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Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18471; FCC 73-40]

PART 1—PRACTICE AND PROCEDURE

PART 73—RADIO BROADCAST SERVICES

Type Approval of Antenna Monitors

Report and order. In the matter of amendment of Part 73 of the Commission's rules and regulations with respect to maintenance and monitoring of the relative phases and currents in the elements of directional antennas and to provide for type approval of phase monitors used by standard broadcast stations, Docket No. 18471.

1. This proceeding contemplate amendment of Part 73 of the Commission's rules and regulations to:

(1) Require the installation and use of a type approved phase monitor by every standard broadcast station employing a directional antenna.

(2) Specify the maximum permissible deviation in the relative phases of the currents in a directional antenna as ±2° from the licensed values.

(3) Set forth the essential specifications for phase monitors eligible for type approval.

Rules also were proposed for the procedures applicable when a phase monitor becomes defective. Comment was requested on the question of "grandfathering" existing phase monitors in instances where they would not be used to provide phase indications at a remote control point.

2. After full consideration of all comments filed, we are adopting rules with respect to these matters, except for (2), above. For the reasons discussed herein, we are not specifying permissible phase deviations.

3. In the notice of proposed rule making in this matter, released February 28, 1969, filing deadlines for comments were specified as April 7, 1969, and for reply comments as April 17, 1969. The dates were extended by subsequent orders to July 9, 1969, and August 8, 1969, respectively. Thirty-eight separate comments were filed in this proceeding, representing the views of many station licensees, networks, individuals, engineering and trade associations, consulting engineers, and the designers and manufacturers of phase monitors. There was one reply comment. The roster of the parties is as follows:

Michael C. Rice.
George W. Harvey.
Frank S. Colligan (Colligan).
Ralph J. Bitzer (Bitzer).
Kear & Kennedy.
A. Earl Cullum and Associates (Cullum).
J. G. Rountree (Rountree).
H. W. Holt.
J. B. Hatfield (Hatfield).
Carl E. Smith Consulting Engineers (Smith).
Walter F. Kean (two separate filings, identical in substance in behalf of two different groups of station licensees) (Kean).
Association of Federal Communications Consulting Engineers (AFCCE).
National Association of Broadcasters (NAB).
Clear Channel Broadcasting Service (CCBS).
Association for Broadcasting Standards (ABS).
American Broadcasting Companies, Inc. (ABC).
National Broadcasting Co. (NBC).
Columbia Broadcasting System, Inc. (CBS).
Westinghouse Broadcasting Co. (Westinghouse).
Storer Broadcasting Co. (Storer).
United Broadcasting Company of New York, Inc. (UBC).
Rollins, Inc.
Newhouse Broadcasting Corp.
WRVA Radio, Inc. (WRVA).
Susquehanna Broadcasting Co.
McLendon Corp.
Rice Communications, Inc. (Rice).
Streator Broadcasting Co.
Steere Broadcasting Co.
Mesabi Western Corp. (Mesabi).
KNCY Radio Corp.
WEEU Broadcasting Corp. (WEEU).
Emerald Broadcasting Corp.
Mobil Videotapes, Inc.
James A. Noe (Noe).
John K. Birch (Birch).
Defense Electronics.
Potomac Instruments, Inc. (Potomac).

4. There was a virtual consensus among those commenting concerning two of the main proposals of the Commission, viz:

(1) That the proposed maximum permissible phase deviation of ±2° as an absolute limit is too restrictive in the great majority of cases.

(2) That the Commission should require type approved phase monitors in instances where licensees propose to observe and log phases at their remote control points. In other instances, stations should be permitted to retain their present monitors (be grandfathered).

5. There were also a number of helpful criticisms and suggested changes of the proposed rules governing the replacement of a defective monitor, and of the technical requirements which we had proposed for type approved monitors.

6. While, in the light of the preponderance of the comments, our proposal to limit phase deviations to ±2° might appear unrealistically restrictive, it had the effect, which a more moderate proposal might not have had, of provoking a productive discussion of many of the problems involved in maintaining a directional antenna in proper adjustment. It is regretted, however, that the proposal was not of such a nature as to elicit an equally thorough discussion of the problems presented by varying monitoring point values. Many of those commenting took the position that the definitive indicia of proper array adjustment are proper monitoring point values, and either stated or implied that any variation in indicated phase differences and current ratios should be permissible so long as the monitoring point field strengths remain within licensed limits.

7. While several of those commenting stated that a permissible deviation of ±2° might be acceptable as a basic tolerance, nearly all wanted any rule setting such a tolerance to provide for temporary deviations beyond this limit during unfavorable weather conditions. It was pointed out that any tolerance which is reasonable under normal conditions may be exceeded when there is heavy rain, snow or icing, or abrupt and substantial changes in temperature. To what extent such excessive deviations reflect actual changes in the parameters of the array, or the effects of precipitation or temperature changes on the sampling system usually cannot be ascertained. It appears that both are affected, the latter less drastically when it is properly designed and installed. Indicated tower current ratios, as well as relative phases are affected by such weather conditions. Kear and Kennedy and Defense Electronics suggest language for rules which would take into account these effects both as to phase relationships and current ratios. Subject to appropriate qualification to provide for greater deviations under unfavorable weather conditions (notations in the operating log would be made when such conditions occurred) there was considerable sentiment for a phase tolerance of ±3°, since a deviation of this amount in phase produces an effect roughly equivalent to a 5 percent deviation in current ratio, a limit already set forth in the rules.

8. Others suggested tolerances of ±4° and ±5°, or no tolerance at all. Kean stated that even a tolerance of ±5° would be insufficient to accommodate variations caused by annual or short term environmental changes. However, Susquehanna considered this tolerance sufficiently high to accommodate such changes.[1]

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[1] Bitzer and Rountree argue that if the tolerance for phase deviations is made too small, operators will be impelled to make phasor adjustments to bring phase indications back within tolerance. They hold that most operators do not possess the technical competence to make these adjustments, and the result of such a practice can be a misadjustment of the directional antenna. On the other hand, some licensees claim that too tight a tolerance will prevent them from making changes in phase relationships when such changes appear necessary to keep monitoring point readings within their licensed limits.

9. In some instances, parties who favored setting no limit at all, by rule, on phase deviations, suggest that limits be specified in the instrument of authorization for each station. They argue that in some directional antenna designs the effect on the pattern of a phase change of a stated amount is far greater than in others. Also, the requirements for the protection of other stations vary markedly from case to case. Thus, a phase deviation of a magnitude which results in objectionable interference to other stations in one instance may be of little significance in another. Accordingly, no single value for permissible deviation should be set for all stations—rather, permissible deviations should be specified for each station in its license in the light of its antenna characteristics and its protection obligations.

10. It was emphasized by many of those commenting that even under normal weather conditions, changes in phase monitor indications may reflect, not so much changes in the antenna parameters, as changes in the phase sampling system. The importance of the proper design, installation and maintenance of such systems was stressed. Several parties urged that if a rule requiring type approved phase monitors is to result in improved surveillance of directional antenna operation, it must be supplemented by rules establishing at least minimum standards for the installation of sampling systems. Alternatively, it was suggested that each licensee installing a type approved phase monitor be required to make a full disclosure of the details of the associated sampling system. There is a considerable area of agreement as to the basic requirements for such systems. Some parties, Cullum and Colligan, in particular, went into considerable detail as to the specific features of a satisfactory sampling system, Cullum emphasizing mainly the electrical characteristics, and Colligan the details of physical construction.

11. The proposition was advanced that indicated phase or current deviations beyond normal tolerance should not be considered as a definitive indication that a directional antenna is out of adjustment, but serve only as a warning of possible trouble, calling for an immediate investigation of the whole system, and a check of monitoring point field strengths. Thus, indicated deviations of these parameters beyond specified tolerances observed by a Commission engineer should not, standing alone, justify the serving of a citation for improper operation. It was suggested that stations experiencing excessive deviations should enter in their maintenance or operating logs the apparent cause of the deviations, if ascribed to temporary weather conditions, or, if not reasonably explicable on this basis, the measures that have been taken to ascertain that the array continues in proper adjustment.

12. There was general agreement that, as the Commission proposed, a phase monitor type approved for the provision of remote indications should be required if a station licensee undertakes to observe and log phase indications at a remote control point pursuant to rule amendments proposed in Docket 18455. In other cases, immediate installation of a type approved monitor should not be required. A number of those commenting favored "grandfathering" of existing monitors for unlimited periods of time. Others would establish firm deadlines, or cite circumstances under which the installation of type approved monitors would be required.

13. Opinions as to the period of grace to be allowed before type approved phase monitors be required for all stations ranged from 1 year (Smith) to 6 years (NAB). Many favored a period of about 5 years, with the proviso that, if a major change in the directional array is authorized within that period, it should be the occasion for the installation of a type approved phase monitor (NBC, CBS, Storer). CCBS noted that if a station has a history of difficulty in maintaining its directional pattern within licensed limits, the burden should be placed on the licensee for demonstrating that its phase monitor is adequate.

14. WEEU, McLendon and UBC request that in any rules adopted in this proceeding or in Docket 18455, it be made quite clear that type approved phase monitors will not be required at this time if phase monitor sample currents, but not phase indications, are observed at a remote control point.

They state that sample current indications are used by many stations at remote control points to provide the "indications * * * of * * * remote base current meters" which § 73.67(a)(5) of the rules states are to be read and entered in the operating log each half hour.[3]

15. Section 73.69(b)(5) of the proposed rules would require, if a defective phase monitor is replaced by another monitor, "a skeleton proof of performance, consisting of measurements of three or four consecutive points on each radial used in the original application, shall be submitted to the Commission within 60 days of the date the replacement monitor is placed in service."

16. Mesabi, WRVA, NAB, AFCCE, and CBS comment on and generally take exception to the above requirement. A summary of their comments and suggestions follows:

Mesabi. If the new phase monitor shows different readings than the old, the new phase readings should be accepted as direct replacements for the corresponding values shown on the old. The license should be modified to reflect these new values without a further proof of performance.

WRVA. A skeleton proof should not be necessary if readings of new monitors are in agreement with the terms of the license. Monitoring point measurements should provide additional proof the directional antenna is functioning normally.

NAB. No skeleton proof should be required if satisfactory evidence is submitted that no material change has occurred in DA operation.

AFCCE. If the monitor becomes defective and is replaced by another type which gives changed indications, a skeleton proof should be required.

CBS. A skeleton proof should not be required in all cases of phase monitor replacement—it depends on the circumstances. If there is reason to suspect trouble in the antenna, a proof should be made. However, the simple replacement of one monitor by another should not occasion it.

17. A number of criticisms and suggestions were offered regarding the specifications for type approved monitors, viz: Proposed § 73.53(b)(5) reads "The required accuracy shall be met when the carrier is either modulated or unmodulated." Storer questions whether such a blanket requirement could be met by any phase monitor when the carrier is assymetrically modulated and peaks exceed 100 percent. It suggests that the phase monitor should be required to maintain its specified accuracy with sine wave modulations over a range of zero to 90 percent. Birch has a similar reservation, stating that any phase monitor will register an erroneous reading for the duration of peaks with negative modulation of 100 percent. He suggests that the accuracy figure should be maintained up to a level of negative modulation of about 95 percent. Potomac urges that the accuracy be specified under conditions of "sine wave modulation from

[3] The occasion for this concern arises from a conflict between the clear intent of the rule, and the adoption of practices by broadcasters at odds with this intent, which, nevertheless, have been sanctioned on an informal basis by the Commission. The report and order in Docket 11677, which adopted the present rules concerning operation of stations with directional antennas by remote control clearly indicates that the language of the rule means exactly what it says—that indications of base currents must be read at the remote control point. McLendon's argument that sample currents provided at the transmitter for the phase monitor satisfy this requirement is not persuasive. Many of the parties commenting in this proceeding have emphasized the differences between the indications of array element field ratios derived from base current indications and from phase monitor samples—arguing that the latter more accurately reflect the actual field ratios than do the former. It is clear, however, that these parties contemplate the phase monitor samples will be obtained from loops mounted above ground on each element of the array. In some cases the phase monitor samples are not so derived—they are obtained by coupling to the transmission line at the base of the tower. Only in such cases (which are in the minority) could sample currents properly be considered as "indications of the base currents."

Despite the language of the rule, the Commission has permitted the output of phase monitor sampling lines, whether obtained by loop or base coupling, to be transmitted to remote control points to be read and logged in satisfaction of the requirement that indications of base current be read and logged. We do not contemplate that licensees presently following this practice will be required to acquire type approved phase monitors at this time. However, it appears obvious that any rule adopted should specifically provide for the reading of phase monitor sample currents at a remote control point in lieu of indications of base currents so that the existing anomalous situation may be corrected.

zero to 95 percent at modulation frequencies from 50 Hz to 15 kHz; also with typical program material exhibiting negative modulation peaks up to 98 percent."

18. The proposed rules do not require that a type approved monitor include means for indicating the relative amplitudes of loop currents, specifying only a required accuracy if such facilities are included. Birch and Potomac Instruments take strong exception to any rules which do not make mandatory the provision of these facilities in the monitor. CBS also urges that loop current indicators be incorporated in the monitor.

19. For loop current indications, Colligan would include a requirement that they be linear to within 2 percent over a range from 5 percent of full scale to 95 percent of full scale.

20. CBS suggests that the performance of the monitor be stated in terms of its "resolution" rather than its accuracy. Birch and Potomac favor separate specifications for accuracy and "resolution" (both would specify the latter as 0.5 degrees). Resolution, as Potomac construes it, apparently is synonymous with "repeatability."

21. Birth and Potomac each suggest that proposed § 73.53(b)(1) be revised to specify that the phase differences be indicated between a reference RF input and other FR inputs, rather than "between any two RF input points," since the former is the indication directly made by phase monitors of modern manufacture.

22. Both suggest additional requirements, particularly applicable to the monitor when used for remote indication, which would insure that accurate remote point readings could be achieved without adjustment or calibration of the monitor, and that internal circuitry is included to permit the monitor to be switched among the various elements of the array from the remote control point.

23. Potomac urges that we further include the requirement that the specified accuracy of the monitor be maintained within temperature variations of ±15° F. about the temperature at which the monitor was calibrated, and with sampling line voltage changes 3 db above and 6 db below the nominal input voltage.

Discussion

24. In the light of the comments received, we will not now adopt a rule specifying a fixed permissible phase deviation for stations with directional arrays. We think that phase tolerances ultimately should be set by the Commission. Ideally, permissible deviations in relative phases and current amplitudes should be specified for each station in its instrument of authorization in the light of its antenna characteristics and its obligations for the protection of other stations. This, of course, is now done for stations having unusually rigid protection requirements. Practical and equitable considerations might militate against its accomplishment on an overall basis. A considerable burden would be placed on each station licensee in preparing the engineering study necessary to define the limits for his particular station. Moreover, a specific procedure for making such studies must be developed and presumably must be prescribed by the Commission if uniform and consistent determinations are to be made by all stations. At present, no generally accepted procedure exists.

25. Even if a case-by-case approach should not prove feasible, the establishment by rule of a fixed tolerance for phase variations for all stations with directional antennas, with suitable provision for excessive deviations because of weather and other adverse conditions, is desirable in insuring that antennas do not drift out of adjustment because of aging or defective components, or are not misadjusted by station operators. Such a requirement would be fully consistent with the longstanding Commission rule requiring the maintenance of current ratios within 5 percent of the values specified in the station license. If this approach were adopted, we think a tolerance of ±3° might be appropriate. Not only is the effect of a deviation of this amount approximately equivalent to a variation in current ratio of 5 percent, but it would appear, in the light of the comments, that under normal weather conditions reasonably stable directional antennas can operate within such a tolerance without frequent readjustments.

