1972.
AP–246	Oct. 13, 1972.
Colorado:	
AP–232; AP–233; AP–234	Sept. 15, 1972.
Delaware:	
AP–444	Nov. 17, 1972.
Illinois:	
AP–51; AP–52	Dec. 8, 1972.
Indiana:	
AP–18; AP–21; AP–22	Sept. 29, 1972.
Kansas:	
AP–517	Dec. 8, 1972.
Kentucky:	
AM–8,625	June 23, 1972.
AP–132; AP–133; AP–134; AP–135.	Oct. 13, 1972.
Louisiana:	
AP–366; AP–367	Dec. 8, 1972.
Maryland:	
AP–410	Aug. 4, 1972.
Missouri:	
AP–517	Dec. 8, 1972.
Nevada:	
AP–236; AP–243	Sept. 22, 1972.
Ohio:	
AP–34; AP–35; AP–36; AP–37; AP–38; AP–40; AP–41; AP–42; AP–44; AP–45; AP–46; AP–47.	Nov. 17, 1972.
Oklahoma:	
AP–360	Nov. 17, 1972.
AP–364	Dec. 8, 1972.
Texas:	
AP–343	Sept. 29, 1972.
AP–357	Nov. 10, 1972.
Virginia:	
AP–440	Nov. 3, 1972.
Wisconsin:	
AP–53; AP–54; AP–56; AP–57; AP–58; AP–60; AP–62; AP–63; AP–64; AP–65; AP–66; AP–67.	Dec. 1, 1972.

Supersedeas Decisions to Area Wage Determination Decisions for specified localities in the following States (the numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State; the Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded):

Florida:	
AM–456(AP–142); AM–459 (AP–130).	Aug. 20, 1971.
AM–9,697(AP–131)	Apr. 28, 1972.
Illinois:	
AM–338(AP–79)	Aug. 13, 1971.
Michigan:	
AP–25(AP–76); AP–26(AP–77); AP–27(AP–78).	Oct. 6, 1972.
New York:	
AM–1,727(AP–453)	Aug. 11, 1971.
Texas:	
AP–342(AP–371)	Sept. 29, 1972.

Signed at Washington, D.C., this 15th day of December 1972.

BEN P. ROBERTSON,
Acting Administrator,
Wage and Hour Division.

DECISION #AP-235 - Mod. #2
(37 FR 18837 - September 15, 1972)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Plumas, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California

MODIFICATI[illegible] P. 1

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Change:						
Bricklayers, Stonemasons:						
Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Siskiyou, Solano, Sonoma and Trinity Counties	$8.68	.83	.58	.70		
Fresno, Kings, Madera, Mariposa and Merced Counties	7.73	.42	.50			
Brick Tenders:						
Lassen, Modoc, Shasta, Siskiyou, Tehama and Trinity Counties	5.75	.55	1.05	.70		
Marin County	6.60	.60	.40	.65		
Electricians:						
Amador, Colusa, Sacramento, Sutter, Yolo, Yuba and those portions of Alpine, Eldorado, Nevada, Placer and Sierra Counties West of the Main Sierra Mountain Watershed:						
Electricians	8.63	.4[illegible]	+.65		.045	
Cable splicers	9.49	.4[illegible]	+.65		.045	
Calaveras and San Joaquin Counties:						
Electricians; Technicians	9.00	.4[illegible]	1%		.01	
Cable splicers	10.13	.4[illegible]	1%		.01	
San Francisco County:						
Electricians	9.07	.7[illegible]	+.35		.04	
Cable splicers	10.20	.7[illegible]	+.35		.04	
San Mateo County:						
Electricians; Technicians	9.15	.6[illegible]	+.15		.03	
Plasterers:						
Del Norte, Humboldt, Lassen (Northeastern half of Lassen Co.), Marin, Modoc, Napa, Shasta, Siskiyou, Solano, Sonoma, Tehama and Trinity Counties	7.15	.53	.25	1.00	.01	
San Francisco County	7.12	.48	.85	1.50	.02	
Mariposa, Merced, Stanislaus and Tuolumne Counties	6.30	.6[illegible]	.60	1.00		

DECISION #AP-235 (cont'd)

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Plasterers' Tenders:						
Marin County	$6.30	.60	.40	1.00		
Napa County	6.55	.55		.70		
Alpine, Amador, Eldorado, Nevada, Placer, Sacramento, Sierra and Yolo Counties	6.45	.395	1.05	.70		
Lassen, Modoc, Shasta, Siskiyou, Tehama and Trinity Counties	5.75	.55	1.05	.70		
Plumbers:						
Contra Costa County	10.02	.53	1.00		.16	
Plumbers; Steamfitters:						
Amador, (Northern half of County) Sacramento, Yolo, Eldorado, Nevada, Placer, and Sierra Counties (excl. Lake Tahoe Area)	8.98	.75	1.05		.11	
Roofers:						
Alpine, Calaveras, Mariposa, Merced, Stanislaus, San Joaquin, and Tuolumne Counties						
Roofers (Slate, tile composition & built up)	6.94	.50	.30	.75		
Felt machine operator	7.19	.50	.30	.75		
Fresno, Kings, Madera and Tulare Counties						
Roofers	7.70	.50	.50			
Sheet Metal Workers:						
Fresno, Kings, Madera and Tulare Counties	8.20	.48	.79		.07	
Mariposa; Merced; Stanislaus and Tuolumne Counties	8.83	.36	.60		.03	
Monterey, San Benito, Santa Clara and Santa Cruz Counties	8.10	.38	.81	.81		
Sprinkler Fitters (Remaining Cos.)	11.30	.30	.50		.05	

DECISION #AP-246 - Mod. #2
(37 FR 21728 - October 13, 1972)
Alameda, Amador, Contra Costa, Fresno, Marin, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Solano, Sonoma, Sutter, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
Change:						
Bricklayers; Stonemasons:						
Marin, Napa, San Francisco, San Mateo, Solano and Sonoma Counties	$8.68	.83	.58	.70		
Fresno and Merced Counties	7.73	.42	.50			
Brick Tenders:						
Marin County	6.60	.60	.40	.65		
Electricians:						
Amador, Sacramento, Sutter, Yolo, Yuba and those portions of Nevada & Placer Counties West of the Main Sierra Mountain Watershed:						
Electricians	8.63	.41	1%+.65		.045	
Cable splicers	9.49	.41	1%+.65		.045	
San Joaquin County:						
Electricians: Technicians	9.00	.49	1%		.01	
Cable splicers	10.13	.49	1%		.01	
San Francisco County:						
Electricians	9.07	.705	1%+.35		.04	
Cable splicers	10.20	.705	1%+.35		.04	
San Mateo County:						
Electricians; Technicians	9.15	.69	1%+.15		.03	
Plasterers:						
Marin, Napa, Solano, and Sonoma Cos.	7.15	.53	.25	1.00	.01	
San Francisco County	7.12	.48	.85	1.50	.02	
Merced County	6.30	.65	.60	1.00		
Plasterers Tenders:						
Marin County	6.30	.60	.40	1.00		
Napa County	6.55	.55		.70		
Amador, Nevada, Placer, Sacramento & Yolo Counties	6.45	.395	1.05	.70		

DECISION #AP-246 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
Plumbers:						
Contra Costa County	10.02	.53	1.00		.16	
Plumbers; Steamfitters:						
Amador (Northern half of County), Sacramento, Yolo, Nevada & Placer Counties (excluding Lake Tahoe Area)	8.98	.75	1.05		.11	
Roofers:						
Merced and San Jaquin Counties:						
Roofers (Slate, tile composition & built up)	6.94	.50	.30	.75		
Felt machine operator	7.19	.50	.30	.75		
Fresno County:						
Roofers	7.70	.50	.50			
Sheet Metal Workers:						
Fresno County	8.20	.48	.79		.07	
Merced County	8.83	.36	.60		.03	
Monterey and Santa Clara Counties	8.10	.38	.81	.81		

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vocation	App. Tr.	Others
DECISION #AP-232 - Mod. #1 (37 FR 18854 - September 15, 1972) Statewide Colorado						
Change:						
Power Equipment Operators (For Work in Tunnels, Shafts, & Raises)						
Brakeman	$5.35	.27	.25		.03	
Motorman	5.70	.27	.25		.03	
Compressor (900 CFM & Over), Serving tunnels, shafts & raises	5.80	.27	.25		.03	
Air Tractors; Grout machine; Gunnite machine; Jumbo form; Mechanic; Welder	6.05	.27	.25		.03	
Concrete Placement Pumps 8" & over Discharge; Mechanic-Welder (Heavy Duty); Mucking Machine & Frontend Loaders Underground; Slusher	6.20	.27	.25		.03	
Mole	6.60	.27	.25		.03	
Line Construction:						
Cable Splicers	8.44	.25	1%		3/4%	
Linemen	7.87	.25	1%		3/4%	
Equipment Ops.; Line equipment maintenance men	6.71	.25	1%		3/4%	
Groundmen	5.55	.25	1%		3/4%	

DECISION #AP-232 (cont'd)

MODIFICATIONS P. 6

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts & Raises)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vocation	App. Tr.	Oth
GROUP I						
Asphalt Screed; Brakeman; Drill Operator, smaller than William MF & similar; Helper to Heavy Duty Mechanic and/or Welder; Tractor Operator (under 70 HP), with or without attachments; Oiler	$5.20	.27	.25		.03	
GROUP II						
Air Compressor; Ditch Witch Trenching Machine and similar; Equipment Lubricating & Service Engineer; Fork Lift; Haulage Motorman (Brakeman); Operators of five or More Light Plants, Welding Machines, Compressors 360 C.F.M. or less, Pumps, Generators; Pugmill Operator; Pugmill; Pumps; Portable Screening Plant with or withour a Spray Bar; Screening Plants-With Classifier; Self-Propelled Rollers - 5 tons & under; Vacuum Well point system	5.55	.27	.25		.03	
GROUP III						
Asphalt Plant; Backfiller; Bituminous Spreader or Laydown Machine; Cableway Signalman; Caissons Drill; (William MF, similar and larger; C. M.I. and similar; Concrete Finish Machine; Concrete Gang Saws on Concrete Paving; Concrete Mixer (less than 1 yd.); Concrete Placement Pumps (under 8 in.); Conveyor (handling building materials); Distributors, bituminous surfaces; Drill, (diamond or core); Drill Rigs (Rotary, churn or cable tool); Elevating Graders; Engineer Fireman; Fireman or Tank Heater, Road; Grout Machine; Gunnite Machine; Hoists (1 drum); Loader (Barber Greene, etc.); Loader (up to & including 6 cu. yd.); Machine Doctor Mechanic; Motor Grader (blade); Road Stablization Machine; Rollers-Self-Propelled-all types over 5 tons Sandblasting Machine; Scrapers -						

DECISION #AP-232 (cont'd) MODIFICATIONS P. 7

POWER EQUIPMENT OPERATORS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
GROUP III (cont'd)						
Single Bowl - under 40 cu. yds.; Single Unit Portable Crusher-with or without washer; Tile Tamper, Wheel Mounted; Tractor (70 h.p. and over) (with or without attachments); Trenching Machine; Welder; Winch Operator on Truck; Concrete Batching Plants	$5.90	.27	.25		.03	
GROUP IV						
Concrete Mixer (over 1 cu. yd.); Concrete Paver 34 E or similar; Concrete Placement Pumps (8 in. & over); Crane (50 tons & under); Hoists (2 drums); Loader - over 6 cu. yd.; Mechanic - Welder (Heavy Duty); Mixermobile; Multiple Unit Portable Crusher - with or without washer; Pile Driver; Fireman; Cable-operated crane, truck mounted, 25 tons & over; Cable-operated power shovels, dragline; Clamshells, & backhoes (5 cu. yds. & under); Hydraulic backhoes, 1½ cu. yd. & over; Special utility Operator; Scooper; Scraper-all tandem bowls; Scraper - Single bowl including pups 40 cu. yd. & over; Self-Propelled Hydrocrane; Tractor with Side Boom; Truck Mounted Hydrocrane	6.05	.27	.25		.03	
GROUP V						
Crane Operator - over 50 tons; Derrick; Electric Rail Type Tower Crane; Hoist (3 drum or more); Cable-operated Power Shovels, Draglines, Clamshells & Backhoes (over 5 cu. yd.); Quad Nine and Similar Push Unit	6.20	.27	.25		.03	
GROUP VI						
Cableway; Crawler or Truck Mounted Tower Crane; Wheel Excavator; Climbing tower crane	6.35	.27	.25		.03	

DECISION #AP-232 (cont'd) MODIFICATIONS P. 8

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$4.90	.30	.20	.10		
DUMP TRUCKS, TO & INCL. 6 CU. YDS.; Sweeper; Flatrack, single axle; Liquid & bulk tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance drivers, if used	5.00	.30	.20	.10		
DUMP TRUCKS, OVER 6 CU. YDS. TO & INCL. 12 CU. YDS.; Flatrack tandem axle; Battery men; Mechanic helpers; Material checkers; Cardex men; Expeditors; Man haul shuttle truck or bus	5.10	.30	.20	.10		
STRADDLE TRUCK; Lumber carrier; Liquid & bulk tankers, tandem axle	5.15	.30	.20	.10		
FORK LIFT; Fuel truck; Grease truck; Combination fuel & grease; Tiremen	5.20	.30	.20	.15		
DUMP TRUCKS, OVER 12 CU. YDS., TO & INCL. 19 CU. YDS.; Distributor; Cement mixer; Agitator truck to & incl. 10 cu. yds.; Liquid & bulk tankers, semi or combination	5.25	.30	.20	.10		
MULTI-PURPOSE TRUCK - Specialty & Hoisting	5.30	.30	.20	.10		
HIGH BOY; Lowboy; Floats; Semi; Cab operated distributor-semi; Liquid & bulk tankers, euclid, electric or similar; Dumptor, Youngbuggy, Jumbo & similar type equipment	5.35	.30	.20	.10		
MECHANICS	5.40	.30	.20	.10		
DUMP TRUCKS, OVER 19 CU. YDS. TO & INCL. 29 CU. YDS.; Truck driver snow plow	5.45	.30	.20	.10		

DECISION #AP-232 ...t'd)

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
TRUCK DRIVERS ...t'd)						
CEMENT MIXER, ...tor over 10 cu. yds. to & incl. 15 c... yds.	$5.50	.30	.20	.10		
DUMP TRUCKS, O... 39 CU. YDS. TO & INCL. 39 CU. YD... Heavy duty diesel mechanics; Body ...; Welders or combination me...	5.60	.30	.20	.10		
CEMENT MIXER, ...tor over 15 cu. yds.	5.75	.30	.20	.10		
DUMP TRUCKS, O... 39 CU. YDS. TO & INCL. 54 CU. YI...	5.80	.30	.20	.10		

MODIFICATIONS P. 10

DECISION #AP-233 - Mod. #1
(37 FR 18861 - September 15, 1972)
El Paso County, Colorado

Change:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Cement Masons:						
Cement Masons	$6.35	.30	.50	.60	.06	
Working with composition materials and color; Working on scaffold, swing stage or temporary platform over 25' or above permanent floor, roof or solidly planked opening; All power troweling, floating or floor grinding machines	6.60	.30	.50	.60	.06	
Painters:						
Brush & roller; Tapers; Textures	6.10	.20	.20		.02	
Paperhangers; Spray; Steel	6.60	.20	.20		.02	
Plumbers; Steamfitters	6.96	.45	.40	1.17	.05	
Tile Setters	6.74	.30	.50			
Power Equipment Operators (For Work in Tunnels, Shafts, & Raises)						
Brakeman	5.35	.27	.25		.03	
Motorman	5.70	.27	.25		.03	
Compressor (900 CFM & Over), Serving tunnels, shafts & raises	5.80	.27	.25		.03	
Air Tractors; Grout machine; Gunnite machine; Jumbo form; Mechanic; Welder	6.05	.27	.25		.03	
Concrete Placement Pumps 8" & over Discharge; Mechanic-Welder (Heavy duty); Mucking machine & Frontend loaders Underground;						
Slusher	6.20	.27	.25		.03	
Mole	6.60	.27	.25		.03	
Line Construction:						
Cable Splicers	8.44	.25	1%		3/4%	
Linemen	7.87	.25	1%		3/4%	
Equipment Ops.; Line equipment maintenance men	6.71	.25	1%		3/4%	
Groundmen	5.55	.25	1%		3/4%	

DECISION #AP-233 (cont'd)

MODIFICATIONS P. 11

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts & Raises)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP I						
Asphalt Screed; Brakeman; Drill Operator, smaller than William MF & similar; Helper to Heavy Duty Mechanic and/or Welder; Tractor Operator (under 70 HP), with or without attachments; Oiler	$5.20	.27	.25		.03	
GROUP II						
Air Compressor; Ditch Witch Trenching Machine and similar; Equipment Lubricating & Service Engineer; Fork Lift; Haulage Motorman (Brakeman); Operators of five or More Light Plants, Welding Machines, Compressors 360 C.F.M. or less, Pumps, Generators; Pugmill Operator; Pugmill; Pumps; Portable Screening Plant with or withour a Spray Bar; Screening Plants-With Classifier; Self-Propelled Rollers - 5 tons & under; Vacuum Well point system	5.55	.27	.25		.03	
GROUP III						
Asphalt Plant; Backfiller; Bituminous Spreader or Laydown Machine; Cableway Signalman; Caissons Drill; (William MF, similar and larger; C. M.I. and similar; Concrete Finish Machine; Concrete Gang Saws on Concrete Paving; Concrete Mixer (less than 1 yd.); Concrete Placement Pumps (under 8 in.); Conveyor (handling building materials); Distributors, bituminous surfaces; Drill, (diamond or core); Drill Rigs (Rotary, churn or cable tool); Elevating Graders; Engineer Fireman; Fireman or Tank Heater, Road; Grout Machine; Gunnite Machine; Hoists (1 drum); Loader (Barber Greene, etc.); Loader (up to & including 6 cu. yd.); Machine Doctor Mechanic; Motor Grader (blade); Road Stablization Machine; Rollers-Self-Propelled-all types over 5 tons Sandblasting Machine; Scrapers -						

MODIFICATIONS P. 12

POWER EQUIPMENT OPERATORS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP III (cont'd)						
Single Bowl - under 40 cu. yds.; Single Unit Portable Crusher-with or without washer; Tile Tamper, Wheel Mounted; Tractor (70 h.p. and over) (with or without attachments); Trenching Machine; Welder; Winch Operator on Truck; Concrete Batching Plants	$5.90	.27	.25		.03	
GROUP IV						
Concrete Mixer (over 1 cu. yd.); Concrete Paver 34 E or similar; Concrete Placement Pumps (8 in. & over); Crane (50 tons & under); Hoists (2 drums); Loader - over 6 cu. yd.; Mechanic - Welder (Heavy Duty); Mixermobile; Multiple Unit Portable Crusher - with or without washer; Pile Driver; Fireman; Cable-operated crane, truck mounted, 25 tons & over; Cable-operated power shovels, dragline; Clamshells, & backhoes (5 cu. yds. & under); Hydraulic backhoes, 1½ cu. yd. & over; Special utility Operator; Scooper; Scraper-all tandem bowls; Scraper - Single bowl including pups 40 cu. yd. & over; Self-Propelled Hydrocrane; Tractor with Side Boom; Truck Mounted Hydrocrane	6.05	.27	.25		.03	
GROUP V						
Crane Operator - over 50 tons; Derrick; Electric Rail Type Tower Crane; Hoist (3 drum or more); Cable-operated Power Shovels, Draglines, Clamshells & Backhoes (over 5 cu. yd.); Quad Nine and Similar Push Unit	6.20	.27	.25		.03	
GROUP VI						
Cableway; Crawler or Truck Mounted Tower Crane; Wheel Excavator; Climbing tower crane	6.35	.27	.25		.03	

DECISION #AP-233 (cont'd)

MODIFICATIONS P. 13

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS:						
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$4.90	.30	.20	.10		
DUMP TRUCKS, TO & INCL. 6 CU. YDS.; Sweeper; Flatrack, single axle; Liquid & bulk tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance drivers, if used	5.00	.30	.20	.10		
DUMP TRUCKS, OVER 6 CU. YDS. TO & INCL. 12 CU. YDS.; Flatrack tandem axle; Battery men; Mechanic helpers; Material checkers; Cardex men; Expeditors; Man haul shuttle truck or bus	5.10	.30	.20	.10		
STRADDLE TRUCK; Lumber carrier; Liquid & bulk tankers, tandem axle	5.15	.30	.20	.10		
FORK LIFT; Fuel truck; Grease truck; Combination fuel & grease; Tiremen	5.20	.30	.20	.15		
DUMP TRUCKS, OVER 12 CU. YDS., TO & INCL. 19 CU. YDS.; Distributor; Cement mixer; Agitator truck to & incl. 10 cu. yds.; Liquid & bulk tankers, semi or combination	5.25	.30	.20	.10		
MULTI-PURPOSE TRUCK - Specialty & Hoisting	5.30	.30	.20	.10		
HIGH BOY; Lowboy; Floats; Semi; Cab operated distributor-semi; Liquid & bulk tankers, euclid, electric or similar; Dumptor, Youngbuggy, Jumbo & similar type equipment	5.35	.30	.20	.10		
MECHANICS	5.40	.30	.20	.10		
DUMP TRUCKS, OVER 19 CU. YDS. TO & INCL. 29 CU. YDS.; Truck driver snow plow	5.45	.30	.20	.10		

DECISION #AP-233 (cont'd)

MODIFICATIONS P. 14

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS (cont'd)						
CEMENT MIXER, Agitator over 10 cu. yds. to & incl. 15 cu. yds.	$5.50	.30	.20	.10		
DUMP TRUCKS, OVER 29 CU. YDS. TO & INCL. 39 CU. YDS.; Heavy duty diesel mechanics; Body men; Welders or combination men	5.60	.30	.20	.10		
CEMENT MIXER, Agitator over 15 cu. yds.	5.75	.30	.20	.10		
DUMP TRUCKS, OVER 39 CU. YDS. TO & INCL. 54 CU. YDS.	5.80	.30	.20	.10		

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-234 - Mod. #1						
(37 FR 18868 - September 15, 1972)						
Adams; Araphoe; Boulder (Southeast portion incl. City of Boulder); Denver; Douglas (Northern portion); Elbert (Northern portion); Jefferson; Weld (Southwest portion) Counties, Colorado						
Change:						
Bricklayers; Stonemasons (Remaining Counties)	$8.25	.45	.50	.25	.05	
Cement Masons:						
Cement Masons Working with composition materials and color; Working on scaffold, swing stage or temporary platform over 25'; Power troweling & floor grinding machines	6.60	.30	.50	.60	.06	
	6.85	.30	.50	.60	.06	
Electricians (Remaining Counties)	8.00	.22	1%+.16	.18	2/10%	
Cable Splicers (Remaining Cos.)	8.25	.22	1%+.16	.18	2/10%	
Power Equipment Operators (For Work in Tunnels, Shafts, & Raises)						
Brakeman	5.35	.27	.25		.03	
Motorman	5.70	.27	.25		.03	
Compressor (900 CFM & Over), Serving tunnels, shafts & raises Air Tractors; Grout machine; Gunnite machine; Jumbo form;	5.80	.27	.25		.03	
Mechanic; Welder Concrete Placement Pumps 8" & over Discharge; Mechanic-Welder (Heavy Duty); Mucking Machine & Frontend Loaders Underground;	6.05	.27	.25		.03	
Slusher	6.20	.27	.25		.03	
Mole	6.60	.27	.25		.03	
Line Construction:						
Cable Splicers	8.44	.25	1%		3/4%	
Linemen	7.87	.25	1%		3/4%	
Equipment Ops.; Line equipment maintenance men	6.71	.25	1%		3/4%	
Groundmen	5.55	.25	1%		3/4%	