26. However, the successful application of a tolerance for phase deviations requires that such deviations be accurately detected. It is quite evident from the tenor of the comments that the phase monitoring systems of many stations are incapable of providing consistently accurate indications of phase or phase deviations. Almost unanimously, those commenting lay the blame for this situation on sampling systems which are inadequately designed and improperly installed. Where such systems are employed, indicated phase deviations may reflect variations in the sampling system with changes in temperature, moisture, wind velocity, etc., or deterioration of components of the system, rather than any real change in antenna phase relationships.

27. At least one comment suggests that faulty sampling systems are so numerous that, unless the situation is corrected, it is futile to require type approved monitors. Others have urged that the Commission establish at least minimum standards for the installation of sampling systems, or that each station installing a type approved monitor be required to make a showing that the sampling system to be employed therewith is adequate.

28. On the basis of the comments, we are convinced that the incidence of faulty and inadequate sampling systems is so general that any attempt by the Commission to fix and require compliance with a specific phase tolerance at this time will result, not in better maintenance of radiation patterns, but, in many cases, unnecessary and perhaps deleterious readjustments of array parameters.

29. There was a tendency on the part of some parties to minimize the importance of phase monitor readings in determining the performance of an array, and to look to the results of monitoring point measurements as the definitive indicia of proper array adjustment. Where a phase indicating system cannot be relied upon to provide accurate indications, monitoring point measurements become almost the sole basis for pattern maintenance. However, as many consulting engineers and station operators well know, monitoring point fields have their own peculiar vagaries, which must be recognized and accounted for.[3] The practice of making arbitrary changes in array operating parameters in attempts to maintain measured fields within prescribed limits often has resulted in situations where complete reproofs of arrays have become necessary.

30. We share the conviction of those parties who believe that an accurate and reliable system for determining phase relationships is an essential adjunct to proper directional antenna operation, and to the extent licensees do not now have such systems, steps should be taken to correct this situation.

31. We therefore believe that the adoption of rules for the type approval of phase monitors, and providing for the eventual installation of such monitors by all stations using directional antennas is an important step toward the improvement of the technical operation of these stations. However, it is apparent, in view of the comments received, that the problem of achieving better surveillance of antenna operations is not thereby completely solved—that little is gained by requiring the use of a monitor giving accurate and stable indications of the relationships of antenna signals delivered to its terminals, if these signals are subject to errors introduced by a faulty sampling system. Accordingly, in the near future we expect to institute a new rule making proceeding looking toward the adoption of rules which would set minimum standards for sampling systems. In the instant proceeding we have

[3] It should be noted that it is common practice to use phase monitor current indications in lieu of base current indications in determining element current ratios in an array. While this is often a matter of convenience, a number of those commenting held that loop current ratios are a more accurate indication of relative element fields than are base current ratios. In view of the apparent inadequacy of many sampling systems for presenting phase differences, a question is raised as to the accuracy with which such systems can provide information on current ratios. While this matter has not been discussed to any extent by those commenting, it would appear that the factors which adversely affect the accuracy of phase indications in general have considerably less effect on current ratio indications. However, Kear and Kennedy and Defense Electronics both suggest that the rule setting the tolerance for current ratios be modified to provide for deviations resulting from adverse weather conditions.

received a number of suggestions concerning this question, and will rely on them extensively in formulating the proposed standards.

32. As previously indicated, several of the parties urge that type approved phase monitors not be required when loop current indications, but not phases, are read at the remote control point. This matter is disposed of in the report and order in Docket No. 18455, which we are issuing simultaneously with this document.

33. Since the inception of the instant proceeding, we have concluded rule making in Docket 18930, and have amended § 73.93 of our radio operator rules so as to permit, subject to specified conditions, the routine operation of standard broadcast stations with directional antennas by licensed operators other than first-class radiotelephone licensees. Among the conditions precedent to the use of lesser grade duty operators is a requirement that the station be equipped with a type approved antenna (phase) monitor. The effectiveness of this requirement was suspended, however, pending the conclusion of the instant proceeding. In the appended rules we have specified an effective date of June 1, 1974. An appropriate amendment of § 73.93 will be made in the immediate future.

34. As suggested by several of the parties, we are requiring the installation of type approved monitors by all new stations employing directional antennas, and by all stations using such antennas which are authorized to make major changes.

35. Of course, the particular circumstance which impelled us to undertake the type approval of phase monitors was the NAB proposal that we permit phases to be logged at remote control points (with a concomitant relaxation in the frequency of readings at the transmitter). While deeming the proposal as meritorious, we concluded that reasonable assurance remote phase indications would be satisfactorily provided must rest in the mandatory requirement that the licensee install a phase monitor which the Commission had determined was properly designed for remote indication and operation.

36. However, as a result of preliminary testing of available monitors by our Laboratory, and incident to the development of type approval specifications for these instruments, we have modified to some extent our position that a type approved monitor must immediately be employed in all cases by stations undertaking to provide phase indications at a remote control point.

37. As a matter of basic principle, we have determined that the specifications for type approval should be sufficiently rigid that they can be met only by instruments of the latest and most modern design. The specifications set forth in § 73.53, as appended, reflect this principle.

38. Nevertheless, there is at least one type of monitor, used in many stations, of fairly recent design and currently being manufactured, which, while it may not be expected to meet the above mentioned specification in all respects, would appear to be satisfactory for interim use in providing remote phase indications. We believe that when such a monitor is available, its employment for this purpose for a reasonable period of time should be permitted.

39. We do not believe that a desirable upgrading of station performance is to be achieved, or the public interest otherwise would be served by the indefinite "grandfathering" of monitors, which may be obsolete or inadequate, for those stations not falling into any of the categories above discussed.

40. In a note appended to § 73.69, paragraph (a) of which requires the use of type approved monitors, we have established a schedule for the effectuation of this requirement. Pursuant to this schedule, new stations and existing stations authorized to make major changes must install type approved monitors immediately; stations employing lesser grade operators must fulfill this requirement by June 1, 1974; remotely controlled stations undertaking to read and log phases at a remote control point must employ such monitors unless a monitor designed for remote RF switching, and to provide remote phase readings is available—in which case it may be used in lieu of a type approved monitor until June 1, 1975. All stations employing directional antennas will be required to have type approved monitors installed by June 1, 1977.

41. As summarized in paragraphs 17 and 18, exception is taken by several parties to the requirement of proposed § 73.69(b)(5) that the replacement of a defective monitor by another monitor shall be the occasion for a skeleton proof of performance. The purpose of such a requirement, of course, is to establish definitively the indications of the replacement monitor which will obtain when the array is in proper adjustment. A skeleton proof is probably the only procedure, short of a partial or complete proof of performance, which will insure, under all circumstances, that the indications of the replacement phase monitor may be relied upon. For instance, the station may have been without a monitor for a considerable period of time, or the defective monitor may have been giving erroneous indications, and adjustments may have been made of the array on the basis of such readings before the monitor was taken out of service. If the station licensee has had no occasion in the recent past to run a complete or partial proof, it is questionable whether satisfactory field strength indications at the few monitoring points specified in the license will, alone, provide adequate evidence that the radiation pattern remains substantially unchanged from its original configuration. Finally, in a situation where the Commission has heretofore set no standards for the performance of phase monitors, it is perhaps unlikely, even when the array is properly adjusted, that a new monitor will give indications in all cases closely approximating those specified in the license, which were based on indications of the previous monitor.

42. In that portion of its comments filed in companion Docket 18455 concerning the replacement of an existing monitor by a phase monitor type approved for the provision of remote phase indications, Storer urges that a specific procedure be adopted for making such a replacement. We agree that this is desirable. The rules for this purpose may appropriately be included in proposed § 73.69, which we are presently discussing. We, therefore, have deleted proposed paragraph (b)(5), which deals only with the replacement of a defective monitor and have added new paragraph (c), which covers the general case of the replacement of one phase monitor by another. We will require a proof of performance only when the station is unable to establish, by the specified base current observations and monitoring point measurements that the directional array is operating within the limits and tolerances required by its license and the rules. Under such circumstances we are requiring a partial rather than a skeleton proof, since the latter ordinarily would not provide information to demonstrate that the array had been brought into proper adjustment.

43. We believe that in adopting this procedure we avoid unnecessary hardship for the station operator, and at the same time, insure that the indications of the replacement monitor represent conditions of proper array adjustment.

44. The specifications which we are adopting for type approved monitors are set forth in a new § 73.53 of the rules, included, as are the other rule amendments adopted herein, below. These specifications were formulated after full consideration of the comments filed in this proceeding, and of the results of an examination by our Laboratory of representative monitors of modern design.

45. At this point, we would note that while our original Notice, the comments filed and our subsequent discussion of the matters involved have been concerned with the characteristics and use of a phase monitor, § 73.53 and the other amended rules designate this instrument as an antenna monitor. This broader term is more truly descriptive of its functions—such a monitor customarily includes facilities for determining the relative amplitudes, as well as the relative phases of RF signals applied to its input terminals. Moreover, in response to the comments urging that this be done, we are specifying the inclusion of the amplitude indicating capability as a condition for type approval. We had initially proposed this capability as an optional feature of the monitor, since other instruments normally employed in the broadcast station provide information on the relative amplitudes of tower currents. However, we are persuaded that the incorporation of this facility in the monitor makes for more convenient, and, in some cases, more accurate determinations of amplitude ratios, particularly if a station is operated by remote control, or where lesser grade operators are

placed in charge of the transmitting system, pursuant to recently amended § 73.93.

46. We have established specifications, both for the absolute accuracy of indication of the monitor, and for its repeatability. Accuracy figures are set for phase and amplitude indications over two ranges of relative amplitudes, as the accuracy of indication of antenna monitors characteristically lessens as the ratio of the amplitudes of the applied signals increases. The decrease in accuracy of phase indications under such conditions is quite small. The loss in accuracy of amplitude indication is more substantial, and stems both from inherent nonlinearities of the system, and the reduction in reading accuracy which inevitably increases as lower scale values of the amplitude indicating device are approached. As a practical matter, the decreased accuracy available under such circumstances is quite tolerable, since the phase and amplitude relationships indicated are with respect to a tower with relatively low antenna current, whose phase and amplitude variations have a less significant effect on the directional radiation pattern configuration then would corresponding changes in an element with higher current.

47. We realize that the ability of the monitor to indicate accurately the magnitude of changes occurring in antenna parameters in day-to-day operations is of more importance than an extremely high order of absolute accuracy, and, accordingly, we have included a separate specification for this characteristic of the monitor; we are designating it as the repeatability of indication of the monitor, rather than as its resolution, the term suggested in the comments. In adopting the former term, we conceive it to reflect, not only the limit of the ability of the monitor to provide perceptible indications of changes occurring in the relationships of signals applied to the monitor at any given time, but also its ability to provide the same indications (within the limits of reading accuracy) of any particular phase and amplitude relationship, when observed at different times. Since § 73.114(a)(1)(v) of the appended rules requires the antenna monitor be calibrated at weekly intervals, our tests for type approval will determine the repeatability of indication of antenna monitors submitted for type approval, as that attained during a 7-day period, without adjustment of the monitor after its initial calibration.

48. The specified values of accuracy and repeatability must be achieved over the range of ambient temperatures and line voltages specified in § 73.53, which are considered to include variations of a magnitude encountered under actual conditions of operation.

49. A separate specification has been established for the tolerable variation in phase indication when the applied signals are modulated. The test for this variation is conducted with a sinusoidal modulating signal. This signal, of course, is reproducible, and, we believe, yields a result not appreciably differing from that which would be produced by program modulation within the same amplitude range.

50. Since we have established stated requirements for accuracy and repeatability of indication, we believe it unnecessary, to specify separately a figure for the linearity of the indicating devices, as suggested in the comments.

51. In view of all of the above: *It is ordered*, Effective February 23, 1973, that Part 73 of the rules and regulations is amended as set forth below.

52. Authority for the adoption of these rule amendments is found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

53. *It is further ordered*, That this proceeding is terminated.

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

Adopted: January 10, 1973.

Released: January 15, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

§ 1.1120 [Amended]

1. Amend § 1.1120 as indicated below:

Insert new entry in the table entitled Type Approval, as follows:

1. * * *
(a) * * *
(1) * * *
(2) * * *
(3) Broadcast antenna monitors 100 400.

Renumber present (3) as (4) and retain.

2. A new § 73.53 is added, to read as follows:

§ 73.53 Requirements for type approval of antenna monitors.

(a) General requirements:

(1) Any manufacturer desiring to submit a monitor for type approval shall submit an application to the Commission in accordance with the procedure set forth in § 2.561 of this chapter, and subject to the fee schedule in § 1.1120 of this chapter.

(2) Type approval of a monitor is granted subject to the limitations and requirements described in Part 2, Subparts F and I of this chapter.

(b) The Laboratory Division of the Commission will make all tests necessary to determine whether or not the specifications of paragraph (c) of this section have been met. During these tests, the monitor will be operated, to the extent possible, under service conditions. The manufacturer shall furnish to the Laboratory all instructions and services which will be supplied to a purchaser of the monitor.

(c) An antenna monitor eligible for type approval by the Commission shall meet the following specifications:

(1) The monitor shall be designed to operate on a frequency in the band 540 to 1600 kHz.

(2) The monitor shall be capable of indicating any phase difference between two RF voltages of the same frequency over a range of from 0 to 360°.

(3) The monitor shall be capable of indicating the relative amplitude of two RF voltages.

(4) The device used to indicate phase differences shall indicate in degrees, and shall be graduated in increments of 2°, or less. If a digital indicator is provided, the smallest increment shall be 0.5°, or less.

(5) The device used to indicate relative amplitudes shall be graduated in increments which are 1 percent, or less, of the full scale value. If a digital indicator is provided, the smallest increment shall be 0.1 percent, or less, of the full scale value.

(6) The monitor shall be equipped with means, if necessary, to resolve ambiguities in indication.

(7) If the monitor is provided with more than one RF input terminal in addition to a reference input terminal, appropriate switching shall be provided in the monitor so that the signal at each of these RF inputs may be selected separately for comparison with the reference input signal.

(8) Each RF input of the monitor shall provide a termination of such characteristics that, when connected to a sampling line of an impedance specified by the manufacturer, the voltage reflection coefficient shall be 3 percent or less.

(9) The monitor shall be designed so that the switching function required by paragraph (c)(7) of this section may be performed from a point external to the monitor, and phase and amplitude indications be provided by external meters. The indications of external meters furnished by the manufacturer shall meet the specifications for accuracy and repeatability of the monitor itself, and the connection of these meters to the monitor, or of other indicating instruments with electrical characteristics meeting the specifications of the monitor manufacturer shall not affect adversely the performance of the monitor in any respect.

(10) If the monitor is fitted with operational features not specifically required by this section, the features:

(i) Shall be arranged so as not to interfere with or be confused with the required functions of the monitor.

(ii) Shall meet the manufacturer's specifications for such operational features.

(11) The monitor shall be accompanied by complete and correct schematic diagrams and operating instructions. For the purpose of type approval, these diagrams and instructions shall be considered as part of the monitor.

(12) The general design, construction and operation of the monitor shall be in accordance with good engineering practice.

(13) When an RF signal of an amplitude within a range specified by the manufacturer is applied to the reference RF input terminal of the monitor, and another RF signal of the same frequency

[4] Commissioner Hooks absent.

and of equal or lower amplitude is applied to any other selected RF input terminal, indications shall be provided meeting the following specifications.

(i) The accuracy with which any difernce in the phases of the applied signals is indicated shall be ±1°, or better, for signal amplitude ratios of from 2:1 to 1:1, and ±2°, or better, for signal amplitude ratios in excess of 2:1 and up to 5:1.

(ii) The repeatability of indication of any difference in the phases of the applied signals shall be ±1°, or better.

(iii) The accuracy with which the relative amplitudes of the applied signals is indicated, over a range in which the ratio of these amplitudes is between 2:1 and 1:1, shall be ±2 percent of the amplitude ratio, or better, and for amplitude ratios in excess of 2:1 and up to 5:1, ±5 percent of the ratio, or better.

(iv) The repeatability of indication of the relative amplitudes of the applied signals, over a range where the ratio of these amplitudes is between 5:1 and 1:1, shall be ±2 percent of the amplitude ratio, or better.

(v) The modulation of the RF signals by a sinusoidal wave of any frequency between 100 and 10,000 Hz, at any amplitude up to 90 percent shall cause no deviation in an indicated phase difference from its value, as determined without modulation, greater than ±0.5°.

(14) The performance specifications set forth in paragraph (c)(13) of this section, shall be met when the monitor is operated and tested under the following conditions.

(i) After continuous operation for 1 hour, the monitor shall be calibrated and adjusted in accordance with the manufacturer's instructions.

(ii) The monitor shall be subjected to variations in ambient temperature between the limits of 10 and 40°C; external meters furnished by the manufacturer will be subjected to variations between 15 and 30°C.

(iii) Powerline supply voltage shall be varied over a range of from 10 percent below to 10 percent above the rated supply voltage.

(iv) The amplitude of the reference signal shall be varied over the operating range specified by the manufacturer, and in any case over a range of maximum to minimum values of 3 to 1.

(v) The amplitude of the comparison signal shall be varied from a value which is 0.2 of the amplitude of the reference signal to a value which is equal in amplitude to the reference signal.

(vi) Accuracy shall be determined for the most adverse combination of conditions set forth above.

(vii) Repeatability shall be determined as that which may be achieved under the specified test conditions over a period of 7 days, during which no calibration or adjustment of the instrument, subsequent to the initial calibration, shall be made.

(viii) The effects of modulation of the RF signal shall be separately determined, and shall not be included in establishing values for accuracy and repeatability.

3. A new § 73.69 is added, to read as follows:

§ 73.69 Antenna (phase) monitors.

(a) Each station utilizing a directional antenna shall have in operation at the transmitter an antenna monitor which is of a type approved by the Commission: *Provided, however,* That if the instrument of authorization of the station sets specific tolerances within which phase and amplitude relationships must be maintained, or requires the use of a monitor of specified repeatability or accuracy, the antenna monitor employed under such circumstances shall be authorized on an individual basis.

(b) In the event an antenna monitor becomes defective, the station may be operated without the monitor pending its repair or replacement for a period not in excess of 60 days without further authority from the Commission: *Provided,* That:

(1) Appropriate entries shall be made in the maintenance log of the station showing the date and time the monitor was removed and restored to service.

(2) If the license specifies antenna monitor sample current ratios, during the period the antenna monitor is out of service, base currents or remote base currents shall be read and logged at least once each day.

(3) Field strength measurements at each monitoring point specified in the stations authorization shall be read and logged at least once every 7 days.

(4) If the station is operated by remote control and phase indications are read and logged at the remote control point, during the period the antenna monitor is out of service indicating instruments at the transmitter shall be read and logged at the times specified in § 73.114(a)(8)(ii) for remotely controlled stations which do not provide for the reading and logging of phases at the remote control point.

(c) If an authorized antenna monitor is replaced by another antenna monitor, the following procedure shall be followed:

(1) Temporary authority shall be requested and obtained from the Commission in Washington to operate with parameters at variance with licensed values, pending issuance of a modified license specifying new parameters.

(2) Immediately prior to the replacement of the antenna monitor, after a verification that all monitoring point values and base current ratios are within the limits or tolerances specified in the instrument of authorization or the pertinent rules, the following indications shall be read and recorded in the maintenance log for each radiation pattern: Final plate current and plate voltage, common point current, base currents, antenna monitor phase and current indications, and the field strength at each monitoring point.

(3) With the new monitor substituted for the old, all indications specified in paragraph (c)(2) of this section, again shall be read and recorded. If no change has occurred in the indication for any parameter other than the indications of the antenna monitor the new antenna monitor indications shall be deemed to be those reflecting correct array adjustments.

(4) If it cannot be established by the observations required in paragraph (c)(2) of this section, that base current ratios and monitoring point values are within the tolerances or limits prescribed by the rules and the instrument of authorization, or if the substitution of the new antenna monitor for the old results in changes in these parameters, a partial proof of performance shall be executed, consisting of at least 10 field strength measurements, on each of the radials established in the latest complete adjustment of the antenna system. These measurements shall be made at locations, all within 2 to 10 miles from the antenna, which were utilized in such adjustment, including, on each radial, the location, if any, designated as a monitoring point in the station authorization. Measurements shall be analyzed in the manner prescribed in § 73.186.

(5) An informal request for modification of license shall be submitted to the Commission in Washington, D.C., within 30 days of the date of monitor replacement. Such request shall specify the make, type, and serial number of the replacement monitor, phase and sample current indications, and other data obtained pursuant to this paragraph (c).

NOTE: § 73.69(a) shall become effective, as follows:

(1) Each new station and each existing station for which major changes (see § 1.571(a)(1)) are authorized after June 1, 1973, shall be equipped with a type approved antenna monitor.

(2) Each station electing to utilize licensed operators other than first class radiotelephone operators for routine transmitter duty (see § 73.93) shall meet this requirement by June 1, 1974.

(3) Each station operating by remote control, when adopting the schedule specified in § 73.114(a)(9)(iii) for observations at the transmitter, shall install a type-approved antenna monitor and provide phase indications at the remote control point, for observation and logging pursuant to § 73.113(a)(4)(ii): *Provided,* That, in lieu of a type-approved monitor, the station may, until June 1, 1975, employ any monitor, manufactured after January 1, 1965, which is designed to afford phase indications on a device located externally to the monitor, and which incorporates any necessary facilities whereby alternative RF inputs to the monitor may be selected by external switching.

(4) All other stations shall meet the requirements of this rule by June 1, 1977.

[FR Doc.73-1214 Filed 1-18-73;8:45 am]

[Docket No. 19539; FCC 73-42]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Grand Junction, Colo.

Report and order:

In the matter of amendment of § 73.606(b), *Table of assignments,* Television Broadcast Stations (Grand Junction, Colo.), Docket No. 19539, RM-1852.

1. The Commission has before it for consideration the proposal to assign Channel 8 to Grand Junction, Colo., upon which rule making was instituted in response to a petition of Woodland Broadcasting Co. (Woodland), licensee of Radio Station KBUC(AM), Montrose, Colo. (Notice of proposed rule making, adopted July 6, 1972, 37 FR 14001.) Both supporting comments and reply comments on the proposals were received from Woodland. Opposing comments were filed by XYZ Television, Inc. (XYZ), licensee of Station KREX-TV (Channel 5), Grand Junction, and also of Station KREY-TV (Channel 10), Montrose, and Station KREZ-TV (Channel 6), Durango, Colo., both satellites of Station KREX-TV.

2. Channel 5 and Channel *18, reserved for noncommercial educational use, are assigned to Grand Junction (1970 population, 20,170), the largest city and seat of Mesa County (1970 population 54,347), located in southwestern Colorado, approximately 190 miles southwest of Denver and southwest of Salt Lake City, Utah. Channel 5 is occupied by Station KREX-TV which was under other ownership from 1954 to 1966, and has been under XYZ's ownership since 1966.[1] Channel *18 has never been activated. Station KREX-TV and its two satellites, Station KREY-TV at Montrose (1970 population 6,596), about 55 miles southeast of Grand Junction, and Station KREZ-TV at Durango (1970 population, 10,333), about 90 miles south of Montrose, all under XYZ's ownership, are the only local television stations serving this western Colorado area.

3. Additional service is, however, received from television stations outside western Colorado via numerous translators and local cable TV systems at Grand Junction, Montrose, and Durango. The 1972-73 edition of "Television Factbook" indicates that the Grand Junction cable system, which has been in operation since 1966, carriers KREX-TV (Grand Junction) and all five of the Denver television stations (KWGN-TV, KOA-TV, KLZ-TV, KBTV and KRMA-TV). The Montrose cable system, which also began operation in 1966, carries KREY-TV (Montrose), KOAA-TV (Pueblo, Colo.), and all of the Denver stations. The Durango cable system, which began operation in 1954, carries KREZ-TV (Durango), the four Albuquerque, N. Mex., television stations (KOB-TV, KOAT-TV, KNME-TV, and KGGM-TV), and two of the Denver stations (KRMA-TV, KWGN-TV).

4. This Channel 8 proposal for Grand Junction merited consideration in rule making, we felt, since the Woodland petition demonstrated that Channel 8 is technically feasible for a Grand Junction assignment; evidenced interest and intent on the part of its controlling stockholders and others to apply for use of the channel, if assigned, to provide Grand Junction, Mesa County, and this western Colorado area with a second full-fledged local commercial television outlet and service; and it appeared that the proposed assignment could implement our television goals and policies and serve a significant public interest function and need in making it possible for this area to have a first comparable and competing local television outlet and diversified off-the-air local television service from another source. While XYZ opposed rule making on the proposal on the basis of claims that a second VHF station at Grand Junction would be economically infeasible and would seriously jeopardize present television service in the area, its showing was insufficient to warrant either conclusion or to evaluate the significance of these claims in terms of the public interest. For, as we pointed out in the notice, the Commission's Table of Assignments is not static and existing licensees are not entitled to a protection from additional assignments which might have a possible adverse effect on their private economic interests. We did, however, invite comments in particular in this regard.

5. In its comments, Woodland affirms that it or another company having the same majority stockholders (Four States Television, Inc., permittee of Station KIVA-TV, Farmington, N. Mex.), or some of the principals of these companies and others intend to apply for Channel 8 at Grand Junction, if assigned, and to utilize it, if authorized. Relying on its prior showing, Woodland urges that the assignment is clearly warranted on the basis of technical feasibility, need, and the significant public interest benefits flowing from the establishment of a second local television outlet and service in this area. This being the case, Woodland takes the position that the assignment should not be withheld because of economic considerations, such as those previously raised by XYZ, in the absence of a compelling showing that the public interest would be adversely affected thereby. It maintains that its position is consistent with established Commission policy and precedent; that in a number of cases we have made it clear that where a choice of free television service would be available for the first time, there is a strong presumption that the second television channel should be assigned to the community involved and that we should be slow to act in a manner which would thwart the development of competition, citing the 1969 "Glendive, Montana" VHF channel assignment case (19 F.C.C. 2d 733, 15 Pike & Fischer, R.R. 2d 1559) as an example. Among the other consistent cases, it states, is the 1970 "Oxnard, California," TV channel assignment case (35 FR 16173, 20 Pike & Fischer, R.R. 2d 1570), wherein we stated that "it is not the Commission's function to place artificial restraints upon competition unless the overall public interest will be adversely affected by such competition" and that "such arguments, even if of substantial merit, are better considered at the application stage, where they can be evaluated in light of the specific application proposal."

6. In its opposing comments, XYZ takes essentially the same position as previously taken in opposition to rule making on the proposed Grand Junction Channel 8 assignment, specifically claiming that the addition of a second VHF station at Grand Junction would be detrimental to the public interest since neither station would be able to obtain sufficient economic support to provide a viable service in the public interest In support of this position, XYZ contends that it is inconceivable that two television stations could provide viable services in a market as small as that served by Station KREX-TV at Grand Junction and its Montrose and Durango satellites considering the extent to which it is now blanketed with television signals being brought in by cable TV systems and translators. XYZ states that, according to American Research Bureau ranking (ARB), there are approximately 61,000 homes in the area served by Station KREX-TV and its Montrose and Durango satellites; that in excess of 35 percent of these homes are served by cable TV systems; and that, coupled with those served by translators, the penetration of outside service is approximately 70 percent. XYZ further contends that the proliferation of signals in the market has resulted in a continuous decline in the number of homes reached by Station KREX-TV since 1965 and submits an exhibit, prepared from ARB surveys, to show that for every daily time period the number of homes watching KREX-TV and its satellites had declined in May 1972 to approximately one-half of its March 1965 level. In an accompanying statement the president of XYZ states that the number of homes reached is now at a dangerously low level. Estimating that this level would be cut in half again by moving in another television station, he contends that this would not leave sufficient homes for either station to service.

7. In addition, XYZ argues that the Grand Junction area does not represent a growth area which will need additional service in the future, citing U.S. census reports to show that it is one which has barely maintained its level of population in the decade from 1960 to 1970. In that 10-year period, final U.S. census reports show that Grand Junction increased from 18,694 to 20,170 in population (a 7.9-percent increase) and that Mesa County increased from 50,715 to 54,374 in population (a 7.2-percent increase). In the neighboring counties of Montrose and Delta, there was only a slight population increase in one (Montrose increased from 18,286 to 18,366, a 0.4 percent increase) and a loss in population in the other (Delta decreased from 15,602 to 15,286, a 2-percent decrease) between 1960 and 1970. The city of Montrose, however, increased in population from

[1] An application for voluntary transfer of control of XYZ Television, Inc., to Rex G. Howell, who had a controlling interest in the prior licensee of Station KREX-TV (Western Slope Broadcasting Co., Inc.), which also had controlling interests in licensee corporations for Station KREY-TV at Montrose and Station KREZ-TV at Durango, was granted Aug. 11, 1972, File No. BTC-6683. Notice of consummation of the authorized transfer of control was filed in an ownership report, as of Oct. 13, 1972.

5,044 to 6,496 (a 28.8-percent increase) during the 10-year period. The XYZ president maintains that without population growth to support an additional station, there is nothing left but fragmentation of the already small audience of the present station and that two commercial stations in as small a market as shown by these population figures do not have any hope of surviving.

8. In reply, Woodland contends that the XYZ showing is devoid of any facts to show that the proposed assignment would be contrary to the public interest and of even sufficient facts to show private economic injury to Station KREX-TV. It stresses that even assuming, for the sake of argument, that a showing of some private economic injury had been made, the Commission and the courts have consistently held that allegations of private economic injury, standing alone, without any showing of how the public interest would be adversely affected in terms of loss of service is an insufficient ground for keeping out a competitive service ("Carroll Broadcasting Co. v. F.C.C.," 258 F. 2d 440 (C.A.D.C., 1958)). Contending that XYZ's showing constitutes no showing whatsoever as to whether there would be a net loss of service resulting from the institution of a first competitive commercial television service in Grand Junction, and that XYZ has clearly failed to rebut the strong presumption applied by the Commission in favor of additional assignments, Woodland urges rejection of the XYZ position and adoption of the proposed amendment in light of its public interest benefits.

9. There is no question, we believe, that the public in the Grand Junction area would benefit greatly from having a second locally oriented commercial television broadcast service available to all in the area from a source other than XYZ, notwithstanding the translator and cable TV service available to many in the area. Providing an assignment to make this possible is also consistent with our television priorities and assignment policies. We are also satisfied that Channel 8 is technically feasible for such use at Grand Junction. In addition, based on the indicated interest and intent of Woodland, an experienced radio broadcaster in the area, and its principals and others, there appears every likelihood that a Channel 8 assignment at Grand Junction would be applied for and that, if a new station is authorized on the channel, it will be built and placed in operation. These considerations are sufficient, in our judgment, to warrant the assignment in the public interest without reaching a decision on the economic impact question raised by XYZ. It is our normal practice to make ultimate decisions in this regard when we have an application with a specific proposal for use of a channel assignment rather than in the context of a rule making proceeding for the assignment itself. We think that this is the better procedure since any possible adverse economic effect of a new station becomes a critical factor in weighing the public interest at such time as we are required to act upon an application for a new station rather than at the assignment stage, and it is exceedingly helpful to have a specific proposal before us which can, if necessary, be exposed to the give-and-take of an evidentiary hearing in making a determination as to whether the alleged economic impact of the proposed new station is likely to cause overall derogation of television service to the public.