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts & Raises)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
GROUP I						
Asphalt Screed; Brakeman; Drill Operator, smaller than William MF & similar; Helper to Heavy Duty Mechanic and/or Welder; Tractor Operator (under 70 HP), with or without attachments; Oiler	$5.20	.27	.25		.03	
GROUP II						
Air Compressor; Ditch Witch Trenching Machine and similar; Equipment Lubricating & Service Engineer; Fork Lift; Haulage Motorman (Brakeman); Operators of five or More Light Plants, Welding Machines, Compressors 360 C.F.M. or less, Pumps, Generators; Pugmill Operator; Pugmill; Pumps; Portable Screening Plant with or withour a Spray Bar; Screening Plants-With Classifier; Self-Propelled Rollers - 5 tons & under; Vacuum Well point system	5.55	.27	.25		.03	
GROUP III						
Asphalt Plant; Backfiller; Bituminous Spreader or Laydown Machine; Cableway Signalman; Caissons Drill; (William MF, similar and larger; C. M.I. and similar; Concrete Finish Machine; Concrete Gang Saws on Concrete Paving; Concrete Mixer (less than 1 yd.); Concrete Placement Pumps (under 8 in.); Conveyor (handling building materials); Distributors, bituminous surfaces; Drill, (diamond or core); Drill Rigs (Rotary, churn or cable tool); Elevating Graders; Engineer Fireman; Fireman or Tank Heater, Road; Grout Machine; Gunnite Machine; Hoists (1 drum); Loader (Barber Greene, etc.); Loader (up to & including 6 cu. yd.); Machine Doctor Mechanic; Motor Grader (blade); Road Stablization Machine; Rollers-Self-Propelled-all types over 5 tons Sandblasting Machine; Scrapers -						

POWER EQUIPMENT OPERATORS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
GROUP III (cont'd)						
Single Bowl - under 40 cu. yds.; Single Unit Portable Crusher-with or without washer; Tile Tamper, Wheel Mounted; Tractor (70 h.p. and over) (with or without attachments); Trenching Machine; Welder; Winch Operator on Truck; Concrete Batching Plants	$5.90	.27	.25		.03	
GROUP IV						
Concrete Mixer (over 1 cu. yd.); Concrete Paver 34 E or similar; Concrete Placement Pumps (8 in. & over); Crane (50 tons & under); Hoists (2 drums); Loader - over 6 cu. yd.; Mechanic - Welder (Heavy Duty); Mixermobile; Multiple Unit Portable Crusher - with or without washer; Pile Driver; Fireman; Cable-operated crane, truck mounted, 25 tons & over; Cable-operated power shovels, dragline; Clamshells, & backhoes (5 cu. yds. & under); Hydraulic backhoes, 1½ cu. yd. & over; Special utility Operator; Scooper; Scraper-all tandem bowls; Scraper - Single bowl including pups 40 cu. yd. & over; Self-Propelled Hydrocrane; Tractor with Side Boom; Truck Mounted Hydrocrane	6.05	.27	.25		.03	
GROUP V						
Crane Operator - over 50 tons; Derrick; Electric Rail Type Tower Crane; Hoist (3 drum or more); Cable-operated Power Shovels, Draglines, Clamshells & Backhoes (over 5 cu. yd.); Quad Nine and Similar Push Unit	6.20	.27	.25		.03	
GROUP VI						
Cableway; Crawler or Truck Mounted Tower Crane; Wheel Excavator; Climbing tower crane	6.35	.27	.25		.03	

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oths
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$4.90	.30	.20	.10		
DUMP TRUCKS, TO & INCL. 6 CU. YDS.; Sweeper; Flatrack, single axle; Liquid & bulk tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance drivers, if used	5.00	.30	.20	.10		
DUMP TRUCKS, OVER 6 CU. YDS. TO & INCL. 12 CU. YDS.; Flatrack tandem axle; Battery men; Mechanic helpers; Material checkers; Cardex men; Expeditors; Man haul shuttle truck or bus	5.10	.30	.20	.10		
STRADDLE TRUCK; Lumber carrier; Liquid & bulk tankers, tandem axle	5.15	.30	.20	.10		
FORK LIFT; Fuel truck; Grease truck; Combination fuel & grease; Tiremen	5.20	.30	.20	.15		
DUMP TRUCKS, OVER 12 CU. YDS., TO & INCL. 19 CU. YDS.; Distributor; Cement mixer; Agitator truck to & incl. 10 cu. yds.; Liquid & bulk tankers, semi or combination	5.25	.30	.20	.10		
MULTI-PURPOSE TRUCK - Specialty & Hoisting	5.30	.30	.20	.10		
HIGH BOY; Lowboy; Floats; Semi; Cab operated distributor-semi; Liquid & bulk tankers, euclid, electric or similar; Dumptor, Youngbuggy, Jumbo & similar type equipment	5.35	.30	.20	.10		
MECHANICS	5.40	.30	.20	.10		
DUMP TRUCKS, OVER 19 CU. YDS. TO & INCL. 29 CU. YDS.; Truck driver snow plow	5.45	.30	.20	.10		

DECISION #AP-234 (cont'd) MODIFICATIONS P. 19

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
TRUCK DRIVERS (cont'd)						
CEMENT MIXER, Agitator over 10 cu. yds. to & incl. 15 cu. yds.	$5.50	.30	.20	.10		
DUMP TRUCKS, OVER 29 CU. YDS. TO & INCL. 39 CU. YDS.; Heavy duty diesel mechanics; Body men; Welders or combination men	5.60	.30	.20	.10		
CEMENT MIXER, Agitator over 15 cu. yds.	5.75	.30	.20	.10		
DUMP TRUCKS, OVER 39 CU. YDS. TO & INCL. 54 CU. YDS.	5.80	.30	.20	.10		

MODIFICATIONS P. 20

DECISION #AP-444 - Mod. #2
(37 FR 24517 - November 17, 1972)
Statewide, Delaware

Change:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Laborers (New Castle County - Heavy and Highway):						
Common laborers; landscapers; planters; seeders; aborists; asphalt tampers & rakers; concrete pitmen; puddlers; rubber magazine tenders; railroad trackmen; signal men	$3.00	.40	.20			
Pipelayers	3.15	.40	.20			
Wagon drill; diamond point drill; gunnite nozzlemen; form setters; blasters; caisson & cofferdams (open air, below 8')	3.30	.40	.20			
Laborers (Kent & Sussex Counties - Heavy & Highway):						
Common laborers; landscapers; planters; seeders; aborists; asphalt tampers & rakers; concrete pitmen; puddlers, rubber magazine tenders; railroad trackmen; signal men	2.85	.40	.20			
Pipelayers	3.00	.40	.20			
Wagon drill; diamond point drill; gunnite nozzlemen, form setter; blasters; caisson & cofferdams (open air, below 8')	3.15	.40	.20			

MODIFICATIONS P. 22

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-51 - Mod. #1 (37 FR 26235 - December 8, 1972) Lake County, Illinois						
Change:						
Electricians	$9.25	.50	1%+.30		.1%	
Material Handlers	4.00	.50	1%+.30		.1%	
DECISIONS #AP-52 - Mod. #1 (37 FR 26191 - December 8, 1972) Lake County, Illinois						
Change:						
Electricians:						
Electricians	9.25	.50	1%+.30		.1%	
Material Handlers	4.00	.50	1%+.30		.1%	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-18 - Mod. #3 (37 FR 20420 - September 29, 1972) Benton, Carroll, Cass, Clinton Fulton, Howard, Jasper, Miami, Newton, Pulaski, Tippecanoe, Tipton, Wabasja & White Counties, Indiana						
Change: Modification #1 37 FR 26199 December 8, 1972 to Modification #2						
DECISION #AP-21 - Mod. #3 (37 FR 20433 - September 29, 1972) Bartholomew, Brown, Clark, Dearborn, Decatur, Floyd, Franklin, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Monore, Ohio, Orange, Ripley, Scott, Switzerland & Washington Counties, Indiana						
Change: Modification #1 37 FR 26200 December 8, 1972 to Modification #2						
Omitt: Wayne County Spray	6.60					
DECISION #AP-22 - Mod. #3 (37 FR 20437 - September 29, 1972) Crawford, Dubois, Gibson, Perry, Pike, Posey, Spencer, Vanderburgh & Warrick Counties, Indiana						
Change: Modification #1 37 FR 26200 December 8, 1972 to Modification #2						

MODIFICATIONS P. 23

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-8,625 - Mod. #5 (37 FR 12471 - June 23, 1972) Boyd County, Kentucky						
Change:						
Leadburners	$7.80	.30		d	.01	
Omit:						
Elevator Constructors	4.455	.105	.125	½%+a+b	.005	
Elevator Constructors' Helpers	70% JR	.105	.125	½%+a+b	.005	
Elevator Constructors' Helpers (Prob.)	50% JR					
Footnotes "a" and "b"						
DECISION #AP-132 - Mod. #5 (37 FR 21763 - October 13, 1972) Jefferson County, Kentucky						
Add:						
Leadburners	7.80	.30		c	.01	
Footnote:						
c. Nine paid holidays: A through F, plus Washington's Birthday, Christmas Eve 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.						
DECISION #AP-133 - Mod. #4 (37 FR 21766 - October 13, 1972) Warren County, Kentucky						
Add:						
Leadburners	7.80	.30		b	.01	
Footnote:						
b. Nine paid holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve 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.						

MODIFICATIONS P. 24

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-134 - Mod. #3 (37 FR 21769 - October 13, 1972) McCracken County, Kentucky						
Change:						
Carpenters:						
Carpenters	$6.15	.25	.10		.03	
Millwrights and Piledrivermen	6.40	.25	.10		.03	
Electricians:						
Electricians	7.55	.25	1%		¼ of 1%	
Cable Splicers	7.80	.25	1%		¼ of 1%	
Leadburners	7.80	.30		d	.01	
DECISION #AP-135 - Mod. #2 (37 FR 21771 - October 13, 1972) Fayette County, Kentucky						
Change:						
Leadburners	7.80	.30		c	.01	
Sheet Metal Workers	8.55	.60	.60		.05	
DECISION #AP-366 - Mod. #1 (37 FR 26245 - December 8, 1972) Calcasieu Parish, Louisiana						
Change:						
Carpenters:						
Piledrivermen	$6.65				.04	
DECISION #AP-367 - Mod. #1 (37 FR 26247 - December 8, 1972) Calcasieu Parish, Louisiana						
Change:						
Carpenters:						
Piledrivermen	6.65				.04	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-410 - Mod. #7 (37 FR 15823 - August 4, 1972) Baltimore City and County, Maryland						
Change:						
Modification #3 37 FR 21219 October 6, 1972						
Modification #4 37 FR 22703 October 20, 1972						
Modification #5 37 FR 23055 October 27, 1972						
Modification #6 37 FR 25615 December 1, 1972						
To Read: (37 FR 15823 - August 4, 1972)						
DECISION #AP-517 - Mod. #1 (37 FR 26218 - December 8, 1972) Cass, Clay, Jackson, Platte, & Ray Counties, Missouri and Johnson & Wyandotte Counties, Kansas						
Change:						
Building Construction(Cass, Clay, Jackson, Platte, & Ray Counties, Missouri):						
Painters:						
Spray	$8.52	.20	.20			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-236 - Mod. #3 (37 FR 19919 - September 22, 1972) Statewide (excluding the Nevada Test Site and Tonopah Test Range), Nevada						
Change:						
Electricians:						
Clark & Lincoln Counties, and Nye County (south of Mt. Diablo Base Line)						
Electricians	9.60	.43	1%		.05	
Cable splicers	9.93	.43	1%		.05	
DECISION #AP-243 - Mod. #3 (37 FR 19945 - September 22, 1972) Clark & Lincoln Counties and that portion of Nye County south of Highway #6 excluding the Nevada Test site, Nevada						
Change:						
Electricians:						
Electricians	9.60	.43	1%		.05	
Cable splicers	9.93	.43	1%		.05	

MODIFICATIONS P. 27

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION # AP-34 - Mod #1 (37 FR 24563 - November 17, 1972) Butler County, Ohio						
Change:						
Carpenters (Entire County)	$8.70	.40	.55		.025	
Ironworkers, structural, ornamental & reinforcing Middletown & Northeastern part of County	9.10	.40	.65		.02	
Lead Burners	8.25	.30		d	.01	
Plumbers & Steamfitters South 1/2 of County	8.87	.67	.65		.01	
DECISION #AP-35 - Mod. #1 (37 FR 24568 - November 17, 1972) Clark County, Ohio						
Change:						
Millwrights	$8.35	.30	.35		.02	
Piledrivermen	8.35	.30	.35		.02	
Lead burners	8.25	.30		c	.01	
DECISION #AP-36 - Mod. #1 (37 FR 24572 - November 17, 1972) Cuyahoga County, Ohio						
Change:						
Lathers	$10.41				.01	
Lead burners	8.25	.30		c	.01	
DECISION #AP-37 - Mod. #2 (37 FR 24576 - November 17, 1972) Franklin & Pickaway Counties, Ohio						
Change:						
Electricians - Pickaway Co.; the Twps. of Deer Creek, Perry, Pickaway, Salt Creek & Wayne	$8.45	.28	1%		.02	
Leadburners	8.25	.30		c	.01	

MODIFICATIONS P. 28

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-38 - Mod. #2 (37 FR 24580 - November 17, 1972) Greene & Montgomery Counties, Ohio						
Change:						
Carpenters	$7.99	.40	.70		.03	
Piledrivermen	7.99	.40	.70		.03	
Ironworkers, All						
Within 15 mile of Dayton	8.95	.40	.65		.02	
Beyond 15 miles of Dayton	9.10	.40	.65		.02	
Electricians, Communication Installer & linemen within 11 mi. radius from 3rd & Main sts.						
Dayton	8.81	.35	1%+.75		.5%	
Beyond 11 mi. radius	9.04	.35	1%+.75		.5%	
Laborers:						
Unskilled	6.54	.45	.20			
All machine Tools	6.69	.45	.20			
Tenders to bricklayers, plasterers, masons	7.21	.45	.20			
Sewer pipe layer (non-metallic)	6.74	.45	.20			
Bottom men	6.74	.45	.20			
Railroad spikers (by hand)	6.69	.45	.20			
Torchmen on wrecking	6.84	.45	.20			
Gunnite operator	7.04	.45	.20			
Swing scaffold over 15 ft.	6.69	.45	.20			
Leadburner	8.25	.30		e	.01	
Soft floor layer- resilient floor layer	7.85	.40	.10		.03	
DECISION #AP-44 Mod. #1 (37 FR 24608 - November 17, 1972) Portage County, Ohio						
Change:						
Lathers	$8.55	.30	.15		.01	
Leadburners	8.25	.30		c	.01	

MODIFICATIONS P. 29

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-40 - Mod. #2 (37 FR 24590 - November 17, 1972) Licking County, Ohio						
Change:						
Leadburners	$8.25	.30		c	.01	
Plumbers	8.83	.35	.30		.02	
Steamfitters	8.83	.35	.30		.02	
DECISION #AP-41 - Mod. #2 (37 FR 24594 - November 17, 1972) Lucas County, Ohio						
Change:						
Asbestos Workers	$9.73	.20	.15		.02	
Carpenters	8.75	.35	.35		.025	
Millwrights	8.75	.35	.35		.025	
Piledrivermen	8.75	.35	.35		.025	
Leadburners	8.25	.30		c	.01	
Linemen	10.00	.25	1%		.25%	
Cable Splicer	10.25	.25	1%		.25%	
Sheetmetal workers	9.175	.50	.40		.02	
DECISION #AP-42 - Mod. #2 (37 FR 24599 - November 17, 1972) Mahoning County, Ohio						
Change:						
Leadburners	$8.25	.30		c	.01	
Power Equipment Operators:						
Class I	8.62	.35	.50		.12	
Class II	8.13	.35	.50		.12	
Class III	7.92	.35	.50		.12	
Class IV	7.56	.35	.50		.12	
Oiler	7.46	.35	.50		.12	
Rigs - Pile driving or cassion type	8.89	.35	.50		.12	
Electricians:						
Smith Township	8.90	.30	1%+.10		.2%	

MODIFICATIONS P. 30

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-45 - Mod. #2 (37 FR 24613 - November 17, 1972) Stark County, Ohio						
Change:						
Leadburners	$8.25	.30		c	.01	
Electricians	8.90	.30	1%+.10		.2%	
Line Construction:						
Linemen	8.90	.30	1%+.10		.25%	
Line Equipment Operator	8.90	.30	1%+.10		.25%	
Truck drivers	6.25	.30	1%+.10		.25%	
Groundman 1 Yr. and over	5.80	.30	1%+.10		.25%	
Groundman under 1 Yr.	5.35	.30	1%+.10		.25%	
Truck Drivers:						
Straight and tandem axle	6.30	e 11.50	e 4.00			
Semis & trailers	6.35	e 11.50	e 4.00			
Equipment movers	6.40	e 11.50	e 4.00			
Helpers	6.20	e 11.50	e 4.00			
DECISION #AP-46 - Mod. #1 (37 FR 24618 - November 17, 1972) Summit County, Ohio						
Change:						
Lathers (South part of Co.)	8.55	.30	.15		.01	
Lathers (North part of Co.)	10.41				.01	
Leadburners	8.25	.30		c	.01	
Marble setters	8.30	.52				
Marble setters helpers	7.80	.52				
Terrazzo Workers	8.30	.52				
Terrazzo workers' helpers	7.80	.52				
Tile setters	8.30	.52				
Tile setters' helpers	7.80	.52				
DECISION #AP-47 - Mod. #2 (37 FR 24623 - November 17, 1972) Trumbull County, Ohio						
Change:						
Leadburners	$8.25	.30		c	.01	
Power Equipment Operators:						
Class I	8.62	.35	.50		.12	
Class II	8.13	.35	.50		.12	
Class III	7.92	.35	.50		.12	
Class IV	7.56	.35	.50		.12	
Oiler	7.46	.35	.50		.12	
Rigs-pile driving or cassion type	8.89	.35	.50		.12	

MODIFICATIONS P. 31

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pension.	Vacation	App. Tr.	Others
DECISION #AP-360 - Mod. #4 (37 FR 24626 - November 17, 1972) Oklahoma County, Oklahoma						
Change:						
Truck Drivers:						
Truck drivers for heavy equipment, such as lowboys, heavy winch & floats	$5.17					
Heavy earth moving equipment such as euclids, Mississippi wagons, 10 yds. and tail dumps	5.37					
Truck drivers and swampers, such as dump trucks, flat beds, stake bodies and 3/4 and 1/2 ton pick-up trucks	5.07					
DECISION #AP-364 - Mod. #1 (37 FR 26249 - December 8, 1972) Tulsa County, Oklahoma						
Change:						
Line Construction:						
Linemen	6.86		1%		1/2%	
Cable splicers	7.26		1%		1/2%	
Hole digger operator	6.24		1%		1/2%	
Heavy equipment operator (or pole cats equivalent)	6.24		1%		1/2%	
Line truck driver (winch op.)	5.64		1%		1/2%	
Jackhammer man	5.15		1%		1/2%	
Powdermen	6.24		1%		1/2%	
Truck driver (flat bed, ton and half and under	4.85		1%		1/2%	
Groundmen	4.59		1%		1/2%	
Add:						
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

MODIFICATIONS P. 32

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-343 - Mod. #6 (37 FR 20488 - September 29, 1972) Bexar County, Texas						
Change:						
Line Construction:						
Lineman	$6.905	.28	1%		1/2%	
Groundmen	4.67	.28	1%		1/2%	
Groundmen, 1st 6 mos.	3.45	.28	1%		1/2%	
DECISION #AP-357 - Mod. #1 (37 FR 24005 - November 10, 1972) Cameron, Hidalgo, Starr & Willacy Counties, Texas						
Change:						
Line Construction:						
Lineman	5.48	.28	1%		1/2%	
Groundman	3.47	.28	1%		1/2%	
Groundman, 1st 6 mos.	2.39	.28	1%		1/2%	
DECISION #AP-440 - Mod. #2 (37 FR 23493 - November 3, 1972) The Cities of Norfolk, Chesapeake, Portsmouth and Virginia Beach, Virginia						
Change:						
Bricklayers & stone masons	$6.50	.30	.30		.02	
Bricklayers & stone masons on stacks or chimneys 50' & over	6.75	.30	.30		.02	
Ironworkers:						
Structural, ornamental, machinery movers, riggers & fence erectors and reinforcing	6.55	.30	.30		.03	
Marble setters	5.10	.30	.20			
Terrazzo workers	5.10	.30	.20			
Tile setters	5.10	.30	.20			
Omit:						
Plumbers & steamfitters	5.85	.40	.25		.03	
Add:						
Plumbers & steamfitters, jobs under $750,000	6.21	.40	.25		.04	
Plumbers & steamfitters, jobs $750,000 and over	6.96	.40	.25		.04	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-53 - Mod. #1 (37 FR 25643 - December 1, 1972) Brown County, Wisconsin						
Change:						
Bricklayers	$6.80	.30	.15	.30		
Carpenters	6.93	.25	.25		.02	
Cementmasons	6.23	.30	.15	.30		
Marble setters	6.80	.30	.15	.30		
Millwrights	7.18	.25	.25		.02	
Piledrivermen	7.18	.25	.25		.02	
Soft floor layers	6.93	.25	.25		.02	
Stonemasons	6.80	.30	.15	.30		
Tile setters	6.80	.30	.15	.30		
Add:						
Carpenters (Residential)	5.20	.25	.25		.02	
DECISION #AP-54 - Mod #1 (37 FR 25647 - December 1, 1972) Dane County, Wisconsin						
Change:						
Asbestos workers	$8.03	.45	.50	.50	.03	
Lathers	7.55	.20	.20		.01	
DECISION # AP-56 - Mod. #1 (37 FR 25654 - December 1, 1972) Juneau County, Wisconsin						
Change:						
Asbestos Workers	$8.03	.45	.50	.50	.03	
Lathers (Balance of County)	7.55	.20	.20		.01	
DECISION #AP-57 - Mod. #1 (37 FR 25658 - December 1, 1972) Kenosha County, Wisconsin						
Change:						
Asbestos Workers	$8.03	.45	.50	.50	.03	
Lathers	7.55		.35		.01	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION # AP-58 - Mod. #1 (37 FR 25662 - December 1, 1972) La Crosse County, Wisconsin						
Change:						
Asbestos Workers (23 mi. radius around City of La Crosse)	$6.40	.45	.50	.50	.03	
Asbestos Workers (Remainder of County)	8.03	.45	.50	.50	.03	
Lathers	6.16		.15		.01	
DECISION #AP-60 - Mod. #1 (37 FR 25669 - December 1, 1972) Milwaukee, Ozaukee, Waukesha & Washington Counties, Wisconsin						
Change:						
Asbestos Workers	$8.03	.45	.50	.50	.03	
Electricians	8.39	.44	1%+.20	7%	.25%	
DECISION #AP-62 - Mod. #1 (37 FR 25678 - December 1, 1972) Racine County, Wisconsin						
Change:						
Asbestos Workers	$8.03	.45	.50	.50	.03	
Lathers	6.45	.40	.70		.01	
Add:						
Cement masons (Hvy. & Hwy Const.)	6.70	.40	.40			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-63 - Mod. #1 (37 FR 25682 - December 1, 1972) Rock County, Wisconsin						
Change:						
Asbestos Workers	$8.03	.45	.50	.50	.03	
Bricklayers & Stonemasons	7.40	.25	.15	.25		
Sheet Metal Workers	7.71	.35	.20	.20	.02	
Terrazzo Workers	7.40	.25	.15	.25		
Tile Setters	7.40	.25	.15	.25		
Add:						

WISC. 10-Lab. G

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS BUILDING CONSTRUCTION:						
BUILDING CONSTRUCTION:						
General laborers, concrete laborers building wrecker, form strippers concrete saw & power buggy operator	$6.20	.20	.15			
Mortar mixer, power rammer, vibrator operator, Air chisel operator (over 18 lbs.), chipping hammer operator (over 18 lbs.), fork lift operator railroad tampler plaster mixer and concrete pump hose operator (1 man)	6.35	.20	.15			
Mason tender	6.20	.20	.15			
Pneumatic hammer (60 lbs or over Manf. Specifications)	6.45	.20	.15			
BITUMINOUS PAVING LABORERS:						
General laborer	6.20	.20	.15			
Raker and Luteman	6.30	.20	.15			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-64 - Mod. #1 (37 FR 25686 - December 1, 1972) Winnebago County, Wisconsin						
Change:						
Carpenters	$6.93	.25	.25		.02	
Millwrights	7.18	.25	.25		.02	
Painters:						
Brush & structural steel	5.90	.30	.10			
Paperhanging	5.90	.30	.10			
Spray	6.40	.30	.10			
Sandblasting	6.40	.30	.10			
Piledrivermen	7.18	.25	.25		.02	
Soft floor layers	6.93	.25	.25		.02	
Add:						
Carpenters (Residential)	5.20	.25	.25		.02	
DECISION #AP-65 - Mod. #1 (37 FR 25606 - December 1, 1972) Dane County, Wisconsin						
Change:						
Asbestos Workers	$8.03	.45	.50	.50	.03	
Lathers	7.55	.20	.20		.01	
DECISION #AP-66 - Mod. #1 (37 FR 25609 - December 1, 1972) La Crosse County, Wisconsin						
Change:						
Asbestos Workers (23 mi. radius around City of La Crosse)	$6.40	.45	.50	.50	.03	
Asbestos Workers (Remainder of County)	8.03	.45	.50	.50	.03	
Lathers	6.16		.15		.01	
DECISION #AP-67 - Mod. #1 (37 FR 25612 - December 1, 1972) Milwaukee, Ozaukee, Waukesha, & Washington Counties, Wisconsin						
Change:						
Asbestos Workers	$8.03	.45	.50	.50	.03	
Electricians	8.39	.44	1%+.20	7%	.25%	

SUPERSEDEAS DECISION

STATE: Florida
COUNTY: Orange
DECISION NUMBER: AP-130
DATE: Date of Publication
Supersedes Decision No. AM-459 dated August 20, 1971 in 36 FR 16394.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Building Construction						
Asbestos workers	$6.24	.25	.20	.75	.02	
Boilermakers	6.85	.40	.60		.01	
Bricklayers:						
Bricklayers	6.15	.35	.20			
Stonemasons	6.15	.35	.20			
Terrazzo workers	6.10					
Marble masons	6.15	.35	.20			
Tile setters	6.10					
Plasterers	5.20	.55	.20			
Cement masons	5.40	.35	.20			
Carpenters:						
Carpenters	5.67	.50			c $2.00	
Piledrivermen	5.92	.50			c $2.00	
Soft floor layers	5.67	.50			c $2.00	
Millwrights	5.92	.30	.45			
Electricians:						
Electrical contracts less than $20,000.00	6.27	.25	1%		1%	
All others	7.55	.25	1%		1%	
Elevator constructors	5.39	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob)	50%JR					
Ironworkers, structural & ornamental	6.30	.35	.25	.43	.01	
Ironworkers, reinforcing	6.30	.35	.25	.43	.01	
Laborers:						
Air tool operator	3.85	.15				
Laborers	4.00	.15				
Masons tenders	4.00	.15				
Mortar mixers	4.00	.15				
Pipelayers (concrete and clay)	4.00	.15				
Plasterers tenders	4.00	.15				
Lathers	6.25	.20	.10			
Linemen:						
Linemen	6.95	.20	1%		¼ of 1%	
Cable splicers	6.95	.20	1%		¼ of 1%	
Cable splicers helpers	6.45	.20	1%		¼ of 1%	
Groundmen:						
Up to 1 year experience	2.64	.20	1%		¼ of 1%	
Over 1 year experience	3.70	.20	1%		¼ of 1%	
Heavy equpiment operator	6.95	.20	1%		¼ of 1%	
Winch truck operator	5.11	.20	1%		¼ of 1%	
Pick up or flat bed operator	4.19	.20	1%		¼ of 1%	
Painters						
Brush, roller	5.20	.30	.20			
Spray,	5.75	.30	.20			
Paperhangers	5.70	.30	.20			
Sandblaster	5.70	.30	.20			
Structural steel	5.45	.30	.20			

48 - Fla. Y (2-2)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Plumbers	$5.80	.225	.25	.335	.05	
Glaziers	5.20	.20			.005	
Roofers:						
Roofers	5.10	.10			.05	
Kettlemen	3.65	.10			.05	
Roofers helpers	3.00	.10			.05	
Sheet metal workers	6.34	.20	.20	.20	.01	
Sprinkler fitters	8.21	.25	.40		.07	
Steam fitters	5.80	.225	.25	.335	.05	
Terrazzo workers helpers	4.40					
Tile setters helpers	4.40					
Truck drivers	4.00	.15				
Well drillers	2.25					
Marble setters helpers	4.40					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTES:

a. Six paid holidays, A through F.

b. Employer contributes 1% 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. Per month per employee.

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

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FLORIDA 1 - PEO S 1 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Building Construction						
POWER EQUIPMENT OPERATORS:						
Cranes, derricks, clam shells, draglines, piledriver (including auger & boring machine for drilling in piling), backhoes, hydra cranes, grade all, shovels, patrols, cableways, tug boat captain (150 H.P. or more), multi-bowl oper (similar to R.G. LaTourneau Model L-60-2 or 3 twenty cu yd scrapers), front end loaders, (over 4 cy cap.), side boom cats, multi-drum hoist (for rigging), mechanic (heavy equip.), tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 ton cap.), concrete pump with boom (mobile), high lift or fork lift (second floor & higher) Locomotive engineer (jobs not covered by railroad unions)	$7.03	.30	.25		.05	
Bulldozers, bridge cranes (20 tons & under), highlift or fork lift (up to 2nd floor), straddle buggys, hoists (other than rigging) including winch truck not mobile & used as a hoist, front end loader (over 2 cy & up to & incl., 4 cy cap.), trenching machine (ladder & wheel type) over 6' cut & over 24" width, concrete paver & scrapers	5.99	.30	.25		.05	
Concrete pumps, front end loader (2cy or less not used as hoist), mobile winch trucks, self-propelled sub-grader, asphalt paving machine, concrete mixer, tractors, air compressor plant (2 or more compressors on a common manifold), lubricating engineer (mobile plant), pavement breakers, street sweeping machines	5.18	.30	.25		.05	

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FLORIDA 1 - PEO S 2 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (cont'd)						
Tractor operated sweeper, trenching machine (ladder & wheel type maximum cut 6' & maximum width 24"), firemen, self-propelled rollers, wellpoint pump, asphalt distributor, water truck driver, motor boat operator, oiler, mechanics' helpers, pumpman (other than wellpoint up to & incl., 5 pumps within 300 ft. radius), self-propelled sweepers, combination pump, compressor & combustion type welding machine	$4.21	.30	.25		.05	

Heavy & Highway Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Air tool operator	$1.60					
Air Compressor	1.60					
Backhoe	2.00					
Batch plant scale operator	1.60					
Bricklayers, manhole	1.75					
Bulldozer	2.00					
Carpenter	2.29					
Carpenter helpers	1.60					
Concrete finisher	2.00					
Concrete finisher helper	1.60					
Concrete finish machine operator	1.75					
Concrete joint machine operator	1.60					
Concrete joint saw operator	1.60					
Concrete power operator	2.00					
Concrete spray cure machine operator	1.60					
Concrete spreader operator	1.75					
Crane, derrick, dragline	2.20					
Earth mover, heavy rubber tired	1.90					
Form setter, paving & curb	1.60					
Form setter, helper	1.60					
Gradall	2.25					
Laborers, common	1.60					
Laborers concrete	1.60					
Loaders	2.00					
Longitudinal float operator	1.75					
Mechanics	2.50					
Mechanic helper	1.60					
Mixers, 16 c.f. or less	1.60					
Motor grader	2.25					
Oiler, greaseman	1.70					
Painter, structural steel	2.50					
Pipelayer	1.62					
Pump	1.60					
Reinforcing Ironworkers	3.00					
Reinforcing Ironworkers helpers	1.90					
Roller	1.65					
Sheet metal worker	3.50					
Subgrade machine operator	1.60					
Tractor, light rubber tired	1.65					
Tractor over 80 hp.	1.70					
Trenching machine	2.00					
Truck crane	2.00					
Truck driver	1.60					
Truck driver, lowboy	1.75					

SUPERSEDEAS DECISION

STATE: Florida
DECISION NUMBER: AP-131
Supersedes Decision No. AM-9697 dated April 28, 1972 in 37 FR 9175..
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: Duval
DATE: Date of Publication

16-Fla. P (1-2)

Building Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Asbestos workers	$6.68	.25	.15			
Boilermakers - Blacksmiths	6.85	.40	.60		.01	
Bricklayers:						
Bricklayers	6.38	.25	.10		.02	
Stonemasons	6.38	.25	.10		.02	
Tile setters	5.81	.25	.30	.18	.02	
Marble masons	5.81	.25	.30	.18	.02	
Terrazzo workers	5.81	.25	.30	.18	.02	
Carpenters:						
Carpenters	6.40	.34	.20	.15	.03	
Millwrights	7.24	.29	.20		.02	
Piledrivermen	6.40	.34	.20	.15	.03	
Soft floor layers	5.95	.29	.20	.15	.02	
Acoustical workers	6.40	.34	.20	.15	.03	
Cement masons	5.68	.25	.10		.01	
Electricians	7.25	.25	1%	4%	1%	
Linemen:						
Linemen	5.80	.20	1%		‡ of 1%	
Cable splicers	6.00	.20	1%		‡of 1%	
Heavy equipment operators	5.80	.20	1%		‡ of 1%	
Winch truck operators	4.43	.20	1%		‡ of 1%	
Groundman truck driver	3.20	.20	1%		‡ of 1%	
Groundman 1st class	2.90	.20	1%		‡ of 1%	
Groundman 2nd class	2.62	.20	1%		‡ of 1%	
Elevator constructors	6.17	.17	.185	2% + a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2% + a&b	.005	
Elevator constructors' helpers (prob.)						
Glaziers	6.85				.01	
Ironworkers:						
Structural	7.00	.42	.40			
Ornamental	7.00	.42	.40			
Reinforcing	7.00	.42	.40			
Laborers:						
Laborers	3.80					
Mechanbial tool, power buggy, pipe-ers & gunnite workers	4.00					
Mason tenders, mortar mixers & grouters	4.10					
Gunite nozzlemen	4.25					
Highway formsetters	4.40					
Lathers	5.51		.10		.015	
Painters:						
Painters, brush	5.70	.15	.15			
Spary	6.225	.15	.15			
Swing stage	6.225	.15	.15			
Structural steel erected	6.225	.15	.15			

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16-Fla. P (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Painters (cont'd):						
Smoke stacks, steeples, flag poles, tanks on legs above 15 ft., radio towers & lighthouses	$6.985	.15	.15			
Sandblasters	6.225	.15	.15			
Bridge	6.985	.15	.15			
Lead burners	6.35	.25		d	.01	
Duval County only: Sound & communi-cations technicians	2.95		1%	c		
Plasterers	5.86	.25	.15		.015	
Plumbers:						
Plumbers	8.00	.30	.35		.06	
Steamfitters	8.00	.30	.35		.06	
Air conditioning & speculative housing & refrigeration service	6.40	.30	.35		.06	
Roofers	6.15	.20				
Roofers' helpers & kettlemen	3.38	.20				
Sheet metal workers	5.55	.20	.25	.20	.025	
Sprinkler fitters	8.21	.25	.40		.07	
Tile, marble & terrazzo helpers:						
Experienced	3.07					

Welders - receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contribures 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. 12 months service - one week vacation; 2 years service - two weeks.

d. 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 regualr scheduled work days immediately and following the holiday.

PAID HOLIDAYS (WHERE APPLICABLE): A-New Years' Day: B-Memorail Day: C-Independence Day: D-Labor Day: E-Thanksgiving Day; F-Christmas Day.

Building Construction

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHS
POWER EQUIPMENT OPERATORS:						
Cranes, derricks, clam shells, draglines, piledriver (including auger & boring machine for drilling in piling), backhoes, hydra cranes, grade all, shovels, patrols, cableways, tug boat captain (150 H.P. or more), multi-bowl oper (similar to R.G. LaTourneau Model L-60-2 or 3 twenty cu yd scrapers), front end loaders, (over 4 cy cap.), side boom cats, multi-drum hoist (for rigging), mechanic (heavy equip.), tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 ton cap.), concrete pump with boom (mobile), high lift or fork lift (second floor & higher) Locomotive engineer (jobs not covered by railroad unions)	$7.03	.30	.25		.05	
Bulldozers, bridge cranes (20 tons & under), highlift or fork lift (up to 2nd floor), straddle buggys, hoists (other than rigging) including winch truck not mobile & used as a hoist, front end loader (over 2 cy & up to & incl., 4 cy cap.), trenching machine (ladder & wheel type) over 6' cut & over 24" width, concrete paver & scrapers	5.99	.30	.25		.05	
Concrete pumps, front end loader (2cy or less not used as hoist), mobile winch trucks, self-propelled sub-grader, asphalt paving machine, concrete mixer, tractors, air compressor plant (2 or more compressors on a common manifold), lubricating engineer (mobile plant), pavement breakers, street sweeping machines	5.18	.30	.25		.05	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHS
POWER EQUIPMENT OPERATORS: (cont'd)						
Tractor operated sweeper, trenching machine (ladder & wheel type maximum cut 6' & maximum width 24"), firemen, self-propelled rollers, wellpoint pump, asphalt distributor, water truck driver, motor boat operator, oiler, mechanics' helpers, pumpman (other than wellpoint up to & incl., 5 pumps within 300 ft. radius), self-propelled sweepers, combination pump, compressor & combustion type welding machine	$4.21	.30	.25		.05	

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Heavy & Highway Construction

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Bricklayers	$2.275					
Carpenters	4.64	.19	.15	.15	.02	
Carpenters	2.85					
Concrete finishers	2.00					
Ironworkers, reinforcing	3.00					
Laborers:						
Laborers	1.60					
Air tool operator (Jackhammer, vibrator)	1.60					
Pipelayers	1.60					
Painters, brush and spray	2.625					
Plumbers	3.80					
Roofers	3.00					
Sheet metal workers	3.30					
POWER EQUIPMENT OPERATORS:						
Air Compressors	1.60					
Asphalt rakers	1.60					
Bulldozers	2.00					
Concrete joint saw operator	1.60					
Concrete finishing machine	1.75					
Cranes, derricks, draglines	2.49					
Distributors, asphalt	1.60					
End loaders	1.60					
Finishing machines, asphalt	1.60					
Firemen	2.10					
Form setters	1.60					
Mechanic	2.50					
Mixers, asphalt	1.60					
Motor graders	2.50					
Oilers	1.60					
Piledrivers	2.85					
Piledrivers, leadsmen	2.75					
Pumps	2.15					
Rollers	1.60					
Roller, finish	1.60					
Scrapers	1.60					
Shovels	2.21					
Tractors, over 80 hp	1.65					
Tractors, light rubber tired	1.60					
Trenching machine	1.60					
Welders	1.60					
Earthmovers, heavy rubber tired	2.00					
Truck drivers	1.60					

STATE: Florida
DECISION NUMBER: AP-142
COUNTY: Leon
DATE: Date of Publication
Supersedes Decision No. AM-456 dated August 20, 1971 in 36 FR 16385.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

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Building Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Asbestos workers	$6.68	.25	.15			
Boilermakers	6.85	.40	.60		.01	
Bricklayers:						
Bricklayers	6.00	.25			.08	
Stone masons	6.00	.25			.08	
Marble masons	5.35	.25			.08	
Terrazzo workers	5.35	.25			.08	
Tile setters	5.35	.25			.08	
Cement masons	5.35	.25			.08	
Plasterers	5.60	.25			.08	
Cement blocklayers	6.00	.25			.08	
Carpenters:						
Carpenters	5.20				.01	
Soft floor layers	5.20				.01	
Electricians	7.09		1%		½%of1%	
Cable splicers	7.34		1%		½%of 1%	
Cable splicers helpers	7.09		1%		½% of 1%	
Elevator constructors'	6.17	.17	.185	2% + a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2% + a&b	.005	
Elevator constructors' helpers	50%JR					
Glaziers	6.85				.01	
Ironworkers, structural & ornamental	7.00	.27	.15			
Ironworkers, reinforcing	7.00	.27	.15			
Laborers:						
Air tool operator	1.60					
Laborers	1.60					
Mason tenders	1.60					
Mortar mixers	1.60					
Pinelayers (concrete & clay)	1.60					
Plasterers' tenders	1.60					
Lathers	4.54				.01	
Lead burners	6.35	.25		d	.01	
Millwrights	5.23	.19	.15		.02	
Painters:						
Brush	2.50					
Structural steel	2.50					
Spray	2.75					
Piledrivermen	4.50					
Plumbers	6.00	.15			.01	
Roofers	6.10	.25	.15			
Roofers' helpers	3.25	.25	.15			
Roofers' kettlemen	4.15	.25	.15			
Sheet metal workers	3.00					
Sprinkler fitters	8.21	.25	.40		.07	
Steamfitters	6.00	.15			.01	

37 - Fla. Q (2-2)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Truck Drivers	$1.60					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

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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. Per month per employee.

d. 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.

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FLORIDA 1 - PEO S 1 of 2

Building Construction

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Cranes, derricks, clam shells, draglines, piledriver (including auger & boring machine for drilling in piling), backhoes, hydra cranes, grade all, shovels, patrols, cableways, tug boat captain (150 H.P. or more), multi-bowl oper (similar to R.G. LaTourneau Model L-60-2 or 3 twenty cu yd scrapers), front end loaders, (over 4 cy cap.), side boom cats, multi-drum hoist (for rigging), mechanic (heavy equip.), tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 ton cap.), concrete pump with boom (mobile), high lift or fork lift (second floor & higher) Locomotive engineer (jobs not covered by railroad unions)	$7.03	.30	.25		.05	
Bulldozers, bridge cranes (20 tons & under), highlift or fork lift (up to 2nd floor), straddle buggys, hoists (other than rigging) including winch truck not mobile & used as a hoist, front end loader (over 2 cy & up to & incl., 4 cy cap.), trenching machine (ladder & wheel type) over 6' cut & over 24" width, concrete paver & scrapers	5.99	.30	.25		.05	
Concrete pumps, front end loader (2cy or less not used as hoist), mobile winch trucks, self-propelled sub-grader, asphalt paving machine, concrete mixer, tractors, air compressor plant (2 or more compressors on a common manifold), lubricating engineer (mobile plant), pavement breakers, street sweeping machines	5.18	.30	.25		.05	

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FLORIDA 1 - PEO S 2 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (cont'd)						
Tractor operated sweeper, trenching machine (ladder & wheel type maximum cut 6' & maximum width 24"), firemen, self-propelled rollers, wellpoint pump, asphalt distributor, water truck driver, motor boat operator, oiler, mechanics' helpers, pumpman (other than wellpoint up to & incl., 5 pumps within 300 ft. radius), self-propelled sweepers, combination pump, compressor & combustion type welding machine	$4.21	.30	.25		.05	

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Heavy & Highway Construction

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Carpenters	$2.00					
Concrete finisher	1.78					
Concrete finisher, helper	1.60					
Laborers:						
Common laborers	1.60					
Form setters	1.60					
Grade checkers	1.60					
Truck Drivers:						
Multi-rear axle	1.60					
Power Equipment Operators:						
Asphalt pavers	1.75					
Asphalt rakers	1.60					
Bulldozer	1.75					
Cranes	1.75					
Earthmovers, heavy rubber tired	1.75					
Motor graders	1.75					
Roller operator	1.60					
Tractor operator	1.60					
Mechanics	1.83					
Mechanics' helper	1.60					
Firemen	1.60					
Oilers	1.60					

SUPERSEDEAS DECISION

STATE: Illinois COUNTY: Sangamon
DECISION NUMBER: AP-79 DATE: Date of Publication
Supersedes Decision No. AM-338 dated August 13, 1971 36 FR 15201
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Construction.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.53	.20	.17			
Boilermakers	8.35	.40	.65		.01	
Boilermakers' helpers	8.10	.40	.65		.01	
Bricklayers & Stonemasons	7.30	.25			.02	
Carpenters - Building	7.48	.30	.40		.02	
Carpenters & Piledrivermen(Heavy)						
Illiopolis & vicinity	6.04	.275	.225		.005	
Remainder of County	7.53	.30	.35		.02	
Cement Masons:						
Building	7.35				.02	
Heavy	6.65	.15	.15		.01	
Electricians	7.90	.25	1%+.20		.2%	
Elevator Constructors:						
Elevator Constructors	7.385	.195	.20	2%+a&b	.005	
Helpers	5.17	.195	.20	2%+a&b	.005	
Helpers (Probationary)	50%JR					
Glaziers	6.40	.25				
Ironworkers, Structural, Ornamental & Reinforcing	8.02	.30	.50		.05	
Laborers: (Heavy)						
Unskilled	5.61	.25	.30		.035	
Semi-Skilled	5.76	.25	.30		.035	
Skilled	5.86	.25	.30		.035	
Lathers	7.95					
Leadburners	6.90	.30		c	.01	
Line Construction:						
City of Springfield						
Linemen	7.95	.25	1%		½%	
Groundmen Truck Driver W/W	5.53	.25	1%		½%	
Groundmen Truck Driver WO/W	5.28	.25	1%		½%	
Groundmen Equipment Operator	7.43	.25	1%		½%	
Groundmen - Class "A"	5.03	.25	1%		½%	
Remainder of the County						
Linemen	7.95	.25	1%		½%	
Groundmen Truck Driver W/W	5.53	.25	1%		½%	
Groundmen Truck Driver WO/W	5.28	.25	1%		½%	
Groundmen Equipment Operator	7.43	.25	1%		½%	
Groundmen Class "A"	5.03	.25	1%		½%	
Marble Setters	7.20	.35				
Millwrights:						
Building	7.98	.30	.40		.02	
Heavy	7.905	.30	.35		.02	
Painters:						
Brush	6.70	.25	.15			
Spray	7.20	.25	.15			
Pipefitters & Plumbers	7.55	.30	.50			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Piledrivermen - Building	$7.98	.30	.40		.02	
Plasterers	7.65	.15	.15		.01	
Roofers:						
Composition	8.43					
Slate, Tile & Precast Slab	8.68					
Sheet Metal Workers	7.15	.25	.25	.25		
Soft Floor Layers	7.48	.30	.40		.02	
Sprinkler Fitters	8.75	.30	.50		.05	
Terrazzo Workers	7.20	.35				
Tile Setters	7.20	.35				
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. 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.

b. Six paid holidays: A through F.

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.