10. This rule making proceeding, we feel, points up the difficulty, if not virtual impossibility, in most such proceedings of making a determination as to the alleged adverse economic effect of a new station on a proposed channel assignment without benefit of an application with a specific proposal for use of the proposed assignment to consider, as well as the need and desirability of adhering to our practice of considering any such applicant's proposal in reaching a reasoned judgment on such economic issues. XYZ's showing as to the size and population growth pattern of the Grand Junction area and the alleged impact of translator and cable TV operations upon its Channel 5 station and audience furnishes some reason, we feel, for questioning the ability of the relatively small Grand Junction market—the 189th ranking market, based on prime time viewing households, according to ARB market rankings, as of February/March, 1972—to support another station, but neither on the basis of its showing nor our experience can we conclude that it is impossible. More important, its showing is insufficient, in our view, to permit a determination as to whether the alleged adverse economic effect of another station in the Grand Junction area is likely to cause diminution or destruction of overall program service to the public. In the absence of such a showing, we would not deny an application for a new station on grounds of economic injury to an existing station since, as we have stated before, it is not our function to place artificial restraints upon competition unless the overall public interest would be adversely affected thereby. Nor, on the strength of XYZ's showing in this regard, do we think that it would serve the public interest to relegate the Grand Junction area to being essentially a market for one regular local station and one voice for lack of an assignment. The public interest is served, we believe, in view of the demand for the proposed assignment and its technical feasibility, by not closing the door to opportunity for the Grand Junction area to have a second comparable commercial television service from another source at this time. The economic impact question in terms of the public interest can be better evaluated, and in greater depth, in passing upon any applicant's proposal for use of the new assignment.

11. Accordingly, pursuant to the authority contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended: *It is ordered*, That the television Table of Assignments, § 73.606(b) of the rules, is amended, effective February 23, 1973, insofar as the community named is concerned, to read as follows:

City	*Channel No.*
Grand Junction, Colo	5-, 8-, *13

12. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: January 10, 1973.

Released: January 15, 1973.

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

[FR Doc.73-1215 Filed 1-18-73;8:45 am]

[Docket No. 18180]

PART 78—CABLE TELEVISION RELAY SERVICE

Protection of Table Mountain, Colo., From Radio Interference; Correction

In the matter of amendments to Parts 21, 23, 25, 73, 74, 78, 87, 89, 91, and 93 of the Commission's rules relative to the protection of Table Mountain, Boulder, Colo., from radio interference, Docket No. 18180.

The Appendix to FCC Report and Order, FCC 72-1100, in the above matter, released December 11, 1972, and published in the FEDERAL REGISTER of December 15, 1972, 37 FR 26732, adds a new paragraph (c) to § 78.21. In a previous Order, FCC 72-690, released August 1, 1972, published in the FEDERAL REGISTER of August 8, 1972, 37 FR 15925, former § 78.21 was deleted and its provisions were redesignated as paragraphs (c) and (d) of § 78.19. Accordingly, the Appendix of FCC 72-1100 is corrected by specifying the new text as § 78.19(e) in lieu of § 78.21(c).

Released: January 10, 1973.

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

[FR Doc.73-1213 Filed 1-18-73;8:45 am]

Title 7—AGRICULTURE

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

[Grapefruit Reg. 90]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

This regulation fixes the quantity of Florida Indian River grapefruit that may be shipped to fresh market during

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*Commissioner Hooks absent.

the weekly regulation period January 22 through 28, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 912. The quantity of grapefruit produced in the Indian River District in Florida so fixed was arrived at after consideration of the total available supply of Indian River grapefruit, the quantity currently available for market, the fresh market demand for Indian River grapefruit, Indian River grapefruit prices, and the relationship of season average returns to the parity price for Florida grapefruit.

§ 912.390 Grapefruit Regulation 90.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, 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 recommendation and information submitted by the Indian River Grapefruit Committee established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the quantity of Indian River grapefruit that may be marketed during the ensuing week stems from the production and marketing situation confronting the Indian River grapefruit industry.

(i) The committee has submitted its recommendation with respect to the total quantity of grapefruit which it deems advisable to be handled during the next succeeding week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the market demand for Indian River grapefruit is slow due to lack of consumer demand. Prices, f.o.b. per four-fifths bushel carton, for the week ended January 14, 1973, averaged $2.60 for white seedless and $3 for pink seedless. Shipments for the week ended January 14, 1973, and for the previous week were 440 carlots and 451 carlots, respectively. On January 14, 1973, there were 10,804 carloads of Indian River grapefruit remaining for interstate shipments, while 4,696 carlots have been shipped to date.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of grapefruit which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public 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 regulation 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 Indian River grapefruit, 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 Indian River grapefruit; 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 January 16, 1973.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period January 22, through January 28, 1973, is hereby fixed at 200,000 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: January 16, 1973.

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

[FR Doc.73-1259 Filed 1-18-73;8:45 am]

[Avocado Order 5, Amd. 12]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Container Regulation

This amendment to Avocado Order 5 revises the container regulation, currently in effect, to permit the bulk packing of avocados weighing 14 ounces or less in the ½-bushel container. The current container regulation provides that avocados weighing 8 ounces or more packed in such container shall be place packed in two layers only, and this packing method has resulted in a continuing increase in packaging labor costs. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 915.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the Avocado Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of avocados in that it permits shipments of bulk packed avocados in the ½-bushel container in lieu of the current requirement that avocados weighing 8 ounces or more packed in such container shall be place packed in two layers only.

The need for the amendment to Avocado Order 5 stems from the continuing increase in packinghouse labor costs, because the current container regulation requires that avocados of specified weights packed in containers with inside dimensions of 13½ x 16½ and depth varying from 6½ to 8 inches shall be placed in two layers only. It is becoming increasingly more difficult to hire seasonal packinghouse employees and wage costs are also increasing. Therefore, the Avocado Administrative Committee, on January 10, 1973, unanimously recommended the amendment of the aforesaid regulation, as hereinafter set forth, so as to permit the bulk packing of avocados weighing 14 ounces or less in such containers.

The provisions of pragraph (a)(1)(x) of § 915.305 (Avocado Order 5; 7 CFR 915.305; 37 FR 11314; 16930; 26729) are amended to read as follows:

§ 915.305 Avocado Order 5.

(a) *Order.* (1) * * *

(x) With respect to the containers prescribed in paragraph (a)(1)(vi) of this section, all avocados in such containers shall be placed in two layers only and the net weight of the avocados in any such container shall be not less than 27 pounds, except that the net weight of

Booth 1, Fuchs, Trapp, and unnamed varieties packed in any such container shall be not less than 26 pounds: *Provided*, That not to exceed 5 percent, by count, of such containers in any lot may fail to meet the applicable net weight requirement: *Provided further*, That the requirement as to placing avocados in two layers only shall not apply to such container if each of the avocados therein weighs 14 ounces or less.

* * * * *

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

Dated: January 16, 1973, to become effective January 21, 1973.

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

[FR Doc.73–1258 Filed 1–18–73;8:45 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. 73–503]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Area Quarantined

This amendment excludes a portion of Cumberland County in Pennsylvania from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded area.

Therefore, 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)(11) relating to the State of Pennsylvania, subdivision (ii) relating to Cumberland County 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; 37 FR 28464, 28477)

Effective date. The foregoing amendment shall become effective January 16, 1973.

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 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 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 16th day of January 1973.

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

[FR Doc.73–1260 Filed 1–18–73;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72–EA–109]

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

Alteration of Transition Area

On page 24765 of the FEDERAL REGISTER for November 21, 1972, the Federal Aviation Administration published a proposed rule which would alter the State College, Pa., transition area (38 FR 435).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t., March 1, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on December 29, 1972.

GEORGE M. GARY,
Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the State College, Pa., 700-foot-floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, 40°51'05" N., 77°51'00" W., of University Park Airport, State College, Pa., extending clockwise from a 020° bearing to a 130° bearing from the airport; within a 13.5-mile radius of the center of University Park Airport, extending clockwise from a 130° bearing to a 165° bearing from the airport; within a 5-mile radius of the center of University Park Airport, extending clockwise from a 165° bearing to a 210° bearing from the airport; within a 7-mile radius of the center of University Park Airport, extending clockwise from a 210° bearing to a 280° bearing from the airport; within a 13.5-mile radius of the center of University Park Airport, extending clockwise from a 280° bearing to a 020° bearing from the airport; within a 5-mile radius of the center, 40°46'15" N., 77°52'45" W., of State College Air Depot Airport, State College, Pa., extending clockwise from a 010° bearing to a 045° bearing from the airport; within a 12-mile radius of the center of State College Air Depot Airport, extending clockwise from a 045° bearing to a 080° bearing from the airport; within a 13.5-mile radius of the center of State College Air Depot Airport, extending clockwise from a 080° bearing to a 230° bearing from the airport; within a 6.5-mile radius of the center of State College Air Depot Airport, extending clockwise from a 230° bearing to a 260° bearing from the airport; and within a 14.5-mile radius of the center of State College Air Depot Airport, extending clockwise from a 260° bearing to 010° bearing from the airport, excluding the portion that coincides with the Philipsburg, Pa., and Reedsville, Pa., transition areas.

[FR Doc.73–1177 Filed 1–18–73;8:45 am]

[Airspace Docket No. 72–NE–19]

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

Alteration of Transition Area

On page 26343 of the FEDERAL REGISTER dated December 9, 1972, the Federal Aviation Administration published a notice of proposed rule making which would alter the North Conway, N.H., transition areas (38 FR 435).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., March 29, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Burlington, Mass., on January 10, 1973.

FERRIS J. HOWLAND,
Director, New England Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the North Conway, N.H., 700-foot and 1,200-foot transition

areas and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, latitude 44°01'30" N., longitude 71°06'45" W., of White Mountain Airport, North Conway, N.H.; within 4.5 miles northeast and 6.5 miles southwest of the 128° bearing and the 308° bearing from the North Conway NDB, latitude 44°01'26" N., longitude 71°06'59" W., extending from 6 miles northwest of the NDB to 12 miles southeast of the NDB; and within 4.5 miles northeast and 9.5 miles southwest of the 128° bearing from the North Conway NDB extending 18.5 miles southeast of the NDB.

That airspace extending upward from 1,200 feet above the surface within 5 miles northeast and 8 miles southwest of a 128° bearing from the North Conway, N.H., NDB extending from the NDB to 12 miles southeast of the NDB; within 5 miles each side of a direct line extending from the Dalton, N.H., NDB, latitude 44°21'44" N., longitude 71°41'08" W., to the North Conway, N.H., NDB; within 5 miles each side of a direct line extending from the Montpelier, Vt., VOR to the North Conway, N.H., NDB; within 5 miles each side of a direct line extending from the Lebanon, N.H., VOR to the North Conway, N.H., NDB and within 5 miles each side of a line bearing 115° from the North Conway, N.H., NDB extending from the NDB to the northwest boundary of the Portland, Maine, 1,200-foot transition area, excluding those portions that coincide with the Berlin, N.H., Lebanon, N.H., and Burlington, Vt., 1,200-foot transition areas. This transition area is effective from sunrise to sunset daily.

[FR Doc.73-1179 Filed 1-18-73;8:45 am]

[Airspace Docket No. 72-NE-20]

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

Alteration of Transition Area

On page 26341 of the FEDERAL REGISTER dated December 9, 1972, the Federal Aviation Administration published a notice of proposed rule making which would alter the Claremont, N.H., transition area (38 FR 435).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., March 29, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Burlington, Mass., on January 10, 1973.

FERRIS J. HOWLAND,
Director, New England Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Claremont, N.H., 700-foot transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Claremont Municipal Airport (43°22'-15" N., 72°22'00" W.); within 6.5 miles south and 4.5 miles north of the Claremont NDB (43°21'50" N., 72°17'57" W.), 097° and 277° bearings from the NDB, extending from 12 miles east to 6 miles west of the NDB, excluding that portion within the Lebanon, N.H., and Springfield, Vt., transition areas.

[FR Doc.73-1180 Filed 1-18-73;8:45 am]

[Airspace Docket No. 72-RM-31]

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

Designation of Control Zone

On December 1, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 25531) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would establish the USAF Academy Airstrip control zone, Colorado Springs, Colo.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., March 29, 1973.

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

Issued in Aurora, Colo., on January 8, 1973.

M. M. MARTIN,
Director, Rocky Mountain Region.

In § 71.171 (38 FR 351) the following control zone is added:

COLORADO SPRINGS, COLO.

Within a 3-mile radius of USAF Academy Airstrip (latitude 38°58'15" N., longitude 104°49'00" W.). This control zone is effective during the specific dates and times established in advance by a notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

[FR Doc.73-1178 Filed 1-18-73;8:45 am]

[Airspace Docket No. 73-SW-1]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Fort Worth, Tex. (Carswell AFB), control zone.

The present Fort Worth, Tex. (Carswell AFB), control zone description, in part, includes specific reference to the Benbrook, Tex., VOR. Since the VOR has been decommissioned, it is necessary to amend the control zone description, appropriately deleting all reference to the VOR.

As this amendment imposes no additional burden on any person, notice and public procedures herein are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 29, 1973, as hereinafter set forth.

In § 71.171 (38 FR 351), the Fort Worth, Tex. (Carswell AFB), control zone is amended by deleting "within 2 miles each side of the Benbrook VOR 360° radial extending from the 5-mile radius zone to the VOR;" and substituting therefor "within 2 miles each side of the Carswell ILS localizer S course extending from the 5-mile radius zone to 9 miles south of the airport;".

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

Issued in Fort Worth, Tex., on January 10, 1973.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.73-1176 Filed 1-18-73;8:45 am]

[Airspace Docket No. 72-WA-56]

PART 73—SPECIAL USE AIRSPACE

Extension of Temporary Restricted Areas

On November 21, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 FR 24768) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation Regulations that would extend the time of designation of temporary Restricted Areas R-5116A and B from April 1, 1973, through June 30, 1973.

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

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 29, 1973, as hereinafter set forth.

In § 73.51 (38 FR 658) the White Sands Proving Grounds, N. Mex., Restricted Areas R-5116A and R-5116B are amended as follows:

In the time of designation, "March 31, 1973," is deleted and "June 30, 1973," is substituted therefor.

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

Issued in Washington, D.C., on January 12, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-1175 Filed 1-18-73;8:45 am]

[Airspace Docket No. 72-WA-68]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Change to Area High Route Waypoint

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to change the name of the Sanderson, W. Va., Waypoint to Rensford, W. Va., in area high route J843R. This action will avoid possible confusion caused by similar sounding names.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 29, 1973, as hereinafter set forth.

Section 75.400 (38 FR 700 is amended as follows: In J843R "Sanderson, WV. 38°24'04" N. 81°23'29" W. Beckley, WV." is deleted and "Rensford, W. Va. 38°24'04" N. 81°23'29" W. Beckley, W. Va." is substituted therefor.

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

Issued in Washington, D.C., on January 12, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-1174 Filed 1-18-73;8:45 am]

[Docket No. 12495, Amdt. 847]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

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

SIAP's are available for examination at the rules docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order, payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

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

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

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAP's, effective March 1, 1973.

Alexandria, La.—Alexandria-Pineville, VOR-1, Original, Canceled.
Baton Rouge, La.—Ryan Airport, VORTAC Runway 22, Amdt. 2.
Crescent City, Calif.—Jack McNamara Field, VOR Runway 11, Amdt. 4.
Crescent City, Calif.—Jack McNamara Field, VOR/DME Runway 11, Amdt. 6.
Crescent City, Calif.—Jack McNamara Field, VOR/DME Runway 35, Amdt. 6.
Dodge City, Kans.—Dodge City Municipal Airport, VOR/DME Runway 32, Original.
Fayetteville, Tenn.—Fayetteville Municipal Airport, VOR/DME Runway 1, Original.
Hammond, La.—Hammond Municipal Airport, VORTAC-A, Original.
Hutchinson, Kans.—Hutchinson Municipal Airport, VOR/DME Runway 21, Original.
LaGrange, Ga.—Callaway Airport, VOR Runway 13, Amdt. 9.
Long Beach, Calif.—Long Beach (Daugherty Field), VORTAC Runway 30, Original.
Long Beach, Calif.—Long Beach (Daugherty Field), VOR Runway 30, Amdt. 1, Canceled.
Moberly, Mo.—Omar N. Bradley Airport, VOR/DME Airport 17, Amdt. 1.
Monmouth, Ill.—Monmouth Municipal Airport, VOR-A, Original.
Olathe, Kans.—Johnson County Airport, VOR Runway 17, Original.
Peoria, Ill.—Greater Peoria Airport, VORTAC Runway 13, Original.
Rhinelander, Wis. — Rhinelander - Oneida County Airport, VOR Runway 5, Amdt. 4.
Rhinelander, Wis. — Rhinelander - Oneida County Airport, VOR/DME Runway 23, Amdt. 2.
Rhinelander, Wis. — Rhinelander - Oneida County Airport, VOR Runway 15, Amdt. 7.
San Francisco, Calif.—San Francisco International Airport, VOR Runway 19L, Amdt. 1.
Shreveport, La.—Shreveport Downtown Airport, VOR Runway 14, Amdt. 9.
Tomahawk, Wis.—Drott Airport, VOR-A, Amdt. 5.
Vincentown, N.J.—Red Lion Airport, VOR-A, Amdt. 1.