ILLINOIS-27-LABORERS -T K

LABORERS-Building Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Common laborer, temperature control men (concrete) & toll-room man	$6.40	.25	.25		.035	
Blasting men, handling, conveying & working w/creosote, jackhammer opers. on vertical walls or off a scaffold	6.80	.25	.25		.035	
Mixing mortar, cement finish, & asphalt emulsion, etc., wrecking-structures or operations, brick setters-walk, pavements, slip form men on elevators, sandblaster, pot tender, carrying reinforcement rods or steel similar to reinforcement rods	6.50	.25	.25		.035	
Men working on poured Gypsum decks	6.75	.25	.25		.035	
Hod carriers, brick & mason tenders	6.80	.25	.25		.035	
Plasters tenders	6.90	.25	.25		.035	
Jackhammer operators, tile layers & bottom men (sewer), house movers, shoring & inderpinning	6.65	.25	.25		.035	
All power tool operators	6.60	.25			.035	
Sandblaster, nozzleman, scaler, using boatswains' chair or safety belt, gunnite nozzlemen	6.60	.25	.25		.035	
CASSION & TUNNEL WORK:						
Drillman	6.725	.25	.25		.035	
Muckers	6.725	.25	.25		.035	
Bottom men	6.725	.25	.25		.035	
Windlass man	6.50	.25	.25		.035	
Top man	6.40	.25	.25		.035	

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Class I Asphalt screed man, Aspco concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, barber green loaders, bulldozers, cableways, cherry pickers, clam shells, C.M.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derricks, derrick boats, draglines, earth augeror boring machines, elevating graders engineers on dredges, gravel processing machines, high lifts or fork lifts, hoists w/two or more drums or two or more loadlines locomotives (all) mechanics, motor graders or auto patrols, operators or leverman on dredges, operators power boat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot roller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type end loaders, track type fork lifts or high lifts, track jacks & tampers, tractors, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tournapull.	$7.55	.30	.40		.05	
Class II Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch trucks, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete spreading machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/ 1 drum & 1 load line, mud jacks, post holedigger, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine, vibratory compactor, well drill machines, scissors hoist.	6.90	.30	.40		.05	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (CONT'D)						
Class III						
Air compressors*, air compressors, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,*, concrete mixers (except plant, paver or tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power form graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/p power attachments regardless of size or type) truck crane oiler & driver 1(man), water pumps*, welding machines (one 300 amp. or over*)*welding machines* *COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.	$6.50	.30	.40		.05	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
TRUCK DRIVERS-Building and Heavy Construction:						
GROUP I						
Drivers on 4-wheel trucks, dumpcretes, scoopmobile 5 cu. yds. & under or less than 7-½ tons, mixer trucks 3 cu. yds. & under, air compressors & welding machines, including those pulled by separate units, batch trucks, wet or dry, 2-34E batches or less, truck drivers' helpers, warehousemen, mechanics' helpers, greasers, tiremen, drivers on dumpsters or similar dumpsters, mounted on 4-wheel trucks, rated 2 cu. yds. or less, and small pallet type fork lift opr., & driver on pilot trucks	$6.35	.35	a			
GROUP II						
Drivers on 4-wheel trucks, over 5 cu. yds. or more than 7½ tons, 6 wheel trucks, Koehring or similar dumpsters, track trucks, Euclids, Tournapulls, hug-bottom dumps, Tournatrailers, Tournarockers, or similar equip, when used for transportation purposes under 9 cu. yds. or less than 13½ tons, tandems & semitrailer service trucks, mixer trucks over 3 cu. yds. & including 6½ cu. yds. fork-lift, 4-wheel a-frame trucks when used for transportation purposes, 4-wheel winch trucks, pavement breakers, batch trucks-wet or dry-over 2 up to & including 4-34E batches	6.55	.35	a			
GROUP III						
Drivers on heavy equipment 9 cu. yds. or 13½ tons and/or trucks licensed for 50,000 lbs. gross up to & including 16 cu. yds. or 24 ton, such as Koehring or similar dumpsters, track trucks, semitrailer water trucks Euclids, hug-bottom dumps, Tournapulls, Tournatrailers, Tournarockers, tractor-trailers, tandems A-frames, tandem winch trucks, hydro-lift trucks or similar equipment when used for transportation purposes, mixers over 6½ cu. yds., batch trucks-wet or dry-over 4-34E batches, single axle lowboy trailers, 6-wheel pole trailers & two man oil distributors	6.75	.35	a			

TRUCK DRIVERS - Building and Heavy Highway Construction (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP IV						
Drivers on heavy equipment over 16 cu. y yds. or 24 tons, such as Koehring or similar dumpsters; track trucks, Euclids hug-bottom dumps, Tournapulls, Tourna-rockers or similar equipment when used for transportation purposes, and drivers on oil distributors, 1 man operation, pole trailers over 6-wheels water pulls, lowboy trailers tandem axles or more no weight limitation, diesel and/or heavy equipment mechanics	6.95	.35	a			

FOOTNOTES:

a. Employer contributes $10.00 per week per each employee.

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-76
COUNTY: See Below
DATE: Date of Publication
Supersedes Decision #AP-25 dated October 6, 1972 in 37 FR 21247
DESCRIPTION OF WORK: Highway, Bridge, Airport and Sewer Construction exclusive of Buildings.

Michigan 1 Highway

The Counties of: Genesee, Macomb, Monroe, Oakland, Washtenaw and Wayne	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Carpenters:						
Macomb, Monroe, Oakland & Wayne Cos.	$8.3504	.60	7%	10%	.02	
Genesee and Washtenaw Counties	7.73	.40	.40		.01	
Cement finishers - Cement mason	8.11	.30	.10			
Laborers:						
Line-form setter for curb or pavement	6.78	.35	.30	.50	.04	
Pipe layers	6.56	.35	.30	.50	.04	
Asphalt raker	6.43	.35	.30	.50	.04	
Asphalt tamper and asphalt rakers helper	6.24	.35	.30	.50	.04	
Finishers' tenders, guard fence builders, bottom man, powder man, wagon drill laborer, curb and side rail setters helper, air track operator, diamond and core drills, tunnel miner (hwy. work only)	6.35	.35	.30	.50	.04	
Mixer operator (less than 5 sacks), air or electric tool operator (jackhammer, etc.), spreader, boxman (asphalt, stone, gravel, etc), power chain saw operator, concrete puddlers, paving batch truck dumpers, conc. saw (under 40 H.P.), asphalt screed checker, grade checker and tunnel mucker (highway work only),	6.24	.35	.30	.50	.04	
Cement handler or dockmen, top men, asphalt dust handlers	6.18	.35	.30	.50	.04	
Asphalt shovelers or loaders asphalt plant misc., axe men, batch bin (no power), burlap men, carpenters helpers, subgrade labor (hand tools), yardmen, guard fence builder's helpers, dumpers (wagon, truck, etc.,), jetting laborer, joint filling laborer, misc., unskilled laborer, powdermonkey (helper), sprinkler labor, form setting laborer, pavement reinforcing handling & placing (wire mesh, steel mats, dowel bars, etc.), masons or bricklayer's, tender on manholes, headwalls, etc.	6.15	.35	.30	.50	.04	

Michigan 1 Highway

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Operating Engineers:						
Asphalt plants, cranes, draglines, shovels, locomotives, pavers(5bags or more), elevating graders, pile driving operators, rollers (asphalt), blade graders, trenching machines (ladder or wheel type), auto-grader, slip form paver, self-propelled or tractor drawn scraper, conveyor loaders (euclid-type), endloader operator (1 yd. cap. & over), bulldozer, hoisting engineer, tractors, finishing machines (asphalt) mechanic, pump operator (6" discharge or over, gas, diesel powered or generator of 300 amps or larger), shouldering or gravel distributing machines (self-propelled), backhoe (with over 3/8 yd. bucket), side boom tractor (D-4 or equivalent or larger), tube finisher (slip form paving), concrete spreader (slip form paving), gradall (& similar type machine), asphalt planer (self-propelled), asphalt paver (self-propelled) batch plant (concrete), slurry machine (asphalt)	$6.65	.40	.45	10%	.02	
Screening plants, washing plants, crushers, backhoes (with 3/8 yd. bucket or less), side boom tractor (sm. than D-4 type or equivalent), Sweeper (Wayne type and similar equip), batch plant (concrete dry batch)	6.43	.40	.45	10%	.02	
Air compressors (600 cu. ft. per min, or more), air compressors (two or more-less than 600 CFM), wagon drills concrete breakers, tractors (farm type with attachment)	5.97	.40	.45	10%	.02	
Boiler fireman, oiler, fireman, mechanic's helper, trencher (service), flexplanes, cleftplanes, graders self-propelled fine-grade of form (concrete), finishing machines (concrete), boom or winch hoist trucks, endloaders (under 1 yd. cap.), rollers (other than asphalt), curing equipment (self-propelled), concrete saws (40 H.P. or over), power bins, plant driers (asphalt) vibratory compaction equipment (6' wide or over) guard post drivers (power driven), all mulching equipment, stump remover	5.84	.40	.45	10%	.02	

Michigan 1 Highway

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
SIGN INSTALLERS:						
Sign Installer, Class A	$5.70	$14.00a	$12.00a	.10		
Sign Installers, Class B	5.35	$14.00a	$12.00a	.10		
TRUCK DRIVERS:						
Trucks under 8 Cu. Yds.	7.11	$15.00a	$13.00a	.15		
Trucks 8 Cu. Yds. and over	7.21	$15.00a	$13.00a	.15		
Euclid type equipment, double bottoms and low-boys used for hauling heavy equipment	7.36	$15.00a	$13.00a	.15		
FOOTNOTES:						
a. Per week, per employee						
LINE CONSTRUCTION:						
Macomb and Wayne Cos.: Oakland Co.: excluding Township of Holly; Monroe Co.: Townships of Milan London, Exeter, Ash, Berlin, Frenchtown, Monroe, Raisinville, Ida, Summerfield, and Dundee; Washtenaw Co.; Townships of Dexter, Webster, Northfield, Salem, Superior, Ann Harbor, Scio, Lima, Freedom, Lodi, Pittsfield, Ypsilanti, Augusta, York, Saline & Bridgewater						
Linemen	8.94	.66	3.4%	10%	½ of 1%	
Cable splicer	9.34	.66	3.4%	10%	½ of 1%	
Combination equipment operator and groundmen	7.24	.66	3.4%	10%	½ of 1%	
Combination driver and groundmen	6.85	.66	3.4%	10%	½ of 1%	
Groundmen	6.31	.66	3.4%	10%	½ of 1%	

Mich. Line Construction Area I

Oakland Co.: Holly Twp.; Monroe Co.: Twps. of Bedford, Erie, Lasalle, & Whiteford; Washtenaw Co.: Twps. of Lyndon, Manchester, Sharon & Sylvan and Genesee County.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
LINE CONSTRUCTION:						
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.23	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-77
COUNTY: See Below
DATE: Date of Publication
Supersedes Decision #AP-26 dated October 6, 1972, in 37 FR 21249
DESCRIPTION OF WORK: Highway, Bridge, Airport and Sewer Construction exclusive of Buildings.

Michigan 2 Highway

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
COUNTIES: Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Gratiot, Hillsdale, Huron, Ingham, Ionio, Jackson, Kalamazoo, Kent, Lapeer Lenawee, Livingston, Midland, Montcalm, Muskegon, Ottawa, Saginaw, Sanilac, Shiwassee, St. Clair, St. Joseph, Tuscola & Van Buren.						
Carpenters:						
Allegan, Barry, Berrien (except townships of New Buffalo, Chickaming & Three Oaks), Branch, Calhoun, Cass, Eaton (townships of Vermontville, Kalamo, Bellevue & Walton), Hillsdale, Ionia (except townships of Orange, Portland, Sevewa & Danby), Kalamazoo, Kent, Livingston (townships of Deerfield, Tyrone, Osceola, Hartland, Genoa, & Brighton), Montcalm, Muskegon, Ottawa, St. Joseph & Van Buren Cos.	$7.60	.40	.40		.01	
Bay, Clinton, Eaton (except the townships of Vermontville, Kalamo, Bellevue & Walton), Gratiot, Huron, Ingham, Ionia (townships of Orange, Portland, Sebewa & Danby), Jackson, Lapeer, Lenawee, Midland, Saginaw, Sanilac (the part of county west of a line projected north and continuing the East Lapeer & West of St. Clair Co., line to the South Huron Co., line), Shiwassee, & Tuscola Cos.	7.73	.40	.40		.01	
Livingston (Deerfield, Tyrone, Osceola, Hartland, Geona & Brighton townships), Sanilac (the part of County east of a line projected north and continuing the East Lapeer & West St. Clair Co., line to the South Huron Co., line), St. Clair Counties	8.3504	.60	7%	10%	.02	
Berrien (Chickaming, New Buffalo & Three Oaks Townships) County	8.66	.40	.40		.02	
Cement masons:						
Saginaw & Livingston Counties	8.11	.30	.10			
Remainder of Counties	7.76	.30	.10			

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Michigan 2 Highway

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Kent, Montcalm, Ottawa, & Ionia Counties (Except City of Portland)						
LABORERS						
Line - form setter for curb or pavement	$6.01	.35	.30	.50	.04	
Pipelayers	5.78	.35	.30	.50	.04	
Asphalt raker	5.87	.35	.30	.50	.04	
Asphalt tamper & asphalt raker helper	5.68	.35	.30	.50	.04	
Tunnel miner (highway work only), finisher' tender, guard fence builder, bottom man, powder man, wagon drill & air trace opers., curb & side rail setters' helpers, diamond & core drills	5.62	.35	.30	.50	.04	
Mixer operator (less than 5 sacks), air or electric tool operator (jack hammer, etc.), boxman (asphalt, stone gravel), concrete paddler, power chain saw operator, paving batch truck dumper, asphalt screed checker grade checker & tinnel mucker (highway work only, concrete saw (under 40 H.P.)	5.46	.35	.30	.50	.04	
Cement handler or dockman, top man, asphalt dust handler	5.40	.35	.30	.50	.04	
Asphalt shoveler or loader, asphalt plant misc., axe man, batch bin (no power), burlap man, carpenters' yard men, guard fence builders' helper, dumper (wagon, truck), Jetting labor, joint filling labor, misc., unskilled labor, form setting labor, pavement reinforcing, handling & placing (wire mesh, steel mats, dowel bars), mason's tender, bricklayer's tender manholes, headwalls, powder monkey (helper), spinkler labor	5.32	.35	.30	.50	.04	

Michigan 2 Highway

Remainder of Counties	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS						
Line - form setter for curb or pavement	$6.26	.35	.30	.50	.04	
Pipelayers	6.03	.35	.30	.50	.04	
Asphalt raker	6.12	.35	.30	.50	.04	
Asphalt tamper & asphalt raker helper	5.93	.35	.30	.50	.04	
Tunnel miner (highway work only), finisher' tender, guard fence builder, bottom man, powder man, wagon drill & air trace opers., curb & side rail setters' helpers, diamond & core drills	5.87	.35	.30	.50	.04	
Mixer operator (less than 5 sacks), air or electric tool operator (jack hammer, etc.), boxman (asphalt, stone gravel), concrete paddler, power chain saw operator, paving batch truck dumper, asphalt screed checker grade checker & tinnel mucker (highway work only, concrete saw (under 40 H.P.)	5.71	.35	.30	.50	.04	
Cement handler or dockman, top man, asphalt dust handler	5.65	.35	.30	.50	.04	
Asphalt shoveler or loader, asphalt plant misc., axe man, batch bin (no power), burlap man, carpenters' yard men, guard fence builders' helper, dumper (wagon, truck), Jetting labor, joint filling labor, misc., unskilled labor, form setting labor, pavement reinforcing, handling & placing (wire mesh, steel mats, dowel bars), mason's tender, bricklayer's tender manholes, headwalls, powder monkey (helper), spinkler labor	5.57	.35	.30	.50	.04	
Sign Installers:						
Sign Installer, Class A	5.21	$14.00a	$12.00a	.10		
Sign Installer, Class B	4.92	$14.00a	$12.00a	.10		

FOOTNOTE:
a. Per week

Michigan 2 Highway

Line Construction:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Huron, Lapeer, Lenawee, Sanilac, St. Clair, & Tuscola Cos.; Ingham Co.: Townships of LeRoy, Locke, Wheatfiled, White Oak & Williamston; Livingston Co.: entire county except Townships of Cohoctah, Derrfield, Tyrone & Unadilla						
Linemen	$8.94	.66	3.4%	10%	.25%	
Cable splicer	9.34	.66	3.4%	10%	.25%	
Combination equipment operator and groundmen	7.24	.66	3.4%	10%	.25%	
Combination driver and groundmen	6.85	.66	3.4%	10%	.25%	
Groundmen	6.31	.66	3.4%	10%	.25%	
Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Gratiot, Hillsdale, Ionia, Jackson, Kalamazoo, Kent Midland, Montcalm, Muskegon, Ottawa, Saginaw, Shiwassee, St. Joseph & Van Buren Cos.; Livingston Co.: Townships of Cohoctah, Deerfield, Tyrone & Unadilla Ingham Co: entire County except Townships, of LeRoy, Locke, Wheatfield Oak, & Williamston						
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.23	.25	1%	a	.25%	
Comb. digger Op.- Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

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Michigan 2 Highway

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators:						
Asphalt plants, cranes, draglines, shovels, locomotives, pavers (5 bags or more), elevating graders, pile drivers, rollers (asphalt), blade graders, trenching machines (ladder or wheel type), auto-graders, slip form paver, self-propelled or tractor drawn scraper, conveyor loaders (euclid type), endloaders (1 yd., cap. & over), bulldozer, hoisting engineer, tractor operator, finishing (asphalt), mechanics, pumps (6" discharge or over, gas, diesel powered or generator of 300 amp or larger), shouldering or gravel distributing machines (self-propelled), back hoe (with over 3/8 yd. bucket), side boom tractor (type D-4 or equivalent or larger), tube finisher (slip form paving), concrete spreader (slip form paving), grad-all (and similar type machines), asphalt planer (self-propelled), batch plant (concrete), slurry machines (asphalt), asphalt paver (self-propelled)	$6.57	.40	.45	10%	.02	
Sweeper (Wayne type & similar equip.) screening plants, washing plants, crushers, backhoes (with 3/8 yd. bucket or less), side boom tractor (smaller than D-4 type or equivalent	6.31	.40	.45	10%	.02	
Air compressors (600 cu. ft. per min. or more), air compressors (two or more-less than 600 cfm), wagon drills, concrete breaker, tractors (farm type with attachments)	5.85	.40	.45	10%	.02	
Boiler firemen, oiler, fireman, mechanic's helper, trencher (service), flexplanes, cleftplanes, graders self-propelled fine grade or form (concrete), finishing machines (concrete), boom or winch hoist trucks, endloaders (under 1 yd. cap.), rollers (other than asphalt), curing equipment operators (self-propelled) concrete saws (40 H.P. or over), power bin operators, plant driers (asphalt), vibratory compaction equipment opers. (6" ft. wide or over), guard post drivers (power driven), all mulching equipment, stump remover	5.60	.40	.45	10%	.02	

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Michigan 2 Highway

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Truck drivers:						
Lapeer, Lenawee, Livingston and St. Clair Counties						
Trucks less than 8 Cu. Yds.	$7.01	a	b	.15		
Trucks over 8 cu. yds.	7.11	a	b	.15		
Euclid type equipment, double bottoms and low-boys used for hauling heavy equipment	7.26	a	b	.15		
Remainder of Counties						
Trucks less than 8 Cu. Yds.	7.11	a	b	.15		
Trucks over 8 Cu. Yds.	7.21	a	b	.15		
Euclid type equipment, double bottoms and low-boys used for hauling heavy equipment	7.36	a	b	.15		

FOOTNOTES:

A a. $15.00 per week, per employee

b. $13.00 per week, per employee

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-78
COUNTY: See Below
DATE: Date of Publication
Supersedes Decision #AP-27 dated October 6, 1972, in 37 FR 21252
DESCRIPTION OF WORK: Highway, Bridge, Airport and Sewer Construction exclusive of Buildings.

Michigan 3 Highway

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Alpena, Antrim, Arenac, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Clare, Crawford, Delta, Dickinson, Emmet, Gladwin, Gogebic, Grand Traverse, Houghton, Iosco, Iron, Isabella, Kalkaska, Keweena, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason, Mecosta, Menominee, Missaukee, Montmorency, Newago, Oceana, Ogemaw, Ontonagon, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Schoolcraft & Wexford						
Carpenters;						
Alcona, Alpena, Antrim, Benzie, (ex. Crystal Lake, Gilliam, Blaine, Joufield, Weldon & Colfax), Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Lake, Leelenau, Missaukee, Montmorency, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, & Wexford Counties	$7.49	.40	.40		.01	
Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keewena, Luce, Mackinac, Marquette, Menominee, Ontonagon, & Schoolcraft Counties	7.44	.40	.40		.01	
Arenac, Clare, Gladwin, Iosco, Isabella, & Ogemaw Counties	7.73	.40	.40		.01	
Benzie (Crystal Lake, Gilliam, Blaine, Joufield, Weldin & Colfax), Newaygo & Oceana Counties	7.60	.40	.40		.01	
Cement masons	7.69	.30	.10			
Sign Installers:						
Sign installer, Class A	5.21	$14.00a	$12.00a	.10		
Sign installer, Class B	4.92	$14.00a	$12.00a	.10		
FOOTNOTE:						
a - Per week.						
Truck Drivers:						
Trucks less than 8 cu. yds.	6.95	b	c	.15		
Trucks over 8 cu. yds.	7.05	b	c	.15		
Euclid type equipment, double bottoms and low boys used for hauling heavy equipment	7.20	b	c	.15		
FOOTNOTES:						
b - $15.00 per week, per employee						
c - $13.00 per week, per employee						

Michigan 3 Highway

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Osceola and Mecosta Counties						
LABORERS						
Line - form setter for curb or pavement	$5.75	.35	.30	.50	.04	
Pipelayers	5.45	.35	.30	.50	.04	
Asphalt raker	5.73	.35	.30	.50	.04	
Asphalt tamper & asphalt raker helper	5.55	.35	.30	.50	.04	
Tunnel miner (highway work only), finisher' tender, guard fence builder, bottom man, powder man, wagon drill & air trace opers., curb & side rail setters' helpers, diamond & core drills	5.40	.35	.30	.50	.04	
Mixer operator (less than 5 sacks), air or electric tool operator (jack hammer, etc.), boxman (asphalt, stone gravel), concrete paddler, power chain saw operator, paving batch truck dumper, asphalt screed checker grade checker & tinnel mucker (highway work only, concrete saw (under 40 H.P.)	5.20	.35	.30	.50	.04	
Cement handler or dockman, top man, asphalt dust handler	5.10	.35	.30	.50	.04	
Asphalt shoveler or loader, asphalt plant misc., axe man, batch bin (no power), burlap man, carpenters' yard men, guard fence builders' helper, dumper (wagon, truck), Jetting labor, joint filling labor, misc., unskilled labor, form setting labor, pavement reinforcing, handling & placing (wire mesh, steel mats, dowel bars), mason's tender, bricklayer's tender manholes, headwalls, powder monkey (helper), spinkler labor	5.05	.35	.30	.50	.04	

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Michigan 3 Highway

Remainder of Counties	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS						
Line - form setter for curb or pavement	$5.90	.35	.30	.50	.04	
Pipelayers	5.60	.35	.30	.50	.04	
Asphalt raker	5.88	.35	.30	.50	.04	
Asphalt tamper & asphalt raker helper	5.70	.35	.30	.50	.04	
Tunnel miner (highway work only), finisher' tender, guard fence builder, bottom man, powder man, wagon drill & air trace opers., curb & side rail setters' helpers, diamond & core drills	5.55	.35	.30	.50	.04	
Mixer operator (less than 5 sacks), air or electric tool operator (jack hammer, etc.), boxman (asphalt, stone gravel), concrete paddler, power chain saw operator, paving batch truck dumper, asphalt screed checker grade checker & tinnel mucker (highway work only, concrete saw (under 40 H.P.)	5.35	.35	.30	.50	.04	
Cement handler or dockman, top man, asphalt dust handler	5.25	.35	.30	.50	.04	
Asphalt shoveler or loader, asphalt plant misc., axe man, batch bin (no power), burlap man, carpenters' yard men, guard fence builders' helper, dumper (wagon, truck), Jetting labor, joint filling labor, misc., unskilled labor, form setting labor, pavement reinforcing, handling & placing (wire mesh, steel mats, dowel bars), mason's tender, bricklayer's tender manholes, headwalls, powder monkey (helper), spinkler labor	5.20	.35	.30	.50	.04	

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Michigan 3 Highway

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asphalt plants, cranes, draglines, shovels, locomotives, pavers (5 bags or more), elevating graders, pile drivers, rollers (asphalt), blade graders, trenching machines (ladder or wheel type), auto-graders, slip form paver, self-propelled or tractor drawn scraper, conveyor loaders (euclid type), endloaders (lyd., cap. & over), bulldozer, hoisting engineer, tractor operator, finishing (asphalt), mechanics, pumps (6" discharge or over, gas diesel powered or generator of 300 amp or larger), shouldering or gravel distributing machine (self-propelled), back hoe (with over 3/8 yd. bucket), side boom tractor (type D-4 or equivalent or larger), tube finisher (slip form paving), concrete spreader (slip form paving), gradall (and similar type machines), asphalt planer (self-propelled), batch plant (concrete), slurry machines (asphalt), asphalt paver (self-propelled)	6.49	.40	.45	10%	.02	
Sweeper (Wayne type & similar equip.), screening plants, washing plants, crushers, backhoes (with 3/8 yd. bucket or less), side boom tractor (smaller than D-4 type or equivalent)	6.31	.40	.45	10%	.02	
Air compressors (600 cu. ft. per min. or more), air compressors (two or more - less than 600fm) wagon drills, concrete breaker, tractors (farm type with attachments)	5.81	.40	.45	10%	.02	
Boiler fireman, oiler, fireman, mechanic's helper, trencher (servic), flexplanes, cleftplanes, graders self-propelled fine grade or form (concrete), finishing machines (concrete), boom or winch hoist trucks, endloaders (under 1 yd. cap.), rollers (other than asphalt), curing equipment operators (self-propelled), concrete saws (40 h.p. or over), power bin operators, plant driers (asphalt), vibratory compaction equipment opers. (6 ft. wide or over) guard post drivers (power driven), all muldhing equipment, stump remover	5.58	.40	.45	10%	.02	

Mich. Line Construction Area I

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LINE CONSTRUCTION:						
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.23	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: MONROE

DECISION NO: AP-453 DATE: Date of Publication

Supersedes Decision No. AM-1,727, dated August 11, 1971, in 36 FR 14938.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

28-New York-1-2-3-T 1 of 2

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$9.13	.45	.15		.02	
Boilermakers	8.60	.50	.65		.01	
Bricklayers, plasterers & stone masons	8.985	.30	.50		.02	
Carpenters, Building	8.57	.35	.60		.005	
Carpenters & piledrivermen, heavy & highway	6.77	.60	.30		.025	
Cement masons, building	8.785	.30	.50		.02	
Cement masons, heavy & highway	6.28		.25			
Electricians	9.70	.25	1%+.25		1/2%	
Elevator Constructors:						
Elevator constructors	8.56	.195	.20	1/2%+a+b	.005	
Elevator constructors' helpers	5.99	.195	.20	1/2%+a+b	.005	
Elevator constructors' helpers (prob.)	4.28					
Glaziers	7.98	.58	.20		.02	
Ironworkers:						
Structural, ornamental & reinforcing	8.51	.50	.40			
Laborers, Building:						
Laborers	6.98	.43	.85			
Blasters	8.35	.43	.85			
Air track, wagon drill op., asphalt rakers	7.38	.43	.85			
Jackhammers, mortar mixer, concrete vibrator, pipelayers, burners & cutters for wrecking and demolition	7.28	.43	.85			
Lathers	8.68		.50		.01	
Leadburners	8.25	.30		c	.01	
Line Construction:						
Linemen	9.00	.45	.35	d	¼ of 1%	
Cable splicer	9.75	.45	.35	d	¼ of 1%	
Groundman digging machine operator	8.80	.45	.35	d	¼ of 1%	
Groundman mobile equipment operator	8.30	.45	.35	d	¼ of 1%	
Groundman truck driver and mechanic	7.90	.45	.35	d	¼ of 1%	
Groundman dynamite man	8.30	.45	.35	d	¼ of 1%	
Marble, tile setters & terrazzo workers	6.74					
Marble, tile and terrazzo workers' helpers	5.65	.35				
Painters:						
Brush and roller	7.76	.35	.62		.04	
Swing scaffold	8.26	.35	.62		.04	
Structural steel:						
Up to 40'	8.26	.35	.62		.04	
Over 40'	8.96	.35	.62		.04	
Spray	8.26	.35	.62		.04	
Piledrivermen and millwrights building	8.81	.35	.60	h		
Plumbers and steamfitters	9.57	.405	.52		.06	

28-New York-1-2-3-T 2 of 2

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Roofers:						
Roofers	7.62	.25				
Sheet metal workers	8.58	.40	.30		.025	
Soft floor layers	7.455	.30	.30	e + f		
Sprinkler fitters	8.75	.30	.50		.05	
Terrazzo machine operator	8.50					
Truck drivers, building	7.67	.30	.25			
Welders - Craft Rate						

PAID HOLIDAYS:

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

FOOTNOTES:

a. Holidays: A through F.

b. Employer 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.

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

e. Holidays: A through F and Good Friday.

f. One year's work or more - 1 weeks' vacation; 3 years' work or more - 2 weeks' vacation.

g. Holiday D, provided employee works the regular working day preceding the holiday and the regular working day after the holiday.

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
CRANES:					
121 ft. and under	$8.28	.40+.30	.35	a	.10
121 - 151 ft.	8.53	.40+.30	.35	a	.10
151 - 201 ft.	8.78	.40+.30	.35	a	.10
201 - 251 ft.	9.03	.40+.30	.35	a	.10
251 - 301 ft.	9.53	.40+.30	.35	a	.10
301 - 351 ft.	10.03	.40+.30	.35	a	.10
351 - 401 ft.	10.53	.40+.30	.35	a	.10
401 - 451 ft.	11.03	.40+.30	.35	a	.10
Air tugger, backhoe, clamshell, dragline, shovel & similar machines over three-eighths (3/8 cu. yd. capacity (factory rating), big generator plant, bridge crane (all types), cableway, caisson auger & similar type machine, climbing and/or tower crane (all kinds & all types), derrick, dredge, forklift (with factory rating of fifteen (15) ft. or more of lift), hoist (on steel erection), mucking machine, ross carrier (and similar types), three drum hoist (when all drums are in use)	8.28	.40+.30	.35	a	.10
"A" Frame truck, back filling machines, barber green & similar type loader, belt crete & similar type machine, bituminous spreading machine, bulldozer, carry-all type scraper, compressors: four (4) not to exceed 2000 c.f.m. combined capacity; or three (3) or less with more than 1200 c.f.m., but to exceed 2000 c.f.m., concrete mixer, concrete pump, core drill, crane-hoe-shovel (3/8 yd. capacity or less); (factory rating), dinky locomotive (all types), elevating type grader, elevator, fine grade machine (all kinds), front end loader, forklift (with factory rating of less than fifteen (15) ft. of lift), high pressure boiler (over 15 lbs. pressure) hoist (1 or 2 drums), maintenance engineer, motor grader, post hole digger, sheepsfoot roller, side boom, stone crusher, submersible electric pump, when used in lieu of well point system, tandem roller, tournapull, tower mobile and similar kinds, trenching machine, vibratory type roller and similar equipment of all kinds, welder, well drill, well point system	8.11	.40+.30	.35	a	.10

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
Any combination (not to exceed three (3) pieces of equipment), pumps, welding machines or mechanical conveyors (over 12 feet in length), belt crete generator, compressors - 3 or less not to exceed 1200 c.f.m. combined capacity, fireman, longitudinal float, mechanical heater, roller (fill and grade), rubber tired tractor	$7.075	.40+.30	.35	a	.10
Oilers	7.075	.40+.30	.35	a	.10

Paid Holidays:

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

Footnote:

a. Holidays: A through F (providing employee works the working day either immediately preceding a holiday or on the scheduled work day immediately following the holiday.

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EXCAVATING FOR SITE PREPARATION SEWER AND WATER LINES	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS						
Automatic fine grader, backhoe (except tractor mounted, rubber tired), black-top plant (automaed), cableway, caisson auger, central mix concrete plant (automated), cherry picker-over 5 ton capacity, crane cranes and derricks (steel erection), dragline, dual drum paver, excavator-all purpose-hydraulically operated, front end loader (4 c.y. and over), hoist, two or three drum, pile driver, power grader with elevating loader attachment, quarry master (or equivalent), shovel, slip form paver (if a second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel	$8.20	.65	.35	a	.10	
Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, black-top plant (non-automated), boring machine, cage hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker-5 tons and under, compressors (4 or less) exceeding 2,000 c.f.m. combined capacity, concrete paver over 16S, concrete pump, crusher, drill rigs, tractor mounted, front end loader (under 4 c.y.), hi-pressure boiler (15 lbs. and over), hoist, one drum, Kolman plant loader and similar type loaders (if employer requires another man to clean the screen or to maintain the equipment, he shall be an oiler), maintenance engineer, maintenance grease man, mixer for stabilized base self-propelled, monorail machine, plant engineer power grader, pump crete, ready mix concrete plant, road widener, roller (all above sub-grade), side boom, tractor scraper, tractor with dozer and/or pusher, trencher, winch, mechanical slurry machine, power broom	8.00	.65	.35	a	.10	
Compressors: 4 not to exceed 2,000 c.f.m. combined capacity; or 3 or less with more than 1,200 c.f.m. but not to exceed 2,000 c.f.m., compressors (any size but subject to other provisions for compressors), dust collectors, generators,						

NEW YORK-13-PEO-2- I 2 of 2

EXCAVATING FOR SITE PREPARATION SEWER AND WATER LINES	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS (CONT'D)						
pumps, welding machines (four of any type or combination), concrete pavement spreaders and finishers, conveyor, drill, core, drill, well electric pump used in conjunction with well point system, farm tractor with accessories, fine grade machine fork lift, gunite machine, hammers-hydraulic-self propelled, locomotive, post hole digger and post driver, roller, (grader and fill), tractor with towed accessories, vibrator compactor, vibro tamp, well point, pumps, regardless of motive power, no more than 4 in number not to exceed 20" in total capacity, submersible electric pumps when used in lieu of well points	$7.70	.65	.35	a	.10	
Compressor (any size, but subject to other provisions for compressors, dust collectors, generators, welding machines (three or less of any type or combination) concrete mixer (16S or under), concrete saw-self propelled, fireman, form tamper, mulching machine, oiler, power heater-man, revinius widener, steam cleaner, tractor, pumps regardless of motive power, no more than 3 in number not to exceed 12" in total capacity	7.10	.65	.35	a	.10	

PAID HOLIDAYS:

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

FOOTNOTES:

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

19-N.Y.-Lab 2-F

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vocation	App. Tr.	Oth
Laborers						
Heavy Construction Excavating and Paving:						
Laborers & chuck tenders	$6.60	.43+.40	.45	a		
Asphalt rakers, air track, wagon drill op., curb stone setters, powder monkeys	6.85	.43+.40	.45	a		
Curb cockmen, pipe layers, layers of conduit and all air, electric, gas and deisel motor driven tool op.	6.80	.43+.40	.45	a		
Relining of all types of pipe	7.00	.43+.40	.45	a		
Blasters	8.35	.43+.40	.45	a		
Meter setters and meter changers	6.90	.43+.40	.45	a		

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

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

NY-5-LAB-2-3-G

HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vocation	App. Tr.	Other
LABORERS:						
Laborers and driller helpers	$5.65	.83	.45	a		
Concrete aggregate bin, mortar mixer, hand or machine vibrator gin buggy, mason tenders, concrete bootmen, chain saw, jackhammer, pavement breaker and all other gas, electric oil and air-tool operators, bull float tamper, pipelayers	5.85	.83	.45	a		
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator	6.05	.83	.45	a		
Blasters, form setters, stone or granite curb setters	6.25	.83	.45	a		

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

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

Heavy and Highway Contruction

POWER EQUIPMENT OPERATORS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Automatic fine grader, backhoe (except tractor mounted, rubber-tired), blacktop, plant (automated), cableway, caisson auger, central mix concrete plant (automated), Cherry picker-over 5 tons capacity, crane, cranes & derricks (steel erection), dragline, dual drum paver, excavator-all purpose-hydraulically operated, front end loader (4 C.Y. & over), hoist, two or three drums pile-driver, power grader with elevating loader attachment, Quarry master (or equivalent), shovel, slip form paver (if a second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel	$7.75	.65	.25	a	.10	
Backhoe (tractor mounted, rubber-tired) bituminous spreader & mixer, blacktop plant (non-automated), boring machine cage hoist, central mix plant (non-automated) & all concrete batching plants, cherry picker-5 tons & under, compressors (4 or less) exceeding 2,000 C.F.M. combined capacity, concrete paver (over 16-S), concrete pump, crusher, drill rigs, tractor mounted, front end loader (under 4 c.y.), hi-pressure boiler (15 lbs., & over), hoist, one drum, Kolman plant loader & similar type loaders (if employer requires another man to clean screen or to maintain the equipment he shall be an oiler), maintenance engineer, mixer for stabilized base, self, propelled, monorail machine plant engineer, power grader, pump crete, ready-mix concrete plant, maintenance grease man, road widener, roller (all above subgrade), side boom, tractor scraper, tractor with dozer &/or pusher, winch	7.45	.65	.25	a	.10	
Compressors (4 not to exceed 2,000 C.F.M. combined capacity; or 3 or less with more than 1,200 C.F.M., but not to exceed 2,000 C.F.M. compressors (any size but subject to other provision for compressors), dust collectors, generators, pumps, welding machines						

Heavy and Highway Construction

POWER EQUIPMENT OPERATORS: (cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
(4 of any type or combination), concrete pavement spreaders & finishers conveyor, drill core & well, electric pump used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift gunnite machine, hammers, hydraulic self-propelled, locomotive, post hole digger & post driver, roller (grader & fill), tractor with towed accessories, vibratory compactor, vibro, tamp, well point	$7.00	.65	.25	a	.10	
Aggregate plant, boiler (used in conjunction with production), cement bin operator, compressors; 3 or less not to exceed 1,200 c.f.m. combined capacity, compressors (any size, but subject to other provisions, for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete mixer (16-S and under), concrete saw-self-propelled, firemen, form tamper, mulching machine, oiler, power broom power heaterman, revinius widener, steam cleaner, tractor	6.35	.65	.25	a	.10	

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

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

N.Y. 1-TD-2-3 -F

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS:						
Warehouse, yardmen, truck helpers, pick-ups, panel trucks, flatbody material trucks (straight jobs), single axle dump, dumpsters, material checkers and receivers, greasers, tireman, mechanic helpers and parts chaser	$6.08	.40	.35	a		
Tandems and batch trucks, mechanics dispatcher	6.13	.40	.35	a		
Semi-trailers, lowboy trucks asphalt distributor, agitator, mixer trucks and dumpcrete type vehicles	6.18	.40	.35	a		
Specialized earth moving equipment, Euclid type or similar off-highway equipment, where not self-loaded	6.33	.40	.35	a		
Off-highway tandem back dump, twin engine equipment and double hitched equipment where not self-loaded	6.48	.40	.35	a		

PAID HOLIDAYS:

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

FOOTNOTE:

a. Holidays: A through F, provided employee has worked the working day before and the working day after the holiday.

SUPERSEDEAS DECISION

AP-371 P. 2

STATE: Texas COUNTY: Nueces
DECISION NO.: AP-371 DATE: Date of Publication
Supersedes Decision No. AP-342, dated September 29, 1972, in 37 FR 20485.
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	$6.555	.30	.295			
BOILERMAKERS	6.80	.30	.50		.02	
BRICKLAYERS	6.45	.15			.02	
CARPENTERS:						
Carpenters	5.70	.21	.07		.02	
Millwrights	6.33				1%	
Piledrivermen	4.50					
CEMENT MASONS	5.90	.15				
ELECTRICIANS:						
Electricians	7.15	.35	1%		1/2%	
Cable Splicers	7.275	.35	1%		1/2%	
ELEVATOR CONSTRUCTORS	3.58	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS (PROB)	50%JR					
GLAZIERS	4.80		.20			
IRONWORKERS:						
Structural; Ornamental	5.325	.40	.30		.025	
Reinforcing	5.20	.40	.30		.025	
LABORERS:						
Common	3.50	.15				
Mason tenders, plasterers tenders, concrete & mortar mixers, pipelayers, lathers tenders, finish carpenters, slip form operators, scaffolding waterproofers, cement finishers	3.60	.15				
Paving buster, jackhammer chipping gun, air tamper, barie tamper, electric vibrator, air or gasoline driven vibrators or drills, sump pumps and any and all power driven equipment operated by laborers	3.60	.15				
Gunnite nozzlemen	4.10	.15				
Pipe wrappers & dopers	3.85	.15				
Powderman or blasterer	4.10	.15				
LATHERS	5.70	.20	.10	1.00	.01	
MARBLE SETTERS	5.60				.02	
MARBLE SETTERS' HELPERS	4.02					
PAINTERS:						
Brush	5.25	.25	.25		2/10%	
Spray	5.65	.25	.25		2/10%	
Sign	5.50	.25	.25		2/10%	
PLASTERERS	6.50				.01	
PLUMBERS - STEAMFITTERS	6.15	.15	.25		.035	

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ROOFERS:						
Roofers	4.825		.10			
Kettlemen	4.70		.10			
Waterproofers	4.825		.10			
Deckmen	4.825		.10			
SHEET METAL WORKERS	5.95		.25		.01	
SOFT FLOOR LAYERS	5.70	.21	.07		.02	
SPRINKLER FITTERS	8.35	.30	.50		.05	
TERRAZZO WORKERS	5.60				.02	
TERRAZZO WORKERS' HELPERS:						
Terrazzo helpers	4.02					
Floor machine operators	4.22					
Base machine operators	4.37					
TILE SETTERS	5.60				.02	
TILE SETTERS' HELPERS	4.02					
TRUCK DRIVERS	1.90					

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 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.

BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LIGHT EQUIPMENT						
Air compressor (1); Blade grader (towed); Conveyor; Fireman; Form grader; Flexplane; Generator (gas or diesel over 1500 watts); Hoist (1 drum); Lubrication truck driver; Mixer (less than 14 cu. ft.); Pulsometer; Pump (1); Roller (towed); Tractor (wheel type); Truck crane driver-oiler; Wagon drill; Welding machines (3 to 6) other than electric; All other equipment of similar nature coming with light equipment class when power operated	$5.225	.15	.20			
OILER						
Oiler, first year	4.625	.15	.20			
Oiler, second year	4.775	.15	.20			
HEAVY EQUIPMENT						
Air compressors (2); Asphalt plant mixer; Backfiller; Backhoe; Batch plant (concrete); Blade grader; Boring machine; Bull clam; Bulldozer; Cableway; Clamshell; Crane, power operated, all types; Crusher; Derrick, power operated, all types; Dragline; Elevator grader; Elevator, building (used on construction); Euclids & similar type machines; Forklift; Grade-all; Hi-lift; Hoist (2 drums or more); Locomotive and switch engines; Mixer (paving); Mixer (concrete); Piledriver; Pumps (2); Pumpcrete machine; Push cat or pull cat; Roller (flatwheel); Scraper (all types); Shovel (power); Scoopmobile; Trench machine; Tugboat (on construction); Turnapulls and similar machines; Welding machines (7 to 13) other than electric; Well point; Winch truck; Mechanic; All other equipment of similar nature coming with heavy equipment class when power operated	5.80	.15	.20			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air tool man	$2.10					
Asphalt Heaterman	2.50					
Asphalt Raker	2.50					
Asphalt Shoveler	2.00					
Batching Plant Scaleman	2.75					
Batterboard Setter	2.60					
Carpenter	3.00					
Carpenter Helper	2.35					
Concrete Finisher (Structures)	2.80					
Concrete Finisher Helper (Structures)	2.30					
Electrician	5.00					
Form Builder (Structures)	3.25					
Form Builder Helper (Structures)	2.25					
Form Setter (Paving & Curb)	2.40					
Form Setter Helper (Paving & Curb)	2.25					
Form Setter (Structures)	2.70					
Form Setter Helper (Structures)	2.15					
Laborer, Common	2.00					
Laborer, Utility Man	2.10					
Mechanic	3.00					
Mechanic Helper	2.40					
Oiler	2.50					
Piledrivermen	3.00					
Pipelayer	2.20					
Reinforcing Steel Setter (Structures)	2.50					
Reinforcing Steel Setter Helper	2.25					
Spreader Box Man	2.75					
Power Equipment Operators:						
Asphalt Distributor	2.75					
Asphalt Paving Machine	3.00					
Bulldozer, 150 H.P. and Less	2.75					
Bulldozer, over 150 H.P.	3.00					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ C.Y.)	3.00					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ C.Y. and Over)	3.50					
Foundation Drill Operator (Truck Mounted)	3.00					

15 - Texas - 3 g (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd):						
Front End Loader (2½C.Y. and Less)	$2.40					
Front End Loader (Over 2½ C.Y.)	2.75					
Motor Grader Operator, Fine Grade	3.75					
Motor Grader Operator	3.00					
Roller, Steel Wheel (Plant-Mix Pavements)	2.45					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.05					
Roller, Pneumatic (Self-Propelled)	2.00					
Scrapers (17 C.Y. and Less)	2.75					
Scrapers (Over 17 C.Y.)	2.90					
Tractor (Pneumatic) 80 H.P. and Less	2.10					
Tractor (Pneumatic) over 80 H.P.	2.25					
Traveling Mixer	2.45					
Trenching Machine, Light	2.25					
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00					
Truck Drivers:						
Single Axle, Light	2.00					
Single Axle, Heavy	2.05					
Tandem Axle or Semitrailer	2.50					
Vibrator Man (Hand Type)	2.00					
Welder	3.00					

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION						
Lineman	$7.22	.28	1%		1/2%	
Cable splicer	7.345	.28	1%		1/2%	

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

State Program Elements Necessary for Participation in the National Pollutant Discharge Elimination System

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

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

Notice was published in the FEDERAL REGISTER issue of November 11, 1972 (37 F.R. 24087) that the Environmental Protection Agency was giving consideration to proposed guidelines for State program elements necessary for participation in the National Pollutant Discharge Elimination System. The proposed guidelines described, pursuant to the authority contained in section 304(h)(2) of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816; 33 U.S.C. 1314 (1972)) (hereinafter referred to as the "Act"), the minimum procedural and other elements of any State programs under section 402 of the Act.

Section 402 of the Act creates a National Pollutant Discharge Elimination System under which the Administrator of the Environmental Protection Agency may, after opportunity for public hearing, issue permits for the discharge of any pollutant or combination of pollutants, upon condition that such discharge will meet all applicable requirements of the Act relating to effluent limitations, water quality standards and implementation plans, new source performance standards, toxic and pretreatment effluent standards, inspection, monitoring and entry provisions, and guidelines establishing ocean discharge criteria. Section 402 also provides that States desiring to administer their own permit programs may submit a full and complete description of such a program to the Administrator for approval. The Administrator is to approve a State's program, and suspend issuance of permits under section 402, unless he determines that the State does not possess adequate authority to perform certain acts detailed in section 402(b) of the Act. In general terms, the State must have authority to: (a) Issue permits for terms not exceeding 5 years upon the same conditions relating to effluent limitations and water quality standards as are applicable to permits issued by the Administrator; (b) adequately notify members of the public, other States, and the Secretary of the Army of pending permit applications; (c) abate violations of permits, including civil and criminal penalties; (d) insure that the State permitting agency receive adequate notice of new introductions or substantial changes in the volume or character of pollutants introduced into publicly owned treatment works; and (e) insure that any industrial user of publicly owned treatment works complies with pretreatment effluent standards and other requirements. The State also must have an approved continuing planning process under section 303(e) of the Act before approval of its permit program can be granted.

In addition to these requirements, a State permit program cannot be approved unless it conforms to guidelines issued under section 304(h)(2) of the Act prescribing minimum procedural and other elements of any State program under section 402. These guidelines, which are the subject of this notice, must include, but are not limited to, monitoring and reporting requirements (including procedures to make information available to the public), enforcement provisions, and requirements for funding, personnel qualifications, and manpower.

Written comments on the proposed guidelines were invited and received from interested parties. A number of verbal comments also were received. The Environmental Protection Agency has carefully considered all submitted comments. All written comments are on file with the Agency. Certain of these comments have been adopted or substantially satisfied by editorial changes, deletions from, or additions to the guidelines. These and other principal comments are discussed below.

1. Several commenters pointed out the need to make clear that participating States and interstate agencies should have all procedures required by the guidelines established by the State or interstate agency in the form of duly promulgated regulations. The delays inherent in the process of promulgating such regulations, however, should not delay the Administrator's approval of an otherwise acceptable program. To implement these concerns, a new § 124.3 has been added to subpart A to make clear that all authorities required by section 402(b) of the Act must be in the form of State statutes and regulations and must be in full force and effect at the time of submission of the State program. A new § 124.4 requires that the procedures required by the guidelines must also be in the form of State statutes and regulations but, if the State has the necessary authority and submits a program which meets the requirement of the guidelines, the State has until January 1, 1974, to promulgate such regulations.