* * * effective February 22, 1973:

Boston, Mass.—Gen. Edward Lawrence Logan International Airport, VOR/DME Runway 15R, Amdt. 10.
Boston, Mass.—Gen. Edward Lawrence Logan International Airport, VOR Runway 22L, Amdt. 11, Canceled.
Boston, Mass.—Gen. Edward Lawrence Logan International Airport, VOR/DME Runway 22L, Original.
Boston, Mass.—Gen. Edward Lawrence Logan International Airport, VOR Runway 27, Amdt. 11.
Boston, Mass.—Gen. Edward Lawrence Logan International Airport, VOR Runway 33L, Amdt. 12.

* * * effective February 1, 1973:

Austin, Tex.—Robert Mueller Municipal Airport, VOR/DME Runway 30L, Amdt. 1, Canceled.

* * * effective January 9, 1973:

Vineland, N.J.—Rudys Airport, VOR-A, Amdt. 4.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAP's, effective March 1, 1973:

Battle Creek, Mich.—W. K. Kellogg Regional Airport, LOC (BC) Runway 4, Amdt. 7.
Colorado Springs, Colo.—Peterson Field, LOC (BC) Runway 17, Amdt. 10.
Jefferson City, Mo.—Jefferson City Memorial Airport, SDF Runway 30, Amdt. 1.
Longview, Tex.—Gregg County Airport, LOC/DME (BC) Runway 31, Original.
Rockford, Ill.—Greater Rockford Airport, LOC (BC) Runway 18, Amdt. 6.

* * * effective February 22, 1973:

Boston, Mass.—Gen. Edward Lawrence Logan International Airport, LOC (BC) Runway 22L, Amdt. 5.

* * * effective February 1, 1973:

Fort Wayne, Ind.—Municipal (Baer Field), LOC Runway 4, Amdt. 2, Canceled.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAP's, effective March 1, 1973:

Battle Creek, Mich.—W. K. Kellogg Regional Airport, NDB Runway 22, Amdt. 7.
Cleveland, Ohio—Cuyahoga County Airport, NDB Runway 23, Amdt. 5.
Fayetteville, Tenn.—Fayetteville Municipal Airport, NDB Runway 1, Amdt. 1.
Parsons, Kans.—Tri City Airport, NDB Runway 35, Original.
Poplar Bluff, Mo.—Earl Fields Memorial Airport, NDB Runway 36, Amdt. 2.
Saipan Island, Mariana Island—Kobler Airport, NDB-A, Amdt. 1.
San Francisco, Calif.—San Francisco International Airport, NDB Runway 19L, Amdt. 4.

* * * effective February 22, 1973:

Boston, Mass.—Gen. Edward Lawrence Logan International Airport, NDB Runway 4R, Amdt. 18.
Boston, Mass.—Gen. Edward Lawrence Logan International Airport, NDB Runway 22L, Amdt. 4.
Boston, Mass.—Gen. Edward Lawrence Logan International Airport, NDB Runway 33L, Amdt. 7.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAP's, effective March 1, 1973.

Battle Creek, Mich.—W. K. Kellogg Regional Airport, ILS Runway 22, Amdt. 8.

Pellston, Mich.—Emmet County Airport, ILS Runway 32, Original.

* * * *effective February 22, 1973.*

Boston, Mass.—Gen. Edward Lawrence Logan International Airport, ILS Runway 4R, Amdt. 21.
Boston, Mass.—Gen. Edward Lawrence Logan International Airport, ILS Runway 33L, Amdt. 9.

* * * *effective February 1, 1973.*

Boston, Mass.—Gen. Edward Lawrence Logan International Airport, ILS (BC) Runway 15R, Amdt. 2, Canceled.
Boston, Mass.—Gen. Edward Lawrence Logan International Airport, ILS Runway 15R, Original.
Fort Wayne, Ind.—Municipal (Baer Field), ILS Runway 4, Original.

5. Section 97.31 is amended by originating, amending, or canceling the following Radar SIAP's, effective February 22, 1973:

Boston, Mass.—Gen. Edward Lawrence Logan International Airport, Radar-2, Amdt. 1.

* * * *effective January 10, 1973.*

Augusta, Ga.—Bush Field, Radar-1, Amdt. 1, Canceled.
Augusta, Ga.—Daniel Field, Radar-1, Original, Canceled.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAP's, effective March 1, 1973:

Cleveland, Ohio—Cuyahoga County Airport, RNAV Runway 23, Amdt. 1.
Springfield, Mo.—Springfield Municipal Airport, RNAV Runway 13, Original.

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

Issued in Washington, D.C., on January 11, 1973.

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

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

[FR Doc.73-1107 Filed 1-18-73;8:45 am]

Title 20—EMPLOYEES' BENEFITS

Chapter V—Manpower Administration, Department of Labor

PART 615—EXTENDED UNEMPLOYMENT COMPENSATION

Clarification

At 37 FR 9780 (FR Doc. 72-7516, May 17, 1972) a row of five (5) asterisks was inadvertently omitted following § 615.14(b)(1). These asterisks should have been included to indicate that subparagraphs (2) and (3) of § 615.14(b) were not deleted.

At 37 FR 9780 (FR Doc. 72-7516, May 17, 1972) a row of five (5) asterisks was inadvertently omitted following § 615.14 (c)(2). These asterisks should have been included to indicate that subparagraph (3) of § 615.14(c) was not deleted.

Signed at Washington, D.C., this 15th day of January 1973.

M. R. LOVELL, Jr.,
Assistant Secretary for Manpower.

[FR Doc.73-1289 Filed 1-18-73;8:45 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

AUTHORITY TO TERMINATE EXEMPTIONS FOR NEW DRUGS FOR INVESTIGATIONAL USE

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 2 is amended to provide for redelegations of authority regarding the termination of exemptions for new drugs for investigational use in human beings and in animals.

Accordingly, § 2.121 is amended by adding a new paragraph (u), as follows:

§ 2.121 Redelegations of authority from the Commissioner to other officers of the Administration.

* * * * *

(u) *Delegations regarding termination of exemptions for new drugs for investigational use in human beings or in animals.* (1) The Director and Deputy Director of the Bureau of Drugs are authorized to perform all the functions of the Commissioner of Food and Drugs with regard to the termination of exemptions for new drugs for investigational use in human beings under § 130.3 and in animals under § 130.3a of this chapter, except those which pertain to a biological product subject to the licensing provisions of section 351 of the Public Health Service Act (42 U.S.C. 262). The Director and Deputy Director of the Office of Scientific Evaluation of the Bureau of Drugs, and the Directors of Divisions of the Office, are authorized to notify sponsors and invite correction prior to termination action on such exemptions.

(2) The Director and Deputy Director of the Bureau of Biologics are authorized to perform all the functions of the Commissioner of Food and Drugs with regard to the termination of those exceptions for new drugs for investigational use in human beings under § 130.3 and in animals under § 130.3a of this chapter pertaining to a biological product subject to the licensing provisions of section 351 of the Public Health Service Act (42 U.S.C. 262).

(3) The Director and Deputy Director of the Bureau of Veterinary Medicine are authorized to perform all the functions of the Commissioner of Food and Drugs with regard to the termination of exemptions for new animal drugs for investigational use in animals under § 135.3 of this chapter.

Effective date. This order shall be effective January 19, 1973.

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: January 12, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-1157 Filed 1-18-73;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Cottage Cheese; Definitions and Standards of Identity; Correction

In FR Doc. 73-481 appearing at page 1176 in the FEDERAL REGISTER of Wednesday, January 10, 1973, § 19.530(c)(2) is corrected to read as follows:

§ 19.530 Cottage Cheese; identity; label statement of optional ingredients.

* * * * *

(c) * * *

(2) The statement "not less than ____ percent milkfat" or "____ percent milkfat minimum", the blank being filled in with the whole number that is closest to, but does not exceed, the actual fat content of the product. This statement of fat content shall appear in letters not less than one-half of the height of the letters in the phrase specified in subparagraph (1) of this paragraph, but in no case less than one-eighth of an inch in height.

* * * * *

Dated: January 12, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-1158 Filed 1-18-73;8:45 am]

PART 121—FOOD ADDITIVES

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

STYRENE BLOCK POLYMERS WITH 1,3-BUTADIENE

The Commissioner of Food and Drugs having evaluated the data in a petition (FAP 1B2591) filed by Shell Chemical Co., a division of Shell Oil Co., 2525 Murworth Drive, Houston, TX 77025, and

other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for the safe use of styrene block polymers with 1,3-butadiene as articles or as components of articles intended for use 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), Part 121 is amended by adding to Subpart F the following new section:

§ 121.2622 Styrene block polymers with 1,3-butadiene.

Styrene block polymers with 1,3-butadiene identified in paragraph (a) of this section may be safely used as articles or as components of articles intended for use in contact with food, subject to the provisions of this section.

(a) For the purposes of this section, styrene block polymers with 1,3-butadiene are those produced by the catalytic solution polymerization of styrene and 1,3-butadiene such that the following specifications are met:

(1) The finished polymers have a minimum molecular weight of 29,000;

(2) The finished polymers are completely soluble in toluene; and

(3) The finished polymers have glass transition points at −86° C. to −80° C. and at 92° C. to 98° C., as determined by ASTM Method D 2236-70,[1] modified by using a forced resonant vibration instead of a fixed vibration and by using frequencies of 25 to 40 cycles per second instead of 0.1 to 10 cycles per second.

(b) Styrene block polymers with 1,3-butadiene may be used as articles or as component of articles that contact food of types I, II, IV-B, VI, VII-B, and VIII identified in Table 1 in § 121.2526(c) under conditions of use D, E, F, and G described in Table 2 in § 121.2526(c).

(c) A 0.075-inch-thick sample of the finished copolymer when extracted in sandwich form shall meet the following extractives limitations as determined by methods described in § 121.2526(d)(3):

(1) The copolymer when extracted with distilled water at reflux temperature for 30 minutes yields total extractives not to exceed 0.025 milligrams per square inch of surface.

(2) The copolymer when extracted with 50 percent ethanol in distilled water at 150° F. for 2 hours yields total extractives not to exceed 0.005 milligrams per square inch of surface.

(d) The provisions of this section are not applicable to butadiene-styrene copolymers listed in other sections of this Subpart F.

Any person who will be adversely affected by the foregoing order may at any time on or before February 20, 1973, 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 January 19, 1973.

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

Dated: January 10, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

NOTE: Incorporation by reference provisions approved by the Director of the Federal Register January 15, 1973.

[FR Doc.73-1159 Filed 1-18-73;8:45 am]

[1] Copies may be obtained from American Society for Testing and Materials, 19196 Race Street, Philadelphia, PA 19103.

SUBCHAPTER F—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS OTHER THAN THE FOOD, DRUG, AND COSMETIC ACT

PART 278—REGULATIONS FOR THE ADMINISTRATION AND ENFORCEMENT OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968

Transfer of Regulations

The Bureau of Radiological Health, Environmental Health Service, was assigned to the Food and Drug Administration on May 25, 1971 (36 FR 12803). The formal statement of organization, functions, and delegation of authority for the Bureau of Radiological Health, appearing in the FEDERAL REGISTER of October 3, 1972 (37 FR 20738), establishes the operational framework for the Bureau of Radiological Health, Food and Drug Administration, and the justification for transferring the regulations pertaining to radiological health under Part 78 of Title 42 of the Code of Federal Regulations to the newly established Part 278 of Title 21 of the Code of Federal Regulations to reflect the organizational changes.

Therefore, Part 278 is hereby added to Chapter I of Title 21 of the Code of Federal Regulations to provide for carrying out the functions and responsibilities of the Bureau of Radiological Health, Food and Drug Administration, regarding radiological health. These regulations, formerly appearing as Part 78 of Title 42 of the Code of Federal Regulations, are hereby transferred without change.

Effective date. This transfer of regulations becomes effective on January 19, 1973. Product labeling referring to 42 CFR Part 78 shall be revised to refer to 21 CFR Part 278, for all newly manufactured products subject to these regulations, as soon as possible, but in no event later than December 31, 1973.

Dated: January 12, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-1161 Filed 1-18-73;8:45 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration), Department of Housing and Urban Development

[Docket No. R-73-184]

PART 275—LOW-RENT PUBLIC HOUSING

Prototype Cost Limits for Public Housing

In the FEDERAL REGISTER issued for Wednesday, May 17, 1972 (37 FR 9902), prototype per unit cost schedules were published pursuant to section 15(5) of the Housing and Urban Development Act of 1937. Consideration of subsequent factual project cost data received from the Atlanta Regional Office indicates that prototype per unit cost schedules should be established for Intermediate Care Facilities for Memphis, Tenn.

Inasmuch as the new prototype cost schedule cannot be utilized until the costs themselves become effective by publication in the FEDERAL REGISTER, continuity of contract approvals requires the immediate publication of this material. Accordingly, it is impracticable to provide notice and public procedure with respect to those cost limits in accordance with the Department's adopted publications policy (24 CFR Part 10), and good cause exists for making them effective on January 19, 1973.

For the foregoing reasons the following change is hereby made to the schedule as originally published in Volume 37 of the FEDERAL REGISTER:

1. On page 9930 add the Intermediate Care Facilities prototype per unit cost shown on the table set forth hereinafter, entitled "Prototype Per Unit Cost Schedule." (Sec. 7(d) of Dept. of HUD Act, 42 U.S.C. 3535(d).)

Effective date. This amendment is effective on January 19, 1973.

JOHN L. GANLEY,
Deputy Assistant Secretary-Commissioner.

PROTOTYPE PER UNIT COST SCHEDULE

REGION IV—UNIT TYPE

Memphis, Tenn.	Private	Semi-private	3-bed ward	4-bed ward
Intermediate care facilities	12,100	14,350	18,500	24,300

[FR Doc.73-1154 Filed 1-18-73;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter XVII—Office of Emergency Preparedness

PART 1705—RULES GOVERNING PUBLIC ACCESS TO RECORDS OF THE OFFICE OF EMERGENCY PREPAREDNESS

The Office of Emergency Preparedness has reviewed its regulations implementing the Public Information Section of the Freedom of Information Act (5 U.S.C. 552) with a view toward simplifying procedural requirements and facilitating public access to the records of that office. In addition, it is believed that certain recommendations made by the Administrative Conference of the United States and the Foreign Operations and Government Information Subcommittee of the Committee on Government Operations of the House of Representatives are appropriate for adoption by the Office of Emergency Preparedness.

Accordingly, Part 1705, Rules Governing Public Access to Records of the Office of Emergency Preparedness, is revised as follows:

Sec.
1705.1 Statutory requirements.
1705.2 Purpose.
1705.3 Requests for records.
1705.4 Agency handling of requests.
1705.5 Notification.
1705.6 Records of other agencies.
1705.7 Appeals.
1705.8 Fees.
1705.9 Authentication of records.

AUTHORITY: 5 U.S.C. 552.