2. Numerous comments suggested means to improve the requirements for signing NPDES forms. On the basis of the comments, corporate signature requirements have been changed to permit signature by authorized representatives of principal executive officers where such representative is responsible for the operation of the discharging facility. See § 124.24(a). Also, the language in subsection (d) is broadened to cover categories of point sources other than publicly owned treatment works.

3. On the basis of comments received and after consulting with the States involved in the development of these guidelines, a new paragraph was added to § 124.31 to require the compilation of draft determinations and conditions into a draft permit. Such draft permit is to be made available to the public for inspection and copying.

4. Comments received indicated disagreement between citizens and States as to the proper length of the period for public comment following public notice. It was decided not to require the extension of the period for public comment beyond 30 days but to allow the Director to extend such period where, in his discretion, he finds such extension is desirable. See § 124.32(b). To save time, however, citizens may now be placed on a mailing list to receive copies of fact sheets without the necessity of requesting such fact sheets following public notice. In those cases where fact sheets are prepared, the fact sheet can be sent at the same time public notice is mailed. See § 124.33(b).

5. Comments from States advised against the requirement to prepare a fact sheet for every application for a permit. Section 124.33 has been modified to require the preparation of fact sheets only for those discharges which exceed 500,000 gallons on any day of the year. The preparation and distribution of fact sheets is thus limited to the larger and more controversial discharges. An informal survey in one of the EPA regions indicates that approximately 35 percent of the applications received were for discharges in excess of 500,000 gallons. The Director may, of course, prepare fact sheets for smaller discharges.

6. Many commenters pointed out the discrepancy between § 124.35 regarding the handling of confidential information and EPA's regulations for such data, 40 CFR Part 2. Section 124.35(b) has been modified to require the Director to protect information (other than effluent data) shown to constitute trade secrets. Where the determination of confidentiality by the Director is with regard to information contained in an NPDES form and the Regional Administrator disagrees with such determination, procedures consonant with 40 CFR Part 2 apply. See § 124.35(b).

7. Comments from industry and from environmental groups pointed out the need for further clarification of public hearing requirements. Almost all such suggestions have been incorporated, including a requirement, submitted from environmental groups, that the Director is required to hold a hearing in every case where there is significant public interest (including, of course, the filing of requests or petitions for such hearing). Any instances of doubt should be resolved in favor of holding the hearing. See § 124.36.

8. Much concern has been expressed over the setting of permit schedules of compliance and their enforcement. To achieve some degree of uniformity and to assist the preparation of compliance schedule reports, the Director is now required, to the extent practicable, to set schedules of compliance so that interim and final dates fall due on the last day of the months of March, June, Septem-

ber, and December. Four times a year the Director shall prepare and transmit to the Regional Administrator a list of all instances of noncompliance with the schedule requirements in a permit. Such list shall be available to the public for inspection and copying. See § 124.44.

In cases where good and valid cause (such as an act of God, strike, flood, etc.) lies for the failure of the permittee to comply with a schedule of compliance, revision of the permit may be appropriate. Any such revision must be approved by the Regional Administrator and all such revisions must be reported by the Director in his quarterly compliance schedule report. See § 124.72(b).

9. The requirement (§ 124.45(f) in the proposed guidelines) that a permit may not be transferred to a third party without the prior written approval of the Director has been taken out. As was pointed out in various comments, the permit terms and conditions must be observed regardless of the identity of the owner or operator of the facility covered by the permit. Written approval of the Director to any transfers of such facilities is not necessary for the transferee to be subject to the permit requirements.

10. A new standard permit condition has been added to clarify that any authorized discharge must be consistent with toxic effluent standards or prohibitions established under section 307(a) of the Act. See new § 124.45(g).

11. Numerous comments were made with regard to the provisions dealing with the disposal of pollutants in wells, arguing that EPA was exceeding, or not sufficiently exercising its authority under the Act. Language has been added to clarify that permits for well disposals are subject to the same procedures and requirements as other NPDES permits. See new § 124.80(c). The Regional Administrator is directed to distribute to the Director and utilize in his review of well permits any policies, technical information, or requirements specified by the Administrator. See new § 124.80(d).

12. Many comments received concerning the conflict of interest section, § 124.-94 (See section 304(h)(2)(D) of the Act upon which this section is based), indicate widespread difference of opinion as to the interpretation of both the language and the intent of the section. The guidelines attempt to specify EPA interpretation of some of the key terms without attempting to answer every question raised by section 304(h)(2)(D) of the Act. Subsection (a) has been modified to clarify the relationship between the board and its administrative counterpart. Any person who has or shares authority to approve permit applications is included within the term "board or body." Subsection (c) has been modified to clarify that it is the State agency—and not the employee of that agency—which is not included in the term "permit holders or applicants for a permit." Finally, a new subsection (c) has been added to indicate that payments from mutual funds or certain diversified investments are so remote as not to be income "directly or indirectly from permit holders or applicants for a permit."

It should be emphasized that nothing in these guidelines pertains to the issuance of permits for the discharge of dredged or fill material into the navigable waters. Such permits are to be issued by the Secretary of the Army, acting through the Chief of Engineers, pursuant to section 404 of the Act.

It also should be emphasized that these guidelines are procedural in nature and do not attempt to specify the scope of jurisdiction established under the Act or legislative history pertaining thereto.

Because of the importance of promptly making known to the States the necessary program procedures for participation in the NPDES and because of the 60-day deadline imposed by section 304(h)(2) of the Act for the promulgation of State program guidelines, the Administrator finds good cause to declare the guidelines effective immediately upon final publication.

Dated: December 18, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

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124.4 Authority for State program procedures.

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124.62 Recording of monitoring activities and results.
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124.80 Control of disposal of pollutants into wells.

Subpart J—Resources, Planning and Other Requirements

124.91 Availability of resources.
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124.93 Continuing planning process.
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Subpart K—NPDES Application and Reporting Forms [Reserved]

Appendix A—Sample Public Notice.
Appendix B—Sample Fact Sheet.
Appendix C—Sample Public Notice for Public Hearings.

AUTHORITY: The provisions of this Part 124 issued under section 304, 84 Stat. 816, 33 U.S.C. 1314 (1972).

Subpart A—General

§ 124.1 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) The term "Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1314, et seq.

(b) The term "Refuse Act" means section 13 of the River and Harbor Act of March 3, 1899.

(c) The term "EPA" means the U.S. Environmental Protection Agency.

(d) The term "Administrator" means the Administrator of the U.S. Environmental Protection Agency.

(e) The term "Regional Administrator" means one of the EPA Regional Administrators.

(f) The term "Director" means the chief administrative officer of a State water pollution control agency or interstate agency. In the event responsibility for water pollution control and enforcement is divided among two or more State or interstate agencies, the term "Director" means the administrative officer authorized to perform the particular procedure to which reference is made.

(g) The term "National Pollutant Discharge Elimination System (NPDES)" means the national system for the issuance of permits under section 402 of the Act and includes any State or interstate program which has been approved by the Administrator, in whole or in part, pursuant to section 402 of the Act.

(h) The term "NPDES application" means the uniform national forms (including subsequent additions, revisions, or modifications duly promulgated by the Administrator pursuant to the Act) for application for an NPDES permit.

(i) The term "NPDES reporting form" means the uniform national forms (including subsequent additions, revisions, or modifications duly promulgated by the Administrator pursuant to the Act) for reporting data and information pursuant to monitoring and other conditions of NPDES permits.

(j) The term "NPDES permit" means any permit or equivalent document or requirements issued by the Administrator, or, where appropriate, by the Director, after enactment of the Federal Water Pollution Control Amendments of 1972, to regulate the discharge of pollutants pursuant to section 402 of the Act.

(k) The term "NPDES form" means any issued NPDES permit and any uniform national form developed for use in the NPDES and prescribed in regulations promulgated by the Administrator, including the Refuse Act application, the NPDES application and the NPDES reporting forms.

(l) The term "Refuse Act application" means the application for a permit under the Refuse Act.

(m) The term "Refuse Act permit" means any permit issued under the Refuse Act.

(n) The definitions of the following terms contained in section 502 of the Act shall be applicable to such terms as used in this part unless the context otherwise requires: "State water pollution control agency (referred to herein as 'State agency')," "interstate agency," "State," "municipality," "person," "pollutant," "navigable waters," "territorial seas," "contiguous zone," "ocean," "effluent limitations," "discharge of a pollutant," "toxic pollutant," "point source," "biological monitoring," "discharge," "schedule of compliance," "industrial user," and "pollution."

(o) The term "national data bank" means a facility or system established or to be established by the Administrator for the purposes of assembling, organizing, and analyzing data pertaining to water quality and the discharge of pollutants.

(p) The term "applicable water quality standards" means all water quality standards to which a discharge is subject under the Act and which have been (1) approved or permitted to remain in effect by the Administrator pursuant to section 303(a) or 303(c) of the Act, or (2) promulgated by the Administrator pursuant to section 303(b) or 303(c) of the Act.

(q) The term "applicable effluent standards and limitations" means all State and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

(*Comment*. The House committee print states: "The committee points out, as it did in the discussion of section 401, that the term 'applicable' used in section 402 has two meanings. It means that the requirement which the term 'applicable' refers to must be pertinent and apply to the activity and the requirement must be in existence by having been promulgated or implemented.")

(r) The term "minor discharge" means any discharge which (1) has a total volume of less than 50,000 gallons on every day of the year, (2) does not affect the waters of any other State, and (3) is not identified by the Director, the Regional Administrator, or by the Administrator in regulations issued pursuant to section 307(a) of the Act as a discharge which is not a minor discharge. If there is more than one discharge from a facility and the sum of the volumes of all discharges from the facility exceeds 50,000 gallons on any day of the year, then no discharge from the facility is a "minor discharge" as defined herein.

§ 124.2 Scope and purpose.

(a) This part establishes guidelines specifying procedural and other elements which must be present in a State or interstate program in order to obtain approval of the Administrator pursuant to section 402 of the Federal Water Pollution Control Act, as amended, 86 Stat. 816, 33 U.S.C. ____.

(b) A submitted State or interstate program which conforms to the guidelines of this part and which meets the requirements of section 402 of the Act shall be approved by the Administrator. Upon approval, the Administrator shall suspend his issuance of NPDES permits as to those point sources subject to such approved program.

(c) Any State program which obtains the approval of the Administrator pursuant to section 402 of the Act shall at all times be in accordance with section 402 and the guidelines contained in this part.

§ 124.3 Form of authority cited by Attorney General.

All authorities cited by the State attorney general as authority adequate to meet the requirements of section 402(b) of the Act (a) shall be in the form of lawfully promulgated State statutes and regulations and (b) shall be in full force and effect at the time the Attorney General signs the Attorney General's statement.

§ 124.4 Authority for State program procedures.

(a) All procedures which the State proposes to establish and administer to conform with the requirements of this part shall be set forth in State statutes or lawfully promulgated State regulations. Such State statutes and regulations shall be in full force and effect at the time the Governor submits the State program to the Regional Administrator.

(b) Notwithstanding paragraph (a) of this section, if the State or interstate agency has the statutory authority to establish and administer the procedures which conform to the requirements of this part, regulations setting forth the requirements of this part may be promulgated by the State subsequent to the time the Governor submits the State program to the Regional Administrator, if the Administrator finds the following:

(1) The State has submitted a full and complete description of procedures to administer its program in conformance with the requirements of this part; and

(2) The State has made a written commitment to the Administrator to promulgate regulations which meet the requirements of paragraph (a) of this section by January 1, 1974.

Subpart B—Prohibition of Discharges of Pollutants

§ 124.10 Prohibition of discharges into State waters.

Any State or interstate program participating in the NPDES must have a statute or regulation, enforceable in State courts, which prohibits discharges of pollutants by any person, except as authorized pursuant to an NPDES permit.

(*Comment*). For the purposes of this subpart, a State or interstate program shall qualify for participation in the NPDES if it prohibits discharges of pollutants to the same extent such discharges are prohibited in section 301(a) of the Act. It is recognized that some State or interstate programs presently exempt or exclude certain categories, types, or sizes of point sources from the general prohibition of the unauthorized discharge of pollutants or from the requirement of obtaining a permit. Other States have in effect "grandfather" clauses which either exempt discharges already in existence or provide for automatic issuance of a permit to existing dischargers. Exceptions to the general prohibition cannot be approved. Depending on their scope and nature, any such exceptions will either (1) constitute grounds for withholding approval of the entire submitted program until such time as the State or interstate agency revises or modifies its program to conform to this subpart, or (2) constitute categories, types, or sizes of point sources for which the Administrator will not suspend the issuance of NPDES permits. In the latter case, the Administrator will issue NPDES permits for those point sources not subject to the State or interstate agency's authority.)

Subpart C—Acquisition of Data

§ 124.21 Application for NPDES permit.

Procedures of any State or interstate agency participating in the NPDES shall insure that every applicant for an NPDES permit complies with NPDES filing requirements. Such procedures and requirements shall include the following:

(a) A requirement that any person discharging pollutants must:

(1) Have filed a complete Refuse Act application; or,

(2) File a complete NPDES application no later than 60 days following receipt by the applicant of notice from the Director that the applicant's previously filed Refuse Act application is so deficient as not to have satisfied the filing requirements; or,

(3) File a complete NPDES application within a stated period, not to exceed any

applicable periods specified in Federal regulations for persons filing under the NPDES.

(*Comment.* Federal filing requirements for the NPDES include the timely filing of a properly completed Refuse Act or NPDES application form. State and interstate agencies may specify, where necessary, additional filing requirements such as the submission of engineering reports, plans, and specifications for present or proposed treatment or control of discharges of pollutants. While duplication should be avoided, the Administrator recognizes that the NPDES application form may not by itself satisfy the needs of every participating program.)

(b) A requirement that any person wishing to commence discharges of pollutants after the applicable period in paragraph (a)(3) of this section, must file a complete NPDES application either (1) no less than 180 days in advance of the date on which it is desired to commence the discharge of pollutants, or (2) in sufficient time prior to the commencement of the discharge of pollutants to insure compliance with the requirements of section 306 of the Act, or with any applicable zoning or siting requirements established pursuant to section 208(b)(2)(C) of the Act, and any other applicable water quality standards and applicable effluent standards and limitations.

(*Comment.* The purpose of this requirement is to insure that the Director has sufficient time to examine applications from new sources of discharge of pollutants and to apply standards of performance without unnecessarily delaying scheduled startup. The sooner the Director can specify requirements for new sources, the more easily the applicant can modify his plans, if necessary, without disruption and waste. Those State or interstate agencies which begin review at the planning stages of a new project are in the best position to insure orderly compliance with new source standards.)

(c) Procedures which (1) enable the Director to require the submission of additional information after a Refuse Act or an NPDES application has been filed, and (2) insure that, if a Refuse Act or NPDES application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency.

(*Comment.* The Director may find he needs information other than that initially filed by the applicant in order to make a permit decision. The Director should not hesitate to go back to the applicant for further information. In some cases, nothing less than an on-site inspection of an applicant's pollution control technology and practices will suffice.

No NPDES permit should be issued until the applicant has fully complied with the filing requirements specified in this subpart. If an applicant fails or refuses to correct deficiencies in his NPDES application form, the Director should take timely enforcement action.)

§ 124.22 Receipt and use of Federal data.

Each State or interstate agency participating in the NPDES shall receive any relevant data collected by the Regional Administrator prior to such agency's participation in the NPDES in such manner as the Director and the Regional Administrator shall agree. Any agreement between the State or interstate agency and the Regional Administrator shall provide for at least the following:

(a) Prompt transmittal to the Director from the Regional Administrator of copies of any Refuse Act applications, NPDES applications, or other relevant data collected by the Regional Administrator prior to the State or interstate agency's participation in the NPDES; and

(b) A procedure to insure that the Director will not issue an NPDES permit on the basis of any Refuse Act or NPDES application received from the Regional Administrator which the Regional Administrator has identified as incomplete or otherwise deficient until the Director receives information sufficient to correct the deficiency to the satisfaction of the Regional Administrator.

(*Comment.* The two purposes of this section are: (1) To provide for the transfer of data bearing on NPDES permit determinations from the Federal Government to the participating State or interstate agencies, and (2) to insure that any deficiencies in the transferred NPDES forms will be corrected prior to issuance of an NPDES permit. The "agreement" mechanism allows flexibility in achieving both purposes. Time and manner of transfer can be worked out by each participating agency and the Regional Administrator. If agreed upon, deficient applications could either be retained by the Regional Administrator until completed or be transferred with the satisfactory applications. If the Director prefers to receive and correct deficient applications, the agreement could provide for the forwarding to the Regional Administrator of the information necessary to correct the deficiency.)

§ 124.23 Transmission of data to Regional Administrator.

Each State or interstate agency participating in the NPDES shall transmit to the Regional Administrator copies of NPDES forms received by the State or interstate agency in such manner as the Director and Regional Administrator shall agree. Any agreement between the State or interstate agency and the Regional Administrator shall provide for at least the following:

(a) Prompt transmittal to the Regional Administrator of a complete copy of any PDES form received by the State or interstate agency;

(b) Procedures for the transmittal to the national data bank of a complete copy, or relevant portions thereof, of any appropriate NPDES form received by the State or interstate agency;

(c) Procedures for acting on the Regional Administrator's written waiver, if any, of his rights to receive copies of NPDES forms with respect to classes, types, and sizes within any category of point sources and with respect to minor discharges or discharges to particular navigable waters or parts thereof; and,

(d) An opportunity for the Regional Administrator to object in writing to deficiencies in any NPDES application or reporting form received by him and to have such deficiency corrected. If the Regional Administrator's objection relates to an NPDES application, the Director shall send the Regional Administrator any information necessary to correct the deficiency and shall, if the Regional Administrator so requests, not issue the NPDES permit until he receives notice from the Regional Administrator that the deficiency has been corrected.

(e) An opportunity for the Regional Administrator to identify any discharge which has a total volume of less than 50,000 gallons on every day of the year as a discharge which is not a minor discharge. If the Regional Administrator so identifies a discharge and notifies the Director, the Director shall require the applicant for such discharge to submit additional NPDES application forms or any other information requested by the Regional Administrator in his notification to the Director.

(f) Procedures for the transmittal, if requested by the Regional Administrator, of copies of notice received by the Director from publicly owned treatment works pursuant to §§ 124.45 (d) and (e).

§ 124.24 Identity of Signatories to NPDES forms.

Any State or interstate program participating in the NPDES shall require that any NPDES form submitted to the Director be signed as follows:

(a) In the case of corporations, by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the NPDES form originates.

(b) In the case of a partnership, by a general partner.

(c) In the case of a sole proprietorship, by the proprietor.

(d) In the case of a municipal, State, or other public facility, by either a principal executive officer, ranking elected official or other duly authorized employee.

Subpart D—Notice and Public Participation

(*Comment.* Section 101(e) of the Act provides that public participation shall be "provided for, encouraged, and assisted by the Administrator and the States." Section 402(b)(3) of the Act further calls upon State and interstate agencies participating in the NPDES "to insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application." This subpart specifies certain procedures to be followed by all participating State and interstate agencies to insure national uniformity in the quality of public participation in NPDES permit determinations. Each State or interstate agency may devise additional procedures and means by which effective and constructive public participation may be enhanced.)

§ 124.31 Formulation of tentative determinations and draft NPDES permit.

(a) Any State or interstate agency participating in the NPDES shall formu-

late and prepare tentative staff determinations with respect to a Refuse Act or NPDES application in advance of public notice of the proposed issuance or denial of an NPDES permit. Such tentative determinations shall include at least the following:

(1) A proposed determination to issue or deny an NPDES permit for the discharge described in the Refuse Act or NPDES application; and,

(2) If the determination proposed in paragraph (a) of this section is to issue the NPDES permit, the following additional tentative determinations:

(i) Proposed effluent limitations, identified pursuant to §§ 124.42 and 124.43, for those pollutants proposed to be limited;

(ii) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations, identified pursuant to § 124.44; and

(iii) A brief description of any other proposed special conditions (other than those required in § 124.45) which will have a significant impact upon the discharge described in the NPDES application.

(b) The Director shall organize the tentative determinations prepared pursuant to paragraph (a) of this section into a draft NPDES permit for the Refuse Act of NPDES application.

§ 124.32 Public notice.

(a) Public notice of every complete application for an NPDES permit shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the proposed determination to issue or deny an NPDES permit for the proposed discharge. Procedures for the circulation of public notice shall include at least the following:

(1) Notice shall be circulated within the geographical areas of the proposed discharge; such circulation may include any or all of the following:

(i) Posting in the post office and public places of the municipality nearest the premises of the applicant in which the effluent source is located;

(ii) Posting near the entrance to the applicant's premises and in nearby places; and

(iii) Publishing in local newspapers and periodicals, or, if appropriate, in a daily newspaper of general circulation;

(2) Notice shall be mailed to any person or group upon request; and

(3) The Director shall add the name of any person or group upon request to a mailing list to receive copies of notices for all NPDES applications within the State or within a certain geographical area.

(b) The Director shall provide a period of not less than thirty (30) days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the NPDES application. All written comments submitted during the 30-day comment period shall be retained by the Director and considered in the formulation of his final determinations with respect to the NPDES application. The period for comment may be extended at the discretion of the Director.

(c) The contents of public notice of applications for NPDES permits shall include at least the following (See Appendix A to this part for a sample public notice which meets the requirements of this section.):

(1) Name, address, phone number of agency issuing the public notice;

(2) Name and address of each applicant;

(3) Brief description of each applicant's activities or operations which result in the discharge described in the NPDES application (e.g., municipal waste treatment plant, steel manufacturing, drainage from mining activities);

(4) Name of waterway to which each discharge is made and a short description of the location of each discharge on the waterway indicating whether such discharge is a new or an existing discharge;

(5) A statement of the tentative determination to issue or deny an NPDES permit for the discharge described in the NPDES application;

(6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by paragraph (b) of this section and any other means by which interested persons may influence or comment upon those determinations; and

(7) Address and phone number of State or interstate agency premises at which interested persons may obtain further information, request a copy of the draft permit prepared pursuant to § 124.31(b), request a copy of the fact sheet described in § 124.33 and inspect and copy NPDES forms and related documents.

§ 124.33 Fact sheets.

(a) For every discharge which has a total volume of more than 500,000 gallons on any day of the year, the Director shall prepare and, following public notice, shall send, upon request to any person a fact sheet with respect to the application described in the public notice. The contents of such fact sheets shall include at least the following information (see Appendix B to this part for a sample fact sheet which meets the requirements of this section):

(1) A sketch or detailed description of the location of the discharge described in the NPDES application;

(2) A quantitative description of the discharge described in the NPDES application which includes at least the following:

(i) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow in gallons per day or million gallons per day;

(ii) For thermal discharges subject to limitation under the Act, the average summer and winter temperatures in degrees Fahrenheit; and

(iii) The average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under sections 301, 302, 306, or 307 of the Act and regulations published thereunder;

(3) The tentative determinations required under § 124.31;

(4) A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the water quality standards and effluent standards and limitations applied to the proposed discharge; and

(5) A fuller description of the procedures for the formulation of final determinations than that given in the public notice including:

(i) The 30-day comment period required by § 124.32(b);

(ii) Procedures for requesting a public hearing and the nature thereof; and

(iii) Any other procedures by which the public may participate in the formulation of the final determinations.

(b) The Director shall add the name of any person or group upon request to a mailing list to receive copies of fact sheets.

§ 124.34 Notice to other Government agencies.

Any State or interstate agency participating in the NPDES shall notify other appropriate Government agencies of each complete application for an NPDES permit and shall provide such agencies an opportunity to submit their written views and recommendations. Procedures for such notification shall include the following:

(a) At the time of issuance of public notice pursuant to § 124.32, transmission of a fact sheet to any other States whose waters may be affected by the issuance of an NPDES permit and, upon request, providing such States with a copy of the NPDES application and a copy of the proposed permit prepared pursuant to § 124.31(b). Each affected State shall be afforded an opportunity to submit written recommendations to the Director and to the Regional Administrator which the Director may incorporate into the permit if issued. Should the Director fail to incorporate any written recommendations thus received, he shall provide to the affected State or States (and to the Regional Administrator) a written explanation of his reasons for failing to accept any of the written recommendations.

(b) A procedure, similar to paragraph (a) of this section, for notifying any interstate agency having water quality control authority over waters which may be affected by the issuance of a permit.

(c) At the time of issuance of public notice pursuant to § 124.32, transmission of a fact sheet to the appropriate District Engineer of the Army Corps of Engineers of NPDES applications for discharges (other than minor discharges) into navigable waters:

(1) The Director and the District Engineer for each Corps of Engineers district within the State or interested area may arrange for (i) notice to the District Engineer of minor discharges, (ii) waiver by the District Engineer of his right to receive fact sheets with respect to classes, types, and sizes within any category of point sources and with respect to discharges to particular navigable waters or parts thereof and (iii) any procedures for the transmission of forms, period for comment by the District Engineer (e.g., 30 days), and for objections of the District Engineer.

(2) A copy of any written agreement between the Director and a District Engineer shall be forwarded to the Regional Administrator and shall be made available to the public for inspection and copying.

(d) A procedure for mailing copies of public notice (or upon specific request, copies of fact sheets) for application for NPDES permits to any other Federal, State, or local agency, or any affected country, upon request, and providing such agencies an opportunity to respond, comment, or request a public hearing pursuant to § 124.36. Such agencies shall include at least the following:

(1) The agency responsible for the preparation of an approved plan pursuant to section 208(b) of the Act; and

(2) The State or interstate agency responsible for the preparation of a plan pursuant to an approved continuous planning process under section 303(e) of the Act, unless such agency is under the supervision of the Director.

(e) Procedures for notice to and coordination with appropriate public health agencies for the purpose of assisting the applicant in coordinating the applicable requirements of the Act with any applicable requirements of such public health agencies.

§ 124.35 Public access to information.

(a) Any State or interstate agency participating in the NPDES shall insure that any NPDES forms (including the draft NPDES permit prepared pursuant to § 124.31(b)) or any public comment upon those forms pursuant to § 124.32(b) shall be available to the public for inspection and copying. The Director, in his discretion, may also make available to the public any other records, reports, plans, or information obtained by the State or interstate agency pursuant to its participation in the NPDES.

(b) The Director shall protect any information (other than effluent data) contained in such NPDES form, or other records, reports, or plans as confidential upon a showing by any person that such information if made public would divulge methods of processes entitled to protection as trade secrets of such person. If, however, the information being considered for confidential treatment is contained in an NPDES form, the Director shall forward such information to the Regional Administrator for his concurrence in any determination of confidentiality. If the Regional Administrator does not agree that some or all of the information being considered for confidential treatment merits such protection, he shall request advice from the Office of General Counsel, stating the reasons for his disagreement with the determination of the Director. The Regional Administrator shall simultaneously provide a copy of such request to the person claiming trade secrecy. The General Counsel shall determine whether the information in question would, if revealed, divulge methods of processes entitled to protection as trade secrets. In making such determinations, he shall consider any additional information submitted to the Office of General Counsel within 30 days of receipt of the request from the Regional Administrator. If the General Counsel determines that the information being considered does not contain trade secrets, he shall so advise the Regional Administrator and shall notify the person claiming trade secrecy of such determination by certified mail. No sooner than 30 days following the mailing of such notice, the Regional Administrator shall communicate to the Director his decision not to concur in the withholding of such information, and the Director and the Regional Administrator shall then make available to the public, upon request, that information determined not to constitute trade secrets.

(c) Any information accorded confidential status, whether or not contained in an NPDES form, shall be disclosed, upon request, to the Regional Administrator, or his authorized representative, who shall maintain the disclosed information as confidential.

(d) The Director shall provide facilities for the inspection of information relating to NPDES forms and shall insure that State employees honor requests for such inspection promptly without undue requirements or restrictions. The Director shall either (1) insure that a machine or device for the copying of papers and documents is available for a reasonable fee, or (2) otherwise provide for or coordinate with copying facilities or services such that requests for copies of nonconfidential documents may be honored promptly.

(*Comment.* Although not required herein, the Director is encouraged to maintain facilities for inspection and copying in more than one location within the State or interstate area in order to increase citizen access to NPDES forms and activities.)

§ 124.36 Public hearings.

The Director shall provide an opportunity for the applicant, any affected State, any affected interstate agency, any affected country, the Regional Administrator, or any interested agency, person, or group of persons to request or petition for a public hearing with respect to NPDES applications. Any such request or petition for public hearing shall be filed within the 30-day period prescribed in § 124.32(b) and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The Director shall hold a hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Instances of doubt should be resolved in favor of holding the hearing. Any hearing brought pursuant to this subsection shall be held in the geographical area of the proposed discharge or other appropriate area, in the discretion of the Director, and may, as appropriate, consider related groups of permit applications.

§ 124.37 Public notice of public hearings.

(a) Public notice of any hearing held pursuant to § 124.36 above shall be circulated at least as widely as was the notice of the NPDES application. Procedures for the circulation of public notice for hearings held under § 124.36 shall include at least the following:

(1) Notice shall be published in at least one newspaper of general circulation within the geographical area of the discharge;

(2) Notice shall be sent to all persons and Government agencies which received a copy of the notice or the fact sheet for the NPDES application;

(3) Notice shall be mailed to any person or group upon request; and

(4) Notice shall be effected pursuant to subparagraphs (1) and (3) of this paragraph at least thirty (30) days in advance of the hearing.

(b) The contents of public notice of any hearing held pursuant to § 124.36 shall include at least the following (see Appendix C to this part for a sample hearing) notice which meets the requirements of this section:

(1) Name, address, and phone number of agency holding the public hearing;

(2) Name and address of each applicant whose application will be considered at the hearing;

(3) Name of waterway to which each discharge is made and a short description of the location of each discharge on the waterway;

(4) A brief reference to the public notice issued for each NPDES application, including identification number and date of issuance;

(5) Information regarding the time and location for the hearing;

(6) The purpose of the hearing;

(7) A concise statement of the issues raised by the persons requesting the hearing;

(8) Address and phone number of premises at which interested persons may obtain further information, request a copy of each draft NPDES permit prepared pursuant to § 124.31(b) above, request a copy of each fact sheet prepared pursuant to § 124.33, and inspect and copy NPDES forms and related documents; and,

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed.

Subpart E—Terms and Conditions of NPDES Permits

§ 124.41 Prohibited discharges.

Any State or interstate agency participating in the NPDES shall insure that no permit shall be issued authorizing any of the following discharges:

(a) The discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into navigable waters;

(b) Any discharge which the Secretary of the Army acting through the chief of engineers finds would substantially impair anchorage and navigation;

(c) Any discharge to which the Regional Administrator has objected in writing pursuant to any right to object provided the Administrator in section 402(d) of the Act; and

(d) Any discharge from a point source which is in conflict with a plan or amendment thereto approved pursuant to section 208(b) of the Act.

§ 124.42 Application of effluent standards and limitations, water quality standards, and other requirements.

(a) Procedures for any State or interstate program participating in the NPDES must insure that the terms and conditions of each issued NPDES permit apply and insure compliance with all of the following, whenever applicable:

(1) Effluent limitations under sections 301 and 302 of the Act;

(2) Standards of performance for new sources under section 306 of the Act;

(3) Effluent standards, effluent prohibitions, and pretreatment standards under section 307 of the Act;

(4) Any more stringent limitation, including those (i) necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulation (under authority preserved by section 510), or (ii) necessary to meet any other Federal law or regulation, or (iii) required to implement any applicable water quality standards; such limitations to include any legally applicable requirements necessary to implement total maximum daily loads established pursuant to section 303(d) and incorporated in the continuing planning process approved under section 303(e) of the Act and any regulations and guidelines issued pursuant thereto;

(5) Any more stringent legally applicable requirements necessary to comply with a plan approved pursuant to section 208(b) of the Act; and

(6) Prior to promulgation by the Administrator of applicable effluent standards and limitations pursuant to sections 301, 302, 306, and 307, such conditions as the Director determines are necessary to carry out the provisions of the Act.

(7) If the NPDES permit is for the discharge of pollutants into the navigable waters from a vessel or other floating craft, any applicable regulations promulgated by the Secretary of the department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(b) In any case where an issued NPDES permit applies the effluent standards and limitations described in subparagraphs (1), (2), and (3) of paragraph (a) of this section, the Director must state that the discharge authorized by the permit will not violate applicable water quality standards and must have prepared some explicit verification of that statement. In any case where an issued NPDES permit applies any more stringent effluent limitation based upon applicable water quality standards, a waste load allocation must be prepared to ensure that the discharge authorized by the permit is consistent with applicable water quality standards.

§ 124.43 Effluent limitations in issued NPDES permits.

In the application of effluent standards and limitations, water quality standards, and other legally applicable requirements, pursuant to § 124.42, any State or interstate agency participating in the NPDES shall, for each issued NPDES permit, specifiy average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight). The Director may, in his discretion, in addition to the specification of daily quantitative limitations by weight, specify other limitations, such as average or maximum concentration limits, for

(*Comment.* The manner in which effluent limitations are expressed will depend upon the nature of the discharge. Continuous discharges shall be limited by daily loading figures and, where appropriate, may be limited as to concentration or discharge rate (e.g., for toxic or highly variable continuous discharges). Batch discharges should be more particularly described and limited in terms of (i) frequency (e.g., to occur not more than once every 3 weeks), (ii) total weight (e.g., not to exceed 300 pounds per batch discharge), (iii) maximum rate of discharge of pollutants during the batch discharge (e.g., not to exceed 2 pounds per minute), and (iv) prohibition or limitation by weight, concentration, or other appropriate measure of specified pollutants (e.g., shall not cointain at any time more than 0.1 p.p.m. zinc or more than one-fourth (¼) pound of zinc in any batch discharge). Other intermittent discharges such as recirculation blowdown should be particularly limited to comply with any applicable water quality standards and effluent standards and limitations.)

§ 124.44 Schedules of compliance in issued NPDES permits.

In addition to the application of the effluent standards and limitations, water quality standards, and other legally applicable requirements, pursuant to § 124.42, any State or interstate agency participating in the NPDES shall follow the following procedures in setting schedules in NPDES permit conditions to achieve compliance with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements;

(a) With respect to any discharge which is not in compliance with applicable effluent standards and limitations, applicable water quality standards, or other legally applicable requirements listed in § 124.42 (d) and (e), the permittee shall be required to take specific steps to achieve compliance with the following:

(1) In accordance with any legally applicable schedule of compliance contained in:

(i) Applicable effluent standards and limitations;

(ii) If more stringent, water quality standards; or,

(iii) If more stringent, legally applicable requirements listed in § 124.42 (d) and (e); or,

(2) In the absence of any legally applicable schedule of compliance, in the shortest, reasonable period of time, such period to be consistent with the guidelines and requirements of the Act.

(b) In any case where the period of time for compliance specified in paragraph (a) of this section exceeds 9 months, a schedule of compliance shall be specified in the permit which will set forth interim requirements and the dates for their achievement; in no event shall more than 9 months elapse between interim dates. If the time necessary for completion of the interim requirement (such as the construction of a treatment facility) is more than 9 months and is not readily divided into stages for completion, interim dates shall be specified for the submission of reports of progress towards completion of the interim requirement. For each NPDES permit schedule of compliance, interim dates and the final date for compliance shall, to the extent practicable, fall on the last day of the months of March, June, September, and December.

(*Comment.* Certain interim requirements such as the submission of preliminary or final plans often require less than 9 months and thus a shorter interval should be specified. Other requirements such as the construction of treatment facilities may require several years for completion and may not readily subdivide into 9-month intervals. Long-term interim requirements should nonetheless be subdivided into intervals not longer than 9 months at which the permittee is required to report his progress to the Director pursuant to § 124.44(c)).

(c) Either before or up to fourteen (14) days following each interim date and the final date of compliance the permittee shall provide the Director with written notice of the permittee's compliance or noncompliance with the interim or final requirement.

(d) On the last day of the months of February, May, August, and November the Director shall transmit to the Regional Administrator a list of all instances, as of 30 days prior to the date of such report, of failure or refusal of a permittee to comply with an interim or final requirement or to notify the Director of compliance or noncompliance with each interim or final requirement (as required pursuant to paragraph (b) of this section. Such list shall be available to the public for inspection and copying and shall contain at least the following information with respect to each instance of noncompliance:

(1) Name and address of each noncomplying permittee;

(2) A short description of each instance of noncompliance (e.g., failure to submit preliminary plans, 2 week delay in commencement of construction of treatment facility; failure to notify Director of compliance with interim re-

quirement to complete construction by June 30th, etc.);

(3) A short description of any actions or proposed actions by the permittee or the Director to comply or enforce compliance with the interim or final requirement; and

(4) Any details which tend to explain or mitigate an instance of noncompliance with an interim or final requirement (e.g., construction delayed due to materials shortage, plan approval delayed by objections from State Fish and Wildlife Agency.

(e) If a permittee fails or refuses to comply with an interim or final requirement in an NPDES permit such noncompliance shall constitute a violation of the permit for which the Director may, pursuant to Subpart H of this part, modify, suspend or revoke the permit or take direct enforcement action.

§ 124.45 Other terms and conditions of issued NPDES permits.

In addition to the requirements of §§ 124.42, 124.43, and 124.44, procedures of any State or interstate agency participating in the NPDES must insure that the terms and conditions of each issued NPDES permit provide for and insure the following:

(a) That all discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit; that facility expansions, production increases, or process modifications which result in new or increased discharges of pollutants must be reported by submission of a new NPDES application or, if such discharge does not violate effluent limitations specified in the NPDES permit, by submission to the Director of notice of such new or increased discharges of pollutants; that the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit;

(b) That the permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(1) Violation of any terms or conditions of the permit;

(2) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; and,

(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(c) That the permittee shall permit the Director or his authorized representative, upon the presentation of his credentials:

(1) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit;

(2) To have access to and copy any records required to be kept under terms and conditions of the permit;

(3) To inspect any monitoring equipment or method required in the permit; or,

(4) To sample any discharge of pollutants.

(d) That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall provide notice to the Director of the following:

(1) Any new introduction of pollutants into such treatment works from a source which would be a new source as defined in section 306 of the Act if such source were discharging pollutants;

(2) Except as to such categories and classes of point sources or discharges specified by the Director, any new introduction of pollutants into such treatment works from a source which would be subject to section 301 of the Act if such source were discharging pollutants; and,

(3) Any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

Such notice shall include information on (i) the quality and quantity of effluent to be introduced into such treatment works and (ii) any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works.

(e) That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall require any industrial user of such treatment works to comply with the requirements of sections 204(b), 307, and 308 of the Act. As a means of insuring such compliance, the permittee shall require of each industrial user subject to the requirements of section 307 of the Act and shall forward a copy to the Director periodic notice (over intervals not to exceed 9 months) of progress towards full compliance with section 307 requirements.

(f) That the permittee at all times shall maintain in good working order and operate as efficiently as possible any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit.

(g) That if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the Act for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the NPDES permit, the Director shall revise or modify the permit in accordance with the toxic effluent standard or prohibition and so notify the permittee.

§ 124.46 Transmission to Regional Administrator of proposed NPDES permits.

Any State or interstate agency participating in the NPDES shall transmit to the Regional Administrator copies of NPDES permits proposed to be issued by such agency in such manner as the Director and Regional Administrator shall agree upon. Any agreement between the State or interstate agency and the Regional Administrator shall provide for at least the following:

(a) Except as waived pursuant to paragraph (d) of this section, the transmission by the Director of any and all terms, conditions, requirements, or documents which are a part of the proposed permit or which affect the authorization by the proposed permit of the discharge of pollutants;

(b) A period of time (up to 90 days) in which the Regional Administrator, pursuant to any right to object provided in section 402(d)(2) of the Act, may comment upon, object to, or make recommendations with respect to the proposed permit;

(c) Procedures for State acceptance or rejection of a written objection by the Regional Administrator; and

(d) Any written waiver by the Regional Administrator of his rights to receive, review, object to, or comment upon proposed NPDES permits for classes, types, or sizes within any category of point sources.

§ 124.47 Transmission to Regional Administrator of issued NPDES permits.

Each State or interstate agency participating in the NPDES shall transmit to the Regional Administrator a copy of every issued NPDES permit, immediately following issuance, along with any and all terms, conditions, requirements, or documents which are a part of such permit or which affect the authorization by the permit of the discharge of pollutants.

Subpart F—Duration and Review of NPDES Permits

§ 124.51 Duration of issued NPDES permits.

Any State or interstate agency participating in the NPDES shall provide that each issued NPDES permit shall have a fixed term not to exceed 5 years.

(*Comment.* The term of an NPDES permit may extend beyond the time for compliance specified pursuant to § 124.44. The time for compliance shall be that dictated by (i) effluent standards and limitations, or (ii) if more stringent, water quality standards, or (iii) if more stringent, other legally applicable requirements such as those listed in § 124.42 (d) and (e). The term of the NPDES permit may extend beyond the final deadline for compliance, except that the term may not exceed 5 years. Failure to comply with the permit schedule of compliance, including interim and final requirements, as provided in §124.44(e), is a violation of the permit for which the Director may take Subpart H of this part enforcement action.)

§ 124.52 Reissuance of NPDES permits.

(a) Any State or interstate agency participating in the NPDES shall maintain procedures for the review of applications for reissuance of NPDES permits. Such review procedures shall require, and the Director shall so notify the permittee, that any permittee who wishes to continue to discharge after the expiration date of his NPDES permit must file for reissuance of his permit at least 180 days prior to its expiration. The filing requirements for reissuance shall

be determined by the State or interstate agency and may range from a simple written request for reissuance to submission of all NPDES and State or interstate forms.

(b) The scope and manner of any review of an application for reissuance of an NPDES permit shall be within the discretion of the State or interstate agency but shall be sufficiently detailed as to insure the following:

(1) That the permittee is in compliance with or has substantially complied with all the terms, conditions, requirements, and schedules of compliance of the expired NPDES permit;

(2) That the Director has up-to-date information on the permittee's production levels, permittee's waste treatment practices, nature, contents, and frequency of permittee's discharge, either pursuant to the submission of new forms and applications or pursuant to monitoring records and reports submitted to the Director by the permittee; and,

(3) That the discharge is consistent with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements listed in § 124.42, including any additions to, or revisions or modifications of such effluent standards and limitations, water quality standards, or other legally applicable requirements during the term of the permit.

(c) The State or interstate agency shall follow the notice and public participation procedures specified in Subpart D of this part in connection with each request for reissuance of an NPDES permit.

(d) Notwithstanding any other provision in this part, any point source the construction of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and which is so constructed as to meet all applicable standards of performance shall not be subject to any more stringent standard of performance during a 10-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

Subpart G—Monitoring, Recording, and Reporting

§ 124.61 Monitoring.

Procedures of any State or interstate agency participating in the NPDES for the monitoring of any discharge authorized by an NPDES permit shall be consistent with the following:

(a) Any discharge authorized by an NPDES permit may be subject to such monitoring requirements as may be reasonably required by the Director, including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods).

(b) Any discharge authorized by an NPDES permit which (1) is not a minor discharge, (2) the Regional Administrator requests, in writing, be monitored, or (3) contains toxic pollutants for which an effluent standard has been established by the Administrator pursuant to section 307(a) of the Act, shall be monitored by the permittee for at least the following:

(i) Flow (in gallons per day); and,

(ii) All of the following pollutants:

(*a*) Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the permit;

(*b*) Pollutants which the Director finds, on the basis of information available to him, could have a significant impact on the quality of navigable waters;

(*c*) Pollutants specified by the Administrator, in regulations issued pursuant to the Act, as subject to monitoring; and,

(*d*) Any pollutants in addition to the above which the Regional Administrator requests, in writing, be monitored.

(c) Each effluent flow or pollutant required to be monitored pursuant to paragraph (b) of this section shall be monitored at intervals sufficiently frequent to yield data which reasonably characterizes the nature of the discharge of the monitored effluent flow or pollutant. Variable effluent flows and pollutant levels may be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels which may be monitored at less frequent intervals.

§ 124.62 Recording of monitoring activities and results.

Any State or interstate agency participating in the NPDES shall specify the following recording requirements for any NPDES permit which requires monitoring of the authorized discharge:

(a) The permittee shall maintain records of all information resulting from any monitoring activities required of him in his NPDES permit;

(b) Any records of monitoring activities and results shall include for all samples: (1) The date, exact place, and time of sampling; (2) the dates analyses were performed; (3) who performed the analyses; (4) the analytical techniques/methods used; and, (5) the results of such analyses; and,

(c) The permittee shall be required to retain for a minimum of 3 years any records of monitoring activities and results including all original strip chart recording for continuous monitoring instrumentation and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the Director or Regional Administrator.

§ 124.63 Reporting of monitoring results.

Any State or interstate agency participating in the NPDES shall require periodic reporting (at a frequency of not less than once per year) on the proper NPDES reporting form of monitoring results obtained by a permittee pursuant to monitoring requirements in an NPDES permit. In addition to the NPDES reporting form, the Director in his discretion may require submission of such other sults as he determines to be necessary. information regarding monitoring re-

(*Comment.* Reporting frequency, as with monitoring frequency, depends upon the nature and impact of the discharge. Annual report submission is sufficient for small cooling water discharges. Discharges for which more frequent, even monthly, reporting is desirable include variable discharges, major, including municipal, discharges, and discharges for which new treatment or control methods are being applied. Reporting frequency should correspond with administrative capability to evaluate the reports as they come in.)

§ 124.64 NPDES monitoring, recording, and reporting requirements.

Any State or interstate agency participating in the NPDES shall adopt procedures consistent with any national monitoring, recording, and reporting requirements specified by the Administrator in regulations issued pursuant to the Act.

Subpart H—Enforcement Provisions

§ 124.71 Receipt and followup of notifications and reports.

(a) Any State or interstate agency participating in the NPDES shall have the procedures and the capability for the receipt, evaluation, and investigatory followup for possible enforcement or remedial action of all notices and reports required of permittees including, but not limited to, the following:

(1) Reports from industrial users of progress towards compliance with the rquirements of section 307 of the Act, submitted pursuant to § 124.45(e);

(2) Notifications (or failure to notify) from permittees of compliance or noncompliance with interim requirements specified in NPDES permit schedules of compliance pursuant to § 124.44; and,

(3) Data submitted by permittees in NPDES reporting forms and other forms supplying monitoring data, pursuant to Subpart G of this part.

(b) Any such reports or notifications received by the Director pursuant to paragraph (a) of this section shall: (1) Constitute information available to the Director and (2) if forwarded to the Regional Administrator pursuant to the provisions of this part shall constitute information available to the Administrator within the meaning of section 309 of the Act.

(c) Any State or interstate agency participating in the NPDES shall have procedures and capability similar to paragraph (a) of this section for the receipt and evaluation of notices (relating to new introductions or changes in the volume or character of pollutants introduced into publicly owned treatment works) submitted by permittees which are publicly owned treatment works, pursuant to § 124.45(d), for possible violation of the terms and conditions of the NPDES permit. If the Director determines that any condition of the permit is violated, he shall notify the Regional Administrator and consider taking action under section 402(h) of the Act (relating to proceedings to re-

strict or prohibit the introduction of pollutants into treatment works).

§ 124.72 Modification, suspension, and revocation of NPDES permits.

(a) Any State or interstate agency participating in the NPDES shall provide procedures which insure that, after notice and opportunity for a public hearing, any permit issued under the NPDES can be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the causes listed in § 124.45(b) or for failure or refusal of the permittee to carry out the requirements of § 124.45(c).