§ 1705.1 Statutory requirements.

The Public Information Section of the Freedom of Information Act (5 U.S.C. 552(a)(3)) requires each agency, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, to make such records promptly available to any person. That provision, however, does not apply to matters that are—

(a) Specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(b) Related solely to the internal personnel rules and practices of an agency;

(c) Specifically exempted from disclosure by statute;

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Interagency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(g) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(h) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(i) Geological and geophysical information and data, including maps, concerning wells.

§ 1705.2 Purpose.

This part is designed to provide the rules referred to in 5 U.S.C. 552(a)(3) and facilitate public access to records of the Office of Emergency Preparedness.

§ 1705.3 Requests for records.

(a) Requests for access to records shall be in writing and may be filed in person or by mail with the Assistant to the Director for Congressional and Public Affairs at the headquarters of the Office of Emergency Preparedness between 9 a.m. and 5:30 p.m., Monday through Friday, except holidays.

(b) Requests for access to records may also be filed at any of the OEP Regional Offices. Regional Office addresses are listed in Part 1701 of this chapter.

(c) Requests for access to records may be made using Form OEP 174, copies of which are available in the Office of the Assistant to the Director for Congressional and Public Affairs as well as in the Office of the Director of each OEP Regional Office. This standard form is offered as an optional aid only; the Agency will accept any written request that sufficiently identifies the desired material.

§ 1705.4 Agency handling of requests.

(a) Subject to the provisions of § 1705.8, the Assistant to the Director for Congressional and Public Affairs, or the Regional Director concerned, shall promptly cause the requested record to be located and made available to the requestor unless it appears that the desired record may be subject to exemption under 5 U.S.C. 552(b). (See categories listed in § 1705.1.)

(b) If it appears that the requested record may fall within one of the exempt categories, the matter shall be referred to the Assistant to the Director for Congressional and Public Affairs.

(c) If the Assistant to the Director for Congressional and Public Affairs determines that the record is subject to exemption under 5 U.S.C. 552(b) and should, in the public interest, be withheld from public inspection, he shall promptly notify the requestor as provided in § 1705.5 of this part.

§ 1705.5 Notification.

Notice of denial of access to any record shall be in writing and shall include an explanation of the reasons for such denial, including specific citations to the relevant sections or subsections of the Freedom of Information Act. Such notice shall also inform the requestor of his right of appeal to the Director pursuant to § 1705.7.

§ 1705.6 Records of other Agencies.

In any case in which a person requests a record which originated in another Agency and which is in the custody of the Office of Emergency Preparedness, he shall be advised to submit his request to the other Agency involved. However, if in any such case, the other Agency consents to making the record involved available, such copy shall be made available to that person under the same terms and conditions as records of the Office of Emergency Preparedness are made available under this part.

§ 1705.7 Appeals.

Any person aggrieved by any determination made or action taken pursuant to the foregoing provisions of this part may request the Director of the Office of Emergency Preparedness to review that determination or action. No specific form is prescribed for this purpose, and a letter or other written statement setting forth the pertinent facts shall be sufficient for this purpose. The Director may require the person involved to present additional information in support of his request for review. The Director of the Office of Emergency Preparedness will promptly consider each such request for review and notify the person involved of his decision.

§ 1705.8 Fees.

When a requested record not withheld pursuant to § 1705.4(c) can be made available for inspection or reproduced at no cost or at nominal cost to the Agency, such record shall be provided without charge. If a copy of such record cannot be made at nominal cost, the Assistant to the Director for Congressional and Public Affairs shall make such copy available for copying or reproduction by the requestor or shall insure that a copy can be obtained by the requestor at a reasonable cost.

§ 1705.9 Authentication of records.

(a) Notice is hereby given that no seal has been prescribed for the Office of Emergency Preparedness.

(b) The Assistant to the Director for Administration is hereby authorized to designate an official custodian and deputy custodian of the records of the Office of Emergency Preparedness, and such designees are authorized to attest or otherwise authenticate copies of such records for use in judicial proceedings or other official matters.

(c) Such designees and the Assistant to the Director for Administration are authorized to issue such statements, certificates, or other documents as may be

required in connection with the authentication of copies of records so attested for use in judicial proceedings or other official matters.

(d) Such designees and the Assistant to the Director for Administration are also authorized to issue such statements, certificates, or other documents as may be required in connection with judicial proceedings or other official matters to show that after diligent search of the records of the Office of Emergency Preparedness no record or entry of a specified tenor has been found to exist in such records. (See Rule 44, Federal Rules of Civil Procedure for the U.S. District Courts.)

The provisions of this part shall become effective on January 19, 1973.

Dated: January 15, 1973.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.73-1173 Filed 1-18-73;8:45 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Office of Oil and Gas, Department of the Interior

[Oil Import Reg. 1 (Revision 5), Amdt. 51]

OI REG. 1—OIL IMPORT REGULATION

No. 2 Fuel Oil Imports

In view of the estimates of the increasingly tight demand-supply situation with respect to No. 2 fuel oil in Districts I–IV and in order to contribute to the alleviation of temporary supply dislocations as rapidly as possible, restrictions upon No. 2 fuel oil are being relaxed. In view of the urgency of this action it is not considered necessary to give notice of proposed rule making respecting this amendment, and it shall become effective immediately.

Accordingly, a new section 13B is added to Oil Import Regulation 1 (Revision 5), as amended.

Dated: January 17, 1973.

ROGERS C. B. MORTON,
Secretary of the Interior.

Concur: January 17, 1973.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

Sec. 13B Emergency finished products allocation.

(a) For the purpose of this section, (1) the term "No. 2 fuel oil" means a finished product which has the physical and chemical characteristics as set forth in subparagraph (1), paragraph (a) of section 30 of this regulation; and (2) the term "eligible applicant" means any person in the business of selling No. 2 fuel oil in Districts I–IV.

(b) (1) For the period January 1, 1973, through April 30, 1973, hereafter referred to as the "period" within the allocation period which begins January 1, 1973, No. 2 fuel oil may be imported by eligible applicants who comply with the provisions of this section.

(2) For the "period," the Director shall make available a license for imports of No. 2 fuel oil into Districts I–IV to any eligible applicant who certifies that such imports are required to meet obligations under contracts with, or purchase orders from, customers in Districts I–IV.

(3) An application for a license under this section may be filed in letter or telegraphic form at any time during the "period."

(c) (1) The Director shall process applications in the sequence in which they are received and make available licenses in the quantity which the applicant has certified in accordance with paragraph (b) (2) of this section.

(2) The Director shall issue a license or licenses to eligible applicants specifying the amount of No. 2 fuel oil which may be imported into Districts I–IV. All licenses issued pursuant to this section shall be valid only during the period January 1, 1973, through April 30, 1973. No licenses issued pursuant to this section may be sold, assigned, or otherwise transferred. No. 2 fuel oil imported pursuant to a license issued under this section must not be further processed in any manner, including blending or mixing with other petroleum products, by mechanical means.

[FR Doc.73-1317 Filed 1-17-73;4:25 pm]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGD 72-24R]

PART 110—ANCHORAGE REGULATIONS

Subpart A—Special Anchorage Areas

SAN LUIS OBISPO BAY, CALIF.

This amendment to the anchorage regulations of San Luis Obispo Bay, Calif., establishes an additional special anchorage area and deletes a portion of the existing special anchorage area which extends partially into waters governed by the International Rules of the Road (33 U.S.C. 1051–1094). In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

This amendment is based on a notice of proposed rule making published in the Wednesday, February 9, 1972, issue of the FEDERAL REGISTER (37 FR 2890) and Public Notice No. 12-43A issued by the Commander, Twelfth Coast Guard District on February 18, 1972.

One petition was received signed by 28 persons concerning the proposed Special Anchorage A–2. The petitioners did not object to the establishment of Special Anchorage A–2, but questioned the authority of local governments to manage the anchorage. The establishment of a special anchorage area merely relaxes the lighting requirements concerning anchor lights for vessels under 65 feet in length, but does not otherwise impair local authority to manage the anchorage.

In consideration of the foregoing, Part 110 of Chapter I of Title 33 of the Code of Federal Regulations is amended by revising § 110.120 to read as follows:

§ 110.120 San Luis Obispo Bay, Calif.

(a) *Area A–1.* Area A–1 is the water area bounded by the San Luis Obispo County wharf, the shoreline, a line drawn from the southernmost point of Fossil Point to latitude 35°10'18.5" N., longitude 120°43'38.5" W.; thence to the southeast corner of the San Luis Obispo County wharf.

(b) *Area A–2.* Area A–2 is the water area enclosed by a line drawn from the outer end of Whaler Island breakwater at latitude 35°09'22" N., longitude 120°44'56" W., to the Marre' Chimney at latitude 35°10'56" N., longitude 120°44'31" W.

NOTE: The Port San Luis Harbor District prescribes local regulations for mooring and boating activities in these areas.

(Sec. 1, 30 Stat. 98, as amended, sec. 6(g)(1)(B), 80 Stat. 937; 33 U.S.C. 180, 49 U.S.C. 1655(g)(1)(B), 49 CFR 1.46(c)(2) (36 FR 10160))

Effective date. This amendment shall become effective on February 23, 1973.

Dated: January 15, 1973.

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

[FR Doc.73-1209 Filed 1-18-73;8:45 am]

Chapter II—Corps of Engineers, Department of the Army

[ER 1105-2-502]

PART 209—ADMINISTRATIVE PROCEDURE

Public Meetings

In the interest of promoting public participation in connection with Civil Works planning activities and regulating the uses of navigable waters, the Office of the Chief of Engineers has prepared and issued an Engineer Regulation on public meetings as one important means of achieving this public participation objective. The regulation is to be used by all elements of the Corps of Engineers having such Civil Works responsibilities and is effective as of December 4, 1972.

A proposed Engineer Regulation on public meetings was published in the FEDERAL REGISTER for public comment on October 14, 1972 (37 FR 21818). All comments received were considered prior to issuing the regulation, which adds a new § 209.405 to 33 CFR Chapter II reading as follows:

§ 209.405 **Public meetings.**

(a) *Purpose.* This section sets forth the policy, responsibility, and guidance for holding formally organized, announced, and recorded public meetings in connection with all Civil Works planning activities and regulating the uses of navigable waters.

(b) *Applicability.* The section applies to all Corps of Engineers elements having responsibilities for Civil Works planning and for regulating the uses of navigable waters.

(c) *Policy.* In keeping the policy of the Chief of Engineers to conduct his Civil Works program in an atmosphere of public understanding, trust, and mutual cooperation, all interested individuals and agencies are to be informed and afforded an opportunity to be fully heard and their views considered in arriving at conclusions, decisions, and recommendations in the formulation of civil works proposals, plans, and projects and on the proposed uses of navigable waters. Formally organized and announced public meetings provide one important means of accomplishing this objective, and they will be held as specified herein. They are not, however, a substitute for other desirable public participation and information measures.

(d) *Definitions.* As used herein, the terms "public meeting" and "announcement of public meeting" refer to those public meetings which are formally organized, announced, and recorded; they do not include other smaller and less formally organized group discussion meetings which may also be open to the public and which are the subject of other guidance. However, it is emphasized that formality is intended only in respect to organization and announcement. The atmosphere of the meetings should be informal to the extent practicable, in keeping with the concept of public involvement and the need to encourage and develop more meaningful, two-way communication.

(e) *Purposes of public meetings.* The primary purpose of public meetings is to help to insure that solutions to water resources problems and the uses of navigable waters satisfy the needs and preferences of the people to the maximum degree possible within the bounds of local, State, and Federal interests, responsibilities, and authorities. More specifically, the purposes of public meetings are to inform the public about studies and proposals related to water resources development and the uses of navigable waters; to give all interested persons an opportunity to fully and publicly express their views concerning such studies and proposals; to obtain and exchange information which will assist all those involved in arriving at sound conclusions and recommendations; and to contribute to interagency coordination.

(f) *Holding of public meetings.* Public meetings will be held when needed, in keeping with the policy and purposes stated herein, generally as follows:

(1) For specifically authorized planning studies:

(i) An initial meeting will be held early in the course of each study to advise on the nature and scope of the study, to open lines of communication, to listen to the needs and views of the public, and to identify interested individuals and agencies.

(ii) A formulation stage meeting will be held during the course of each study when all alternative solutions are reasonably known, generally after the completion of preliminary studies but before a plan has been tentatively selected. A meeting at this stage is critical, and its scheduling and conduct will be given careful attention. A major purpose of this meeting is to present the results of preliminary studies, including the advantages and disadvantages of the various alternatives to the extent that such information has been developed, and to further develop public views and desires, particularly as they relate to the various alternatives. If the preliminary studies reveal that further studies are unwarranted, a public meeting at this stage will be held only at the discretion of the reporting officers, giving appropriate consideration to public participation concepts, including unusual circumstances.

(iii) A late stage meeting will be held after detailed studies but before report completion. Findings of the detailed studies, including the rationale for any proposed solution, and the tentative recommendations of the reporting officer will be presented. In the event that, due to the nature of the study, the formulation stage meeting was, in effect, also a late stage meeting and the proposed plan was a foregone conclusion at that meeting, a late stage meeting may be dispensed with, if approved by the Division Engineer. However, it must be apparent that no residual public meeting requirement is being imposed on the Board of Engineers for Rivers and Harbors. In all cases where no structural improvements or similar investments by the Corps of Engineers are to be recommended, a late stage public meeting will be held only at the discretion of the reporting officers, giving appropriate consideration to public participation concepts, including unusual circumstances.

(iv) An additional late stage meeting will be held for those studies where there have been no recent public meetings and there are indications that public acceptance may have changed materially or that further public views should be sought. Similarly, an additional late stage meeting will be held in those cases where there have been substantive changes in the tentative plan previously presented.

(2) For small planning studies under continuing authorities, the number and timing of the meetings are left to the discretion of the reporting officer due to the simplicity and smallness of such studies, except that at least one public meeting will be held during the course of each study under the authority of "section 103," "107," or "205" if structural improvements or similar investments by the Corps are indicated. Normally, this meeting should be held in the detailed study stages; however, other forms of public participation should be used throughout the study. For studies under other continuing authorities, such as for clearing and snagging, other forms of public participation should be relied upon to the extent practicable, but public meetings may be held if the reporting officer considers them desirable in specific instances.

(3) For studies of lock and dam replacements under section 6 of the River and Harbor Act of March 3, 1909, a formulation stage and a late stage meeting will be held as described in paragraph (f)(1)(ii) and (iii) of this section. However, for relatively small studies the meetings will be held as described for small studies in paragraph (f)(2) of this section.

(4) For fish and wildlife studies under section 2 of the Fish and Wildlife Coordination Act of August 12, 1958, for projects not completed before that date, a public meeting will be held in connection with the consideration of any wildlife management plan proposing the authorization of additional land for wildlife purposes. When appropriate, such meetings will be held jointly with the Fish and Wildlife Service which will present its plan at the meeting.

(5) For other planning studies not included in any of the above paragraphs, such as modification studies of completed projects under authority of section 216 of the 1970 Flood Control Act, mitigation studies of navigation effects under section 111 of the 1968 River and Harbor Act, and Phase I of General Design Memorandums, the number and timing of public meetings will be as considered desirable by the reporting officers, in keeping with the policy and purposes stated herein and giving consideration to similarities with the study categories in the previous subparagraphs. However, at least one public meeting will be held in connection with the preconstruction planning of authorized projects. For all studies, other forms of public participation should be utilized to the extent practicable.

(6) Public meetings may be held by the Board of Engineers for Rivers and Harbors prior to any final action by the Board when non-Federal interests request such meetings in their response to the announcement of the public release of a field report and the Board decides favorably on such requests. Normally, there will be no need for such meetings if adequate meetings have been held by the reporting officers.