(b) The Director may, upon request of the applicant, revise or modify a schedule of compliance in an issued NPDES permit if he determines good and valid cause (such as an Act of God, strike, flood, materials shortage, or other event over which the permittee has little or no control) exists for such revision and if within 30 days following receipt of notice from the Director, the Regional Administrator does not object in writing. All revisions or modifications made pursuant to this subsection during the period ending 30 days prior to the date of transmission of such list, shall be included in the list prepared by the Director pursuant to § 124.44(d).

§ 124.73 Enforcement.

Any State or interstate agency participating in the NPDES shall have such powers and procedures and such recourse to criminal, civil, and civil injunctive remedies as to insure the following ways and means are available to protect, maintain, and enhance water quality:

(a) Procedures which enable the Director to require compliance with (1) any effluent standards and limitations or water quality standards, (2) any NPDES permit or term or condition thereof, (3) any NPDES filing requirements, (4) any duty to permit or carry out inspection, entry, or monitoring activities, or (5) any rules or regulations issued by the Director either pursuant to orders issued by the Director, court actions, or both;

(b) Procedures which enable the Director to immediately and effectively halt or eliminate any imminent or substantial endangerments to the health or welfare of persons resulting from the discharge of pollutants (1) by an order or suit in the appropriate State court to immediately restrain any person causing or contributing to the discharge of pollutants or to take such other action as may be necessary, or (2) by a procedure for the immediate telephonic notice to the Regional Administrator of any actual or threatened endangerments to the health or welfare of persons resulting from the discharge of pollutants;

(c) Procedures which enable the Director to sue in courts of competent jurisdiction to enjoin any threatened or continuing violations of any NPDES permits or conditions thereof without the necessity of a prior revocation of the permit;

(d) Procedures which enable the Director to enter any premises in which an effluent source is located or in which records are required to be kept under terms or conditions of a permit and otherwise be able to investigate, inspect, or monitor any suspected violations of water quality standards or effluent standards and limitations or of NPDES permits or terms or conditions thereof;

(e) Procedures which enable the Director to assess or to sue to recover in court, such civil fines, penalties, and other civil relief as may be appropriate for the violation by any person of (1) any effluent standards and limitations or water quality standards, (2) any NPDES permit or term or condition thereof, (3) any NPDES filing requirements, (4) any duty to permit or carry out inspection, entry, or monitoring activities, (5) any order issued by the Director under paragraph (a) of this section, or (6) any rules, regulations, or orders issued by the Director;

(f) Procedures which enable the Director to seek criminal fines for the willful or negligent violation by such persons of (1) any effluent standards and limitations or water quality standards, (2) any NPDES permit or term or condition thereof, (3) any NPDES filing requirements;

(g) Procedures which enable the Director to seek criminal fines against any person who knowingly makes any false statement, representation, or certification in any NPDES form or any notice or report required by the term and conditions of any issued NPDES permit or knowingly renders inaccurate any monitoring device or method required to be maintained by the Director; and

(h) The maximum civil penalties and criminal fines recoverable by the Director pursuant to paragraphs (e) and (f) of this section shall (1) be comparable to similar maximum amounts recoverable by the Regional Administrator under section 309 or (2) represent an actual and substantial economic deterrent to the actions for which they are assessed or levied. Such civil penalties or criminal fines shall be assessable up to the maximum amounts for each violation specified in paragraphs (e) and (f) of this section, or, if the violation is a continuous discharge, assessable for each day the discharge occurs.

(*Comment*. It is understood that in many States the Director will be represented in State courts by the State attorney general or other appropriate legal officer. While the Director need not appear in court actions under this subpart, he should have the power to request that such actions be brought.

The following enforcement options, while not mandatory, are highly recommended as means not only for compelling compliance but also for providing additional funds to State or interstate program efforts:

(1) Procedures for assessment by the Director or by a State court of any violator for the costs of an investigation, inspection, or monitoring survey which led to the establishment of the violation;

(2) Procedures which enable the Director to assess or to sue any persons responsible for an unauthorized discharge of pollutants for any expenses incurred by the State in removing, correcting, or terminating any adverse effects upon water quality resulting from such unauthorized discharge of pollutants, whether or not accidental; and,

(3) Procedures which enable the Director to sue for compensation for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by an unauthorized discharge of pollutants, either for the State, for any residents of the State who are directly aggrieved by the unauthorized discharge of pollutants, or both.)

Subpart I—Disposal of Pollutants Into Wells

§ 124.80 Control of disposal of pollutants into wells.

Any State or interstate agency participating in the NPDES shall have procedures which control the disposal of pollutants into wells. Any such disposal shall be sufficiently controlled to protect the public health and welfare and to prevent pollution of ground and surface water resources.

(a) If an applicant for an NPDES permit proposes to dispose of pollutants into wells as part of a program to meet the proposed terms and conditions of an NPDES permit, the Director shall specify additional terms and conditions in the final NPDES permit which shall (1) prohibit the proposed disposal, or (2) control the proposed disposal in order to prevent pollution of ground and surface water resources and to protect the public health and welfare.

(b) A State agency participating in the NPDES shall have procedures to prohibit or control through the issuance of permits all other proposed disposals of pollutants into wells. Following approval of the Administrator of a State program pursuant to section 402 of the Act, the Director shall permit no uncontrolled disposals of pollutants into wells within the State.

(c) Any permit issued for the disposal of pollutants into wells shall be issued in accordance with the procedures and requirements specified in this part.

(d) The Regional Administrator shall distribute to the Director and shall utilize in his review of any permits proposed to be issued by the Director for the disposal of pollutants into wells, any policies, technical information, or requirements specified by the Administrator in regulations issued pursuant to the Act or in directives issued to EPA regional offices.

Subpart J—Resources, Planning and Other Requirements

§ 124.91 Availability of resources.

(a) Any State or interstate agency participating in the NPDES shall, in submitting its program description pursuant to section 402(b) of the Act, provide information regarding funding and manpower appropriated for the use of the program proposed to be established and administered under State law or under an interstate compact. Such information shall include the following:

(1) A description of all full-time and part-time employees who will be engaged in carrying out the State permit program, including information on the qualifications and functions of such employees.

(2) A list of the proposed costs and expenses of establishing and administering the program described in the program description, including (i) wages and salaries of the personnel listed in (1) above, (ii) cost of administrative support (such as office space and supplies, computer time, vehicles, notice and hearing procedures, etc), and (iii) cost of technical support (such as laboratory space and supplies, vehicles, watercraft, etc.). Such estimate of costs and expenses shall include the cost and expense of carrying out the procedures and requirements contained in this part;

(3) A description of the funding available to the Director to meet the costs and expenses listed in subparagraph (2) of this paragraph including any restrictions or limitations upon such funding; and

(4) A list of categories and sizes of all point sources (e.g., major industrial, minor industrial, minor municipal, major feedlot, irrigation return flow, shopping centers and subdivisions, etc.) to which the Director proposes to issue permits under the Act. For each category, the following information shall be given:

(i) Estimated numbers of point sources within such category which are required to file for an NPDES permit; and

(ii) Number and percent of point sources within each category for which the State has already issued a State permit or equivalent document regulating the discharge of pollutants.

(b) The Regional Administrator and the Administrator shall review the information submitted by the Director pursuant to paragraph (a) of this section in order to determine whether the Director has resources available to him which will enable him to carry out the program described in the program description submitted pursuant to section 402(b) and the procedures contained in this part. Such a determination shall be based upon an examination of criteria which shall include the following:

(1) Whether there are a sufficient number of employees to process NPDES applications and issue NPDES permits in sufficient time to allow permittees to attain effluent limitations which will achieve the July 1, 1977 goal specified in section 301(b) of the Act;

(2) Whether the employees of the Director have sufficient expertise and experience for the proper specification of terms and conditions of NPDES permits pursuant to the requirements of subpart E of this part;

(3) Whether the employees of the Director have sufficient administrative and technical support and resources, including funding, to enable the Director to carry out his duties under this part and section 402 of the Act;

(4) The number, location, and kinds of point sources which constitute major sources of discharge of pollutants within the State or interstate area; and

(5) The quality of navigable waters within the State or subject to the authority of the interstate agency.

§ 124.92 Inspection and surveillance support for NPDES permits.

Any State or interstate agency participating in the NPDES shall have the funding, qualified personnel, and other resources necessary to support NPDES permits with inspection and surveillance procedures which will determine, independent of information supplied by applicants and permittees, compliance or noncompliance with applicable effluent standards and limitations, water quality standards, NPDES filing requirements, and issued NPDES permits or terms or conditions thereof. Such surveillance and inspection support procedures shall include the following:

(a) A supporting survey program with sufficient capability to make systematic, on-the-spot, comprehensive surveys of all waters subject to the Director's authority in order to identify and locate all point sources subject to NPDES filing requirements. Any compilation, index, or inventory of point sources shall be made available to the Regional Administrator or his authorized representative upon request;

(b) A supporting inspection program for the periodic inspection (to be performed not less than once every year for every discharge which is not a minor discharge) of discharges of pollutants from point sources and facilities for the treatment and control of such discharges of pollutants. Such inspections shall determine compliance or noncompliance with issued NPDES permits or terms or conditions thereof and, in particular, compliance or noncompliance with specific effluent limitations and schedules of compliance in such NPDES permits;

(c) A supporting surveillance program with sufficient capability for the random sampling and analysis of discharges for the purpose of identifying occasional and continuing violations of permit conditions or terms or conditions thereof and the accuracy of information submitted by permittees in NPDES reporting forms and other forms supplying monitoring data; and

(d) A supporting program for the purpose of following up evidence of violations of applicable effluent standards and limitations and water quality standards, NPDES filing requirements, or issued NPDES permits or terms or conditions thereof indicated by reports and notifications evaluated pursuant to § 124.71 above or by survey, inspection, and surveillance activities in paragraphs (a)–(c) of this section. The taking of samples and other information shall be performed with sufficient care as to produce evidence admissible in an enforcement proceeding or in court should the follow-up indicate a violation of applicable effluent standards and limitations and water quality standards or issued NPDES permits or terms or conditions thereof.

§ 124.93 Continuing planning process.

Any State or interstate program participating in the NPDES must have an approved continuing planning process pursuant to section 303(e) of the Act and must assure that its approved planning process is at all times consistent with the Act.

§ 124.94 Agency Board membership.

Each State or interstate agency participating in the NPDES shall insure that any board or body which approves NPDES permit applications or portions thereof shall not include as a member, any person who receives, or has during the previous 2 years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit.

(a) For the purposes of this section, the term "board or body" includes any individual, including the Director, who has or shares authority to approve permit applications or portions thereof either in the first instance or on appeal.

(b) For the purposes of this section, the term "significant portion of his income" shall mean 10 percent of gross personal income for a calendar year, except that it shall mean 50 percent of gross personal income for a calendar year if the recipient is over 60 years of age and is receiving such portion pursuant to retirement, pension, or similar arrangement.

(c) For the purposes of this section, the term "permit holders or applicants for a permit" shall not include any department or agency of a State government, such as a Department of Parks or a Department of Fish and Wildlife.

(d) For the purposes of this section, the term "income" includes retirement benefits, consultant fees, and stock dividends.

(e) For the purposes of this section, income is not received "directly or indirectly from permit holders or applicants for a permit" where it is derived from mutual-fund payments, or from other diversified investments over which the recipient does not know the identity of the primary sources of income.

Subpart K—NPDES Application and Reporting Forms [Reserved]

(Reserved for NPDES application and reporting forms, along with guidelines and instructions for their use by applicants for NPDES permits and by State and interstate programs participating in the NPDES.)

APPENDIX A

SAMPLE PUBLIC NOTICE

DEPARTMENT OF ENVIRONMENTAL PROTECTION DIVISION OF WATER QUALITY AND RESOURCES, 1616 COURT HOUSE DRIVE, CAPITAL CITY, STATE (ZIP) 307–445–8922

[Public Notice No. OPP–72–301; Application No. CIY–400–60–301]

AUGUST 12, 1973.

NOTICE—APPLICATION FOR NPDES PERMIT TO DISCHARGE TO STATE WATERS

Acme Paper Products, Inc., 11345 North Fremont Street, Cape Rockaway, State (ZIP), has applied for a Department of Environmental Protection permit to discharge pollutants into State waters.

Applicant is a manufacturer of bleached grades of paper from kraft pulp. Two existing discharges are described in the application: One of the utility waste water from applicant's steam generating plant and the other of process wastes from the manufacture of pulp and paper. Both discharges are pres-

ently to Martin Creek one-half-mile upstream from Whitehall Bay.

On the basis of preliminary staff review and application of lawful standards and regulations, the Division of Water Quality and Resources proposes to issue a permit to discharge subject to certain effluent limitations and special conditions. These proposed determinations are tentative. Persons wishing to comment upon or object to the proposed determinations are invited to submit same in writing to the above address no later than September 12, 1973. All comments or objections received prior to September 12, 1973, will be considered in the formulation of final determinations regarding the application. If no objections are received, the Director will issue his final determinations within 60 days of the date of this notice. A public hearing may be held if response to this notice indicates significant public interest.

The application, proposed permit including proposed effluent limitations and special conditions, fact sheets, comments received, and other information is on file and may be inspected and copied in Room 814, 1616 Court House Drive, Capital City, State (ZIP), at any time between 8:15 a.m. and 4:45 p.m., Monday through Friday. Fact sheets and further information may be obtained by writing to the above address or by calling the Office of Permit Processing at 307—445–8922.

APPENDIX B

SAMPLE FACT SHEET FOR MAILING TO INTERESTED AND POTENTIALLY INTERESTED PERSONS AND GOVERNMENT AGENCIES

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF WATER QUALITY AND RESOURCES, 1616 COURT HOUSE DRIVE, CAPITAL CITY, STATE (ZIP) 307–445–8922

[Public Notice No. OPP–72–301; Application No. CIY–400–60–301]

FACT SHEET—APPLICATION FOR NPDES PERMIT TO DISCHARGE TO STATE WATERS

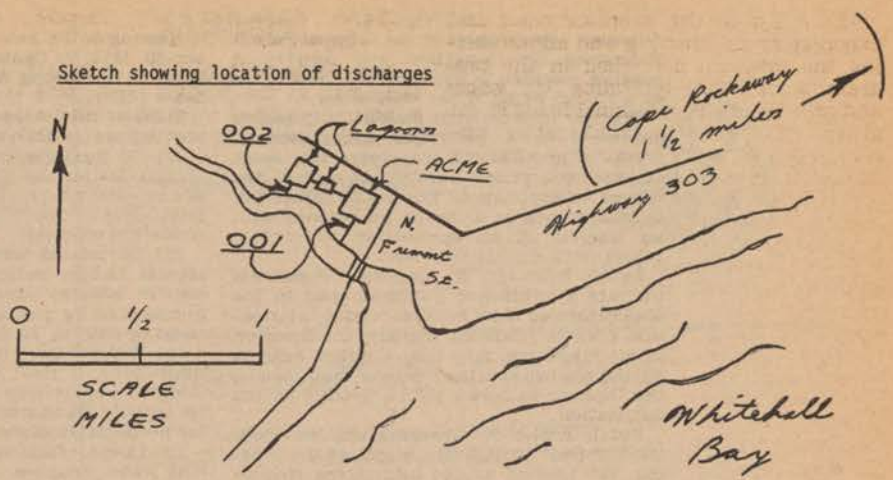
Acme Paper Products, Inc., 11345 North Fremont Street, Cape Rockaway, State (ZIP), has applied for a Department of Environmental Protection permit to discharge pollutants into State waters.

Applicant is a manufacturer of bleached grades of paper from kraft pulp. Two discharges are described in the application: One of utility waste water from applicant's steam generating plant and the other of process wastes from the manufacture of pulp and paper. Both discharges are to Martin Creek one-half-mile upstream from Whitehall Bay. The receiving waters are classified for industrial and navigation use, contact recreation, and propagation of fish and wildlife. A more complete description of the discharges and a sketch of their location follow below.

The application, proposed permit including proposed effluent limitations and special conditions, comments received, and other information is on file and may be inspected and copied in Room 814, 1616 Court House Drive, Capital City, State (ZIP), at any time between 8:15 a.m. and 4:45 p.m., Monday through Friday.

The proposed staff determinations are tentative. Persons wishing to comment upon or object to the proposed determinations are invited to submit same in writing to the above address no later than September 12, 1973. All comments or objections received prior to September 12, 1973, will be considered in the formulation of final determinations regarding the application. If no objections are received, the Director will issue his final determinations within 60 days of the date of public notice. As described more fully below, a public hearing may be held if response to public notice indicates significant public interest.

Sketch showing location of discharges



Description of proposed discharges—Discharge 001. Utility waste water from steam generating plant.

AVERAGE FLOW: 500,000 GALLONS PER OPERATING DAY

Average temperatures:	Intake	Discharge
Summer	85° F.	95° F.
Winter	38° F.	55° F.

Discharge 002. Process wastes from manufacture of pulp and paper.

AVERAGE FLOW: 24,300,000 GALLONS PER OPERATING DAY

Constituents	Milligrams per liter	Pounds per day
BOD	90	18,000
Suspended solids	110	22,000
Phenols	0.5	100
Mercury	0.0025	0.5

Proposed determinations. The Division of Water Quality and Resources has examined the above application. On the basis of applicable effluent limitations and water quality standards, the State Water Quality and Resources Act of 1971, as amended, and regulations issued thereunder, the Division proposes to issue the applicant a permit to discharge subject to effluent limitations and certain other conditions. The following is a brief description of the proposed effluent limitations and special conditions:

(1) *Proposed effluent limitations.*

Discharge 001. none

Discharge 002. visible foam and visible floating solids prohibited. The following discharge constituents shall be limited as follows:

Constituents	Milligrams per liter	Pounds per day
BOD	27.5	5,500
Suspended solids	25	5,000
Phenols	0.10	20
Mercury	0.0005	0.10

(2) *Proposed schedule for compliance.* The applicant shall achieve the effluent levels described in subsection (1) above in accordance with the following schedule:

Submission of final plans to Director by: November 15, 1973.

Commencement of construction by: January 15, 1974.

Completion of construction by: September 15, 1974.

Operational level attained by: November 1, 1974.

(3) *Proposed special conditions.* The applicant is required to operate his treatment facilities at maximum efficiency at all times. The applicant is required to monitor his discharges on a regular basis and report the results every 3 months. The monitoring results will be available to the public. The applicant is required to conduct studies of possible adverse effects of his heated water discharge 001 upon free floating marine life and shellfish in Martin Creek and Whitehall Bay. If applicant's study or independent information supplied to the Director indicate an adverse effect, the applicant will be required to take additional measures to minimize the adverse impact.

Applicable effluent limitations and water quality standards. The following are the effluent limitations and water quality standards which were applied to applicant's discharge in the formulation of the above proposed determinations:

(1) All effluent limitations except mercury are based upon effluent guidelines for the pulp and paper industry, manufacture of bleached paper grades from kraft pulp. See 40 CFR 128.74, 128.89, and 128.91(c).

(2) The mercury limitation is based upon effluent limitations for toxic substances. See 40 CFR 136.22 (b) and (c).

(3) For water quality standards for Martin Creek and Whitehall Bay, See 40 CFR 42.66 et. seq. Both are classified for the following uses: Industrial use, navigational use, contact recreation, and propagation of fish and wildlife.

Written comments. Interested persons are invited to submit written comments upon the proposed discharge and the Director's proposed determinations. Comments should be submitted by September 12, 1973, either in person or by mail to:

Director, Division of Water Quality and Resources, Attention: Office of Permit Processing, 1616 Courthouse Drive, Capital City, State (ZIP).

The application number should appear next to the above address on the envelope and on the first page of any submitted comments. All comments received by September 12, 1973, will be considered in the formulation of final determinations. If no written objections are received, the Director will issue his final determinations no later than 60 days following the date of this notice.

Information and copying. Persons wishing further information may write to the above address or call the Office of Permit Processing at 307 445–8922. Copies of the application, proposed permit including proposed effluent limitations and special conditions, comments received, and other documents (other than those which the Director maintains as con-

fidential) are available at the Office of Permit Processing for inspection and copying. A copying machine is available for public use at a charge of $0.15 per copy sheet.

Register of interested persons. Any person interested in a particular application of group of applications may leave his name, address, and phone number as part of the file for an application. The list of names will be maintained as a means for persons with an interest in an application to contact others with similar interests.

Public hearings. If submitted comments indicate a significant public interest in the application or if he believes useful information may be produced thereby, the Director, in his discretion, may hold a public hearing on the application. Any person may request the Director to hold a public hearing on the application.

Public notice of a hearing will be circulated at least 30 days in advance of the hearing. The hearing will be held in the vicinity of the discharge. Thereafter, the Director will formulate his final determinations within 60 days. Further information regarding the conduct and nature of public hearings concerning discharge permits may be obtained by writing or visiting the Office of Permit Processing, 1616 Courthouse Drive, Capital City, State (zip).

APPENDIX C

SAMPLE PUBLIC NOTICE FOR PUBLIC HEARINGS HELD IN REGARD TO NPDES APPLICATIONS

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF WATER QUALITY AND RESOURCES, 1616 COURTHOUSE DRIVE, CAPITAL CITY, STATE (ZIP) 307–445–8922

[Public Notice No. OPP–72–301–PH–24; Application No. CIY–400–60–301]

NOTICE—ANNOUNCEMENT OF PUBLIC HEARING ON APPLICATION OF ACME PAPER PRODUCTS TO DISCHARGE POLLUTANTS INTO MARTIN CREEK NEAR WHITEHALL BAY, CAPE ROCKAWAY, EDWARDS COUNTY, STATE

Acme Paper Products, Inc., 11345 North Fremont Street, Cape Rockaway, State (ZIP), has applied for a Department of Environmental Protection permit to discharge pollutants into Martin Creek one-half mile upstream from Whitehall Bay. The discharge and the Department's proposed determinations have been previously described in Public Notice No. OPP–72–301, dated August 12, 1973. Due to numerous comments received concerning the application, the filing of several petitions requesting a hearing, and the likelihood that information may be presented which will assist the Department in the formulation of final determinations regarding the application, the Director of the Department of Environmental Protection will hold a public hearing at the time and place stated below:

Hearing to be held at 7 p.m., on September 30, 1973, in Center High School Gymnasium, 2171 Furlong Avenue, Cape Rockaway, State (ZIP).

Some of the issues to be considered at the hearing are as follows:

(1) Do the Department's proposed effluent limitations for the applicant's discharge No. 002 represent a proper application of industrial effluent guidelines to the applicant's industrial processes.

(2) Do related water quality or environmental factors require the specification of stricter effluent limitations, additional requirements, or particular methods of treatment or control. In particular,

(a) Will the Department's proposed effluent limitations, if met, restore uncontaminated shellfish populations in Whitehall Bay (water quality standards classify Whitehall Bay for propagation of fish and shellfish).

(b) Does contamination of subsurface wells and water supplies of adjacent home and cottage owners result from leaks in applicant's treatment lagoons. If so, does the Department have the authority to require the applicant (i) to repair the leaks, and (ii) to compensate the adjacent home and cottage owners for damages resulting from the contamination of the subsurface wells and water supplies.

(c) Does the Department have the authority to control the manner in which the applicant utilizes adjoining marshes and wetlands as additional treatment lagoons in order to meet the Department's proposed effluent limitations. If so, what measures can be taken by the applicant to minimize any harmful effects to adjoining wetlands and fish and wildlife habitats therein.

All interested parties are invited to be present or to be represented to express their views on these and other issues relating to the above application. Parties making presentations are urged to address their statements to the above stated issues. Oral statements will be heard, but, for the accuracy of the record, all important testimony should be submitted in writing. Oral statements should summarize any extensive written material so there will be time for all interested parties to be heard.

The application, related documents, the Department's proposed limitations, and all comments and petitions received are on file and may be inspected and copied in Room 814, 1616 Court House Drive, Capital City, State (ZIP), at any time between 8:15 a.m. and 4:45 p.m., Monday through Friday. Copies of public notice OPP–72–301 are available at the above address or by calling the Office of Permit Processing at 307—445–8922.

Please bring the foregoing to the attention of persons whom you know would be interested in this matter.

[FR Doc.72–21987 Filed 12–21–72;8:45 am]