(7) Public meetings will be held in connection with proposed actions concerning the uses and control of navigable waters whenever there appears to be sufficient public interest and it is likely that the meeting will develop information that will be of assistance in evaluating the proposed action. Such actions include applications for permits for work in or affecting navigable waters, designation of proposed danger zones and restricted areas, the promulgation of regulations, and proposals for the establishment or revision of harbor lines.

(8) A public meeting should be held in any special situation where either the public or the Corps, or both, would benefit by the exchange of views and information. Possibilities include situations of unusual time lapse or unexpected developments since the last public meeting, unusual interest or controversy, and official requests by congressional interests or responsible non-Federal authorities for meetings which would fulfill the policy and purposes stated herein.

(g) *Conduct of public meetings.* All public meetings will be fair and impartial two-way communications. As such, they will be conducted as informally and simply as possible, and make liberal use of uncluttered graphics, slides, and displays. The use of high-quality audiovisual aids may be used when available. Public meetings will normally be chaired by the senior officer or a suitable representative in view of the importance of these meetings. The meetings may be held jointly with other agencies when desirable but will be chaired by the Corps. This does not, however, preclude Corps participation in meetings held by others.

(1) At the beginning of a public meeting, the presiding officer will explain the purpose of the meeting. Subsequently, he will summarize the study, proposed uses of navigable waters, or other situation for which the meeting is being held. In the case of planning studies, this will include, as appropriate, the problems and needs under study; the status of pertinent plans, programs, and improvements; the programs or improvements desired by various interests; the formulation of a plan or solution which considers all appropriate measures and is not limited to considerations of Federal construction measures; participation and coordination in such formulation; plan accomplishments and effects, both advantageous and disadvantageous; and Federal and non-Federal responsibilities. In discussing formulation, national objectives will be cited as well as technical and economic criteria and environmental and social considerations. All plausible alternatives should be mentioned and commented upon, however infeasible in the specific case. In particular, active participation by others in the study and coordination will be explained to clearly demonstrate the cooperative nature of the effort. Supporting presentations will be given by staff members, as appropriate.

(2) Following the presentations, or at suitable points, all interested persons will be given an oportunity to present their views. In the interest of informality and equity, structured orders of presentation should be avoided. For example, officials and private individuals could be given opportunity to speak in random order. All communications received for placement into the meeting record will be read or summarized to the extent practicable.

(h) *Arrangements for public meetings.* Meetings will be held in the locality or localities most convenient to the people of the area under investigation, and local convenience will be recognized in selecting the place, date, and hour. Prior to final selection, however, interested members of Congress should be consulted regarding the schedule and their intent to participate. Individuals and organized groups, including those with conservation and environmental interests, whose local knowledge renders their opinion of value should be encouraged to participate in order to develop a good understanding of diverse views. In the case of public meetings by the Board of Engineers for Rivers and Harbors, such meetings may be held in Washington, D.C., if the Board considers this more advantageous to the purpose of the meeting. When Board public meetings are held in the field, the appropriate field office will act as liaison, make all pertinent arrangements, and carry out such meeting activities as requested by the Board.

(i) *Advice and information to participants.* Good public relations practices will be observed and, to the extent possible, those interested should be advised to organize their case so that all pertinent aspects of their problem may be rapidly and effectively presented. In particular, those interested should be encouraged to submit detailed data on the justification of their requests. Written information suitable to clarify the issues for those interested, assist them in preparing factual material and expressions of views or opinions, and indicate possible alternative courses of action should be supplied to them in advance of a meeting. Without such advance information, participants will often be unable to contribute in full measure to the meeting, and they may feel that their views have not been adequately considered. Insofar as practicable, advice and advance information to those interested should be presented in the announcement or as enclosures thereto. Such enclosures may be brochures or other materials setting forth environmental information, alternatives and their pros and cons, and other information such as listed in paragraph (g)(1) of this section.

(j) *Announcements of public meetings.* Announcements of public meetings will be issued, dated, and signed by the senior officer concerned. In the case of preauthorization studies, they may be similar to the suggested wording in Appendix A, tailored to fit the situation and status of the study. More drastic modification will be needed for special meetings or situations. In any event, the suggested wording should not be unreasonably adhered to. Moreover, the announcements should be written in layman's language and be informative and inviting in format, appearance, and content. Their tone should reflect a sincere intent to produce a mutual exchange of views and information. In this regard, the announcements should in all cases avoid implications that final decisions have been made.

(k) *Distribution of announcements.* Announcements of public meetings will be distributed directly to all interested individuals and agencies, including the press, radio, and television stations, about 1 month in advance of the meeting, preferably longer in the case of deep-draft waterway and harbor studies. Shorter periods may be used for small, simple studies. Advance notification will be given Members of Congress and Governors of the States. The announcements may be inserted as an advertisement subject to the requirements for authority to advertise. Copies will also be supplied to Postmasters and other agencies where they may be posted for public information. An additional notice to newspapers, radio, and television stations should be made about 3 days prior to the meeting. Distribution will be accomplished from a prepared distribution list for which up-to-date records will be kept of individuals or agencies desiring copies of announcements or which may be interested or affected. Special effort will be made to identify those which may be interested or affected in each situation and to develop pertinent distribution lists; outdated or stereotyped lists will be avoided. Distribution of the announcement will include the following:

	Quantity
Members of Congress concerned: (One copy of announcement and mailing list to home address and one copy of each to Washington, D.C., office.) (Members of Congress will be listed under a heading "Congressional," with Senators in order of seniority grouped by States, first, followed by Representatives in same manner. Seniority is based upon latest period of continuous service and can be determined from the Congressional Directory.)	2.
Governor or designated representative of States affected (with mailing list).	1.
Chief of Engineers: HQDA (DAEN–CWP–__) Washington, D.C. 20314 except, in the case of permits, one copy to (DAEN–CWO–N).	2.
Board of Engineers for Rivers and Harbors.	1.
Division Engineer	2 (or as requested).

(l) *Record of meeting.* A complete record of public meetings will be taken stenographically and by electrical transcription, and a written record will be made therefrom. Such records should be reasonably accurate but need not be precise legal documents. Study reports sent by reporting officers to the Board of Engineers for Rivers and Harbors will be accompanied by one copy of the pertinent written record, including the announcement and list of persons notified. The Board will forward these materials to the Chief of Engineers upon completion of Board action on the report. In all other cases, the materials will be supplied to the Chief of Engineers in one copy at the time of submission of a study or permit report or other primary document on the subject for which the meeting was held. Each record will be accompanied by an index and a very simple digest indicating major characteristics such as attendance, reactions, and major

concerns. Copies of the record for representatives of other agencies participating in joint meetings will be supplied in accordance with any arrangements made by them with the responsible senior officer. Others will be advised that they may arrange for copies of the record at the cost of reproduction.

(m) *Joint public meetings.* Representatives of other Federal agencies or non-Federal public agencies may actively participate in joint public meetings whenever such organizations have a particular interest and express a desire to participate. Notification of a desire to participate and the subsequent designation of a participant should be accomplished officially by written communications from a responsible level. It should be understood that the agency representative designated should be knowledgeable in the subject of the meeting, that the Corps of Engineers is responsible for arrangements and procedure, that the meeting will be conducted by the Corps presiding officer, and that the meeting will be reasonably limited to Corps purposes for the meeting. If the participating agency's interest requires extension of the meeting or additional meetings, the additional expense will be the responsibility of that agency.

(n) *Funding.* The expense of public meetings will be charged to the pertinent program, project, or study for which they are being held.

APPENDIX A

SUGGESTED WORDING FOR ANNOUNCEMENT OF PUBLIC MEETING ON A PREAUTHORIZATION STUDY

Announcement of public meeting on (For) _____ (indicate purpose, study, and study area).

Meeting to be held at _____ on (Time)

_____ in auditorium of (Date)

_____

_____ (Street Address)

_____ (City and State)

The Corps of Engineers is studying the (describe study and its purpose, and identify study area). The study was requested by the U.S. Congress in the (identify and cite or paraphrase appropriate acts or resolutions, or portions thereof).

In order that the study may be responsive to the desires and needs of everyone affected, a public meeting will be held as indicated above. We invite you to attend the meeting and to participate in the exchange of information concerning the study, the water resource and related problems involved, and possible solutions. We are also interested in knowing about ecological and environmental conditions and problems in the study area. A map of the study area is attached.

Generally, the problems and needs that we are aware of (very briefly list problems and needs, status of existing plans and improvements, improvements desired, and possible solutions, tailored to suit the situation and status of the study. An inclosed brochure may be desirable.)

All interested individuals, groups, and agencies are invited and urged to be present or represented at this meeting. Everyone will be given an opportunity to express his views and furnish specific data on all aspects of the study, including technical, economic, social, and ecological and environmental material. Statements should be supported by factual information insofar as practicable. (Identify matters or data on which information is particularly being sought.)

For accuracy of record, all important facts and statements should be submitted in writing. Written statements may be handed to the Chairman at the meeting or may be mailed beforehand to our office. Mailed statements should indicate that they are in response to this announcement. All statements, both oral and written, will become part of the official record on this study and will be made available for public examination.

Full consideration will be given to the views presented prior to making a recommendation to higher authority. However, this cannot be taken as an indication that the Federal Government will undertake any improvements or programs. Although the study may result in recommendations for undertakings by the Federal Government, their accomplishment would depend upon subsequent authorization and funding by the Congress.

Please bring this announcement to the attention of anyone you know who is interested.

(List Inclosures.)

[ER 1105-2-502, Dec. 4, 1972] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

For the Adjutant General.

E. W. GANNON,
Lieutenant Colonel, U.S. Army,
Chief, Plans Office, TAGO.

[FR Doc.73-1183 Filed 1-18-73;8:45 am]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

PART 122—ADDRESSES

Fees for Correcting Mailing Lists for Members of Congress and Federal Agencies

This amendment to § 122.5 of this title requires that Members of Congress and Federal agencies pay the U.S. Postal Service for mailing list correction services at the same rates charged other organizations. It also establishes the collection procedures to be followed by Postmasters when such services are rendered to Members of Congress and Federal agencies.

1. Paragraphs (a) (1) and (4) § 122.5 of this title is amended to read as follows:

§ 122.5 Mailing list services.

(a) *Correction of mailing lists*—(1) *Service available.* Mailing lists submitted by Members of Congress, Federal agencies, departments of State governments, municipalities, religious, fraternal, and recognized charitable organizations and mailing lists used by concerns or persons for the solicitation of business by mail will be corrected as frequently as requested. Postal employees must not compile mailing lists, including occupant lists. Persons other than postal employees may not copy or record by any other means names or addresses from city or rural carrier cases.

* * * * *

(4) *Charges.* (i) The minimum charge for each list corrected is $1. For lists of more than 20 names or addresses, the charge is 5 cents per name or street address including individual apartments. Where rural routes have been consolidated or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the route or routes involved.

(ii) Except for authorized users of official mail, payment must be made in advance by cash or money order. Lists should not be returned to commercial mailers until charges and postage fees have been collected.

(iii) Payment for correction of lists submitted by Members of Congress and Federal agencies is made under the official mail reimbursement program. Submit a report of the applicable charges and the name of the Member of Congress or Federal Agency for which the list is corrected to:

Postal Revenue Officer, Finance Department,
U.S. Postal Service, Washington, DC 20260.

* * * * *

Effective date. The above amendments are effective on January 19, 1973.

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

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.73-1269 Filed 1-18-73;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

BIDDER'S MAILING LIST AND MISCELLANEOUS AMENDMENTS

The following provides updated instructions to Federal Supply Service procurement personnel on the preparation of solicitations for offers, forms to be used, the bidders mailing list system, and related matters.

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5A-2.2—Solicitation of Bids

1. Section 5A-2.201 is amended to add paragraph (c) as follows:

§ 5A-2.201 Preparation of invitations for bids.

* * * * *

(c) *Consideration of printing and mailing costs.* The number of pages in invitations for bids shall be kept to a minimum to save administrative costs. Continuation sheets for especially lengthy invitations should be typed on GSA Form 459, 25 percent Standard Reduction Sheet, and photographically reduced for subsequent printing on regular-sized paper to reduce printing and mailing costs.

2. Section 5A-2.201-70 is amended as follows:

§ 5A–2.201–70 Forms to be used.

* * * * *

(f) * * *

(3) The Centralized Mailing List Service (CMLS) in Region 8 maintains the FSS bidders mailing list (see § 5A–76.306). When a firm is added to the bidders mailing list, a copy of each of the forms listed in (1), above, shall be mailed by CMLS to the firm with an explanatory note stating that the forms will be referenced but not attached to future invitations for bids.

* * * * *

3. Section 5A–2.203–1 is revised as follows:

§ 5A–2.203–1 Mailing or delivering to prospective bidders.

(a) Invitations for bids shall be distributed not later than the day indicated as the issuance date through use of appropriate bidders mailing lists maintained in accordance with § 5A–76.306.

(b) Avoid the use of envelopes larger than 5¾ by 11½ inches unless absolutely necessary. Specific arrangements to achieve this objective shall be made with the local printing and distribution activity.

(c) A copy of each invitation for bids for direct delivery purchases shall be forwarded to the requisitioning office concerned. (Also, see § 5A–72.105–23(a)(3).)

(d) Procuring activities shall insure that active bidders, i.e., current contractors and bidders that responded to recent similar solicitations, will be provided with new complete bid sets for the same or similar items. After identifying the active bidders (also, see § 5A–76.306(g), Handlists), their names shall be checked against the bidders mailing list printout. If their names are not on the printout, action shall be taken in accordance with § 5A–76.306(1)(2).

4. Section 5A–2.205–1 is revised as follows:

§ 5A–2.205–1 Establishment of lists.

Guidelines concerning the establishment and maintenance of bidders mailing lists are set forth in §§ 1–2.205 and 5A–2.205. Bidders mailing list operational procedures are further described in § 5A–76.306.

5. Section 5A–2.205–2 is revised as follows:

§ 5A–2.205–2 Removal of names from bidders mailing lists.

Concerns which have been debarred or otherwise determined to be ineligible pursuant to Subparts 1–1.6 and 5–1.6 shall be removed from the FSS bidders mailing lists. This action will be taken by the Centralized Mailing List Services in Region 8. Debarred and ineligible concerns shall also be removed from any locally maintained bidders mailing lists (handlists), and this should be accomplished upon receipt of interim notices issued by the Office of Investigations. (See also § 5A–76.306(j).)

6. Section 5A–2.205–3 is revised as follows:

§ 5A–2.205–3 Reinstatement on bidders mailing lists.

The reinstatement of concerns on FSS bidders mailing lists shall be in accordance with the procedures set forth in § 5A–76.306. With reference to § 1–2.205–3, all reinstatements to the FSS bidders mailing list system of previously debarred or suspended firms shall be made only upon filing a new bidders mailing list application on SF 129, Bidders Mailing List Application, and related GSA forms.

PART 5A–16—PROCUREMENT FORMS

The table of contents for Part 5A–16 is amended to add the following:

Sec.	
5A–16.950–1754	GSA Form 1754, Bidders Mailing List Application Code Sheet (Commodities).
5A–16.950–1783	GSA Form 1783, Bidders Mailing List Application Code Sheet (Services).
5A–16.950–2439	GSA Form 2439, Bidders Mailing List Selection Request.
5A–16.950–2440	GSA Form 2440, Request for Addressee Information.
5A–16.950–2459	GSA Form 2459, Bidders Mailing List Instructions.

PART 5A–76—EXHIBITS

The table of contents for Part 5A–76 is amended to include the following:

Sec.	
5A–76.306	Bidders mailing list system.

NOTE: Copies of the forms and exhibit added to Parts 5A–16 and 5A–76 are filed with the original document.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5–1.101(c))

Effective date. These regulations are effective on February 5, 1973, but may be observed earlier.

Dated: January 5, 1973.

M. S. MEEKER,
Commissioner,
Federal Supply Service.

[FR Doc.73–1212 Filed 1–18–73;8:45 am]

Chapter 60—Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor

PART 60–1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

State and Local Governments: Affirmative Action Programs

On October 4, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 20870) with regard to amending § 60–1.5 of Title 41, Code of Federal Regulations. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposal.

Having considered all relevant material submitted, I have decided to, and do hereby amend § 60–1.5 of Chapter 60 of Title 41 of the Code of Federal Regulations as follows:

§ 60–1.5 Exemptions.

(a) *General.* * * *

(4) *Contracts with State or local governments.* The requirements of the equal opportunity clause in any contract or subcontract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract. In addition, any agency, instrumentality or subdivision of such government, except for educational institutions and medical facilities, are exempt from the requirements of filing the annual compliance report provided for by § 60–1.7(a)(1) and maintaining a written affirmative action compliance program prescribed by § 60–1.40 and Part 60–2 of this chapter.

* * * * *

Effective date. This amendment is effective on January 19, 1973.

Signed at Washington, D.C., this 15th day of January 1973.

J. D. HODGSON,
Secretary of Labor.

R. J. GRUNEWALD,
Assistant Secretary for Employment Standards.

PHILIP J. DAVIS,
Acting Director, Office of Federal Contract Compliance.

[FR Doc.73–1168 Filed 1–18–73;8:45 am]

PART 60–50—GUIDELINES ON DISCRIMINATION BECAUSE OF RELIGION OR NATIONAL ORIGIN

On December 29, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 FR 25165) with regard to amending Chapter 60 of Title 41 of the Code of Federal Regulations by adding a new Part 60–30, establishing guidelines and interpretations of the Office of Federal Contract Compliance as to the requirements of Executive Order 11246, as amended, for promoting and insuring equal employment opportunity for members of various religious and ethnic groups who continue to encounter employment discrimination because of their religion and/or national origin. Interested persons were given 30 days in which to submit written comments regarding the proposal.

After consideration of all comments received, Chapter 60 of Title 41 of the Code of Federal Regulations is amended

by adding a new Part 60–50, set forth below. The final version of the Office of Federal Contract Compliance's guidelines regarding religious and national origin discrimination is now issued as 41 CFR Part 60–50, rather than as 41 CFR Part 60–30, as formerly proposed, since the latter part has been reserved for other regulations.

Sec.
60–50.1 Purpose and scope.
60–50.2 Equal employment policy.
60–50.3 Accommodations to religious observance and practice.
60–50.4 Enforcement.
60–50.5 Nondiscrimination.

AUTHORITY: Sec. 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303.

§ 60–50.1 Purpose and scope.

(a) The purpose of the provisions in this part is to set forth the interpretations and guidelines of the Office of Federal Contract Compliance regarding the implementation of Executive Order 11246, as amended, for promoting and insuring equal employment opportunities for all persons employed or seeking employment with Government contractors and subcontractors under federally tors and subcontractors or with contractors and subcontractors performing under federally assisted construction contracts, without regard to religion or national origin.

(b) Members of various religious and ethnic groups, primarily but not exclusively of Eastern, Middle, and Southern European ancestry, such as Jews, Catholics, Italians, Greeks, and Slavic groups, continue to be excluded from executive, middle-management, and other job levels because of discrimination based upon their religion and/or national origin. These guidelines are intended to remedy such unfair treatment.

(c) These guidelines are also intended to clarify the obligations of employers with respect to accommodating to the religious observances and practices of employees and prospective employees.

(d) The employment problems of blacks, Spanish-surnamed Americans, orientals, and American Indians are treated under Part 60–2 of this chapter and under other regulations and procedures implementing the requirements of Executive Order 11246, as amended. Accordingly, the remedial provisions of § 60–50.2(b) shall not be applicable to the employment problems of these groups.

§ 60–50.2 Equal employment policy.

(a) *General requirements.* Under the equal opportunity clause contained in section 202 of Executive Order 11246, as amended, employers are prohibited from discriminating against employees or applicants for employment because of religion or national origin, and must take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their religion or national origin. Such action includes, but is not limited to the following: Employment, upgrading, demotion, or transfer: recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) *Outreach and positive recruitment.* Employers shall review their employment practices to determine whether members of the various religious and/or ethnic groups are receiving fair consideration for job opportunities. Special attention shall be directed toward executive and middle-management levels, where employment problems relating to religion and national origin are most likely to occur. Based upon the findings of such reivews, employers shall undertake appropriate outreach and positive recruitment activities, such as those listed below, in order to remedy existing deficiencies. It is not contemplated that employers necessarily will undertake all of the listed activities. The scope of the employer's efforts shall depend upon all the circumstances, including the nature and extent of the employer's deficiencies and the employer's size and resources.

(1) Internal communication of the employer's obligation to provide equal employment opportunity without regard to religion or national origin in such a manner as to foster understanding, acceptance, and support among the employer's executive, management, supervisory, and all other employees and to encourage such persons to take the necessary action to aid the employer in meeting this obligation.

(2) Development of reasonable internal procedures to insure that the employer's obligation to provide equal employment opportunity without regard to religion or national origin is being fully implemented.

(3) Periodically informing all employees of the employer's commitment to equal employment opportunity for all persons, without regard to religion or national origin.

(4) Enlisting the assistance and support of all recruitment sources (including employment agencies, college placement directors, and business associates) for the employer's commitment to provide equal employment opportunity without regard to religion or national origin.

(5) Reviewing employment records to determine the availability of promotable and transferable members of various religious and ethnic groups.

(6) Establishment of meaningful contacts with religious and ethnic organizations and leaders for such purposes as advice, education, technical assistance, and referral of potential employees.

(7) Engaging in significant recruitment activities at educational institutions with substantial enrollments of students from various religious and ethnic groups.

(8) Use of the religious and ethnic media for institutional and employment advertising.

§ 60–50.3 Accommodations to religious observance and practice.

An employer must accommodate to the religious observances and practices of an employee or prospective employee unless the employer demonstrates that it is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business. As part of this obligation, an employer must make reasonable accommodations to the religious observances and practices of an employee or prospective employee who regularly observes Friday evening and Saturday, or some other day of the week, as his Sabbath and/or who observes certain religious holidays during the year and who is conscientiously opposed to performing work or engaging in similar activity on such days, when such accommodations can be made without undue hardship on the conduct of the employer's business. In determining the extent of an employer's obligations under this section, at least the following factors shall be considered: (a) Business necessity, (b) financial costs and expenses, and (c) resulting personnel problems.

§ 60–50.4 Enforcement.

The provisions of this part are subject to the general enforcement, compliance review, and complaint procedures set forth in Subpart B of Part 60–1 of this chapter.

§ 60–50.5 Nondiscrimination.

The provisions of this part are not intended and shall not be used to discriminate against any qualified employee or applicant for employment because of race, color, religion, sex, or national origin.

Effective date. This part shall become effective on February 20, 1973.

Signed at Washington, D.C., this 17th day of January 1973.

J. D. HODGSON,
Secretary of Labor.

R. J. GRUNEWALD,
Assistant Secretary for Employment Standards.

PHILIP J. DAVIS,
Acting Director, Office of Federal Contract Compliance.

[FR Doc.73–1288 Filed 1–18–73;8:45 am]

Title 42—PUBLIC HEALTH

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

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 78—REGULATIONS FOR THE ADMINISTRATION AND ENFORCEMENT OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968

Transfer of Regulations

The Bureau of Radiological Health, Environmental Health Service, was assigned to the Food and Drug Administration on May 25, 1971 (36 FR 12803). The

formal statement of organization, functions, and delegations of authority for the Bureau of Radiological Health, appearing in the FEDERAL REGISTER of October 3, 1972 (37 FR 20738), establishes the operational framework for the Bureau of Radiological Health, Food and Drug Administration, and the justification for transferring the regulations pertaining to radiological health under Part 78, Title 42 of the Code of Federal Regulations to the newly established Part 278 of Title 21 of the Code of Federal Regulations to reflect the organizational changes.

Therefore, the regulations formerly appearing in Part 78 of Chapter I of Title 42 of the Code of Federal Regulations are hereby transferred to Chapter I of Title 21 and redesignated as Part 278 of that chapter. Accordingly, Part 78 of Title 42 is hereby vacated.

Effective date. This transfer of regulations becomes effective January 19, 1973.

Dated: January 12, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-1160 Filed 1-18-73;8:45 am]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-45; Notice 73-3]

PART 395—HOURS OF SERVICE OF DRIVERS

Use of Canadian Driver's Log Form

The Director of the Bureau of Motor Carrier Safety is amending the Motor Carrier Safety Regulations to permit drivers for Canadian-based motor carriers to use the form of driver's daily log prescribed by Canadian law in lieu of the Bureau's Form MCS-59.

The purpose of this amendment is to relieve those drivers, and the carriers by whom they are employed, from the burden of making and preserving two different driver's daily log forms in certain circumstances. At present, a driver for a Canadian motor carrier who operates into the United States from Canada must, under § 395.8 of the Motor Carrier Safety Regulations, make daily logs on Form MCS-59 covering the entire trip, including time spent in Canada. Canadian law also requires the driver to prepare daily logs on a form prescribed in the "Canada Motor Vehicle Operators Hours of Service Regulations" for the entire trip. The two forms are very similar, but they are not identical. As a result, the driver is burdened with filling out, and the carrier is obligated to keep on file, two different sets of forms covering the same operation.

The Director can perceive of no sound reason for continuing to impose this type of burden on motor carriers. The Canadian form provides virtually all of the information provided by Form MCS-59, when it is properly filled out, and differs only slightly in format from the American one. It appears that nothing would be lost, and a considerable amount of useless paperwork would be dispensed with, by permitting drivers and carriers who are based in Canada and who are required to use the Canadian form under the Canadian regulations to use that form as the driver's daily log in lieu of Form MCS-59.

It should be noted that the Canadian regulations apply only to for-hire (common and contract) carriers. Therefore, drivers for Canadian-based private carriers of property who operate in the United States must continue to make daily logs on Form MCS-59.

The amendment to permit use of the Canadian form is being accomplished as a revision of paragraph (t) of § 395.8. Except for the addition of a subparagraph granting permission to use the Canadian form, no substantive change to the existing provisions of that paragraph is being made.

In consideration of the foregoing, § 395.8(t) of the Motor Carrier Safety Regulations (Subchapter B of Chapter III in Title 49, CFR), is revised to read as set forth below.

Effective date. This amendment is effective on March 1, 1973.

Since this amendment relieves a restriction and does not impose any additional substantive burden on any person, the Director finds that notice and public procedure thereon are unnecessary.

This amendment is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority from the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 49 CFR 389.4, respectively.

Issued on January 10, 1973.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

§ 395.8 Driver's daily log.

* * * * *

(t) *Exemptions*—(1) *50-mile-radius drivers.* The rules in this section do not apply to a regularly employed driver who drives wholly within a radius of 50 miles of the garage or terminal at which he reports for work, if the motor carrier who employs the driver maintains and retains for a period of 1 year accurate and true records showing the total number of hours the driver is on duty each day and the time at which the driver reports for, and is released from, duty each day.

(2) *Drivers of lightweight vehicles.* The rules in this section do not apply to a driver of a motor vehicle that has not more than 2 axles and a gross weight (as defined in § 390.10 of this chapter) of 10,000 pounds or less, unless that vehicle is either—

(i) Used to transport passengers;

(ii) Used to transport materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with § 177.823 of this title; or

(iii) Operated without cargo under conditions that require the vehicle to be marked or placarded in accordance with § 177.832 of this title.

(3) *Use of Canadian log forms.* In lieu of Form MCS-59, a driver may use, and a motor carrier may accept, the form of driver's daily log prescribed in the "Canada Motor Vehicle Operators Hours of Service Regulations," if—

(i) The driver's home terminal is located in Canada;

(ii) The motor carrier is properly registered with the Canadian authorities in accordance with the "Canada Motor Vehicle Operators Hours of Service Regulations"; and

(iii) All information required by this section is entered on the form.

[FR Doc.73-1211 Filed 1-18-73;8:45 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

Quivira National Wildlife Refuge, Kans.

The Bureau of Sport Fisheries and Wildlife announces that Quivira National Wildlife Refuge near Stafford, Kans., will be open to public fishing from May 1, 1973, through September 30, 1973. Sport fishing shall be in accordance with all applicable State regulations.

The following special regulation is issued and is effective on January 19, 1973.

§ 33.5 Special Regulations; sport fishing; for individual wildlife refuge areas.

KANSAS

QUIVIRA NATIONAL WILDLIFE REFUGE

Sport fishing on the Quivira National Wildlife Refuge, Stafford, Kans., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 990 acres, are delineated on maps available at refuge headquarters, Stafford, Kans., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West Sixth Avenue, Denver, CO 80215. Sport fishing

shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from May 1, 1973, to September 30, 1973, inclusive.

(2) Fishing will be with closely attended rod(s) and line(s) only.

(3) The use of boats is not permitted. One-man floater tubes may be used.

(4) Overnight camping is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 30, 1973.

CHARLES R. DARLING,
Refuge Manager, Quivira National Wildlife Refuge, Stafford, Kans.

[FR Doc.73-1170 Filed 1-18-73;8:45 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 4]

VESSELS IN FOREIGN AND DOMESTIC TRADES

Proposed Factors To Be Considered in Determining Whether Primary Object of Voyage is Coastwise Transportation; Extension of Time

JANUARY 12, 1973.

Notice of proposed amendment to § 4.-80a of the Customs regulations, pertaining to factors to be considered in determining whether the primary object of a voyage is coastwise transportation, was published in the FEDERAL REGISTER on Wednesday, December 20, 1972 (37 FR 28060). Thirty days from the date of publication of the notice were given for submission of data, views, or arguments, pertaining to the proposed amendment.

Requests have been received for an extension of the time for the submission of comments. Therefore, the period for submission of data, views, or arguments, relating to the cited amendment is extended to February 19, 1973.

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

[FR Doc.73-1197 Filed 1-18-73;8:45 am]

[19 CFR Part 10]

METALS EXPORTED FOR PROCESSING

Articles Conditionally Free, Subject to a Reduced Rate, Etc.

Notice is hereby given that under the authority of R.S. 251, as amended, section 624, 46 Stat. 759, 77A Stat. 14; 19 U.S.C. 66, 1202 (Gen. Hdnte. 11, Tariff Schedules of the United States) and 1624, it is proposed to amend § 10.9(a) of the Customs regulations to enable the exporter or owner of metal affected by item 806.30, Tariff Schedules of the United States (19 U.S.C. 1202), in cases where the name and address of the U.S. processor is not known at the time of exportation, to state on the Certificate of Registration (Customs Form 4455), the basis for belief that the metal will be returned for further processing in the United States.

Section 10.9(a), which pertains to articles of metal exported for processing and returned for further processing under item 806.30, Tariff Schedules of the United States (19 U.S.C. 1202) presently provides that the exporter or owner shall furnish on the reverse side of the Certificate of Registration (Customs Form 4455), at the time of exportation, the name and address of the person who will further process the article upon return to the United States. This requirement has adversely affected some members of the metal trade who at the time of exportation have prospective customers in the United States, and who intend to reimport the metal, but do not have at that time specific orders for the merchandise.

Accordingly, it is proposed to amend paragraph (a) of § 10.9 to read as follows:

§ 10.9 Articles exported for processing.

(a) Before the exportation of articles subject, on return to the United States, to duty on the value of the processing performed abroad as provided for in item 806.30, a Certificate of Registration (top portion of Customs Form 4455), shall be filed (in an original only), by the owner or exporter with the district director of Customs at a time prior to the departure of the exporting conveyance which will permit an examination of the articles. A statement shall be included on the reverse side of Customs Form 4455 by the exporter or owner substantially as follows:

The articles described in this certificate were manufactured in the United States by
---
(Name and Address)
or, if of foreign origin, were subjected to

(Show processes of manufacture, such as molding, casting, machining, etc.)
in the United States by

(Name and Address)
The articles in their changed conditions will be returned for further processing by
---; or, if further
(Name and Address)
processing of the articles in the United States will be performed by a person not presently known the reasons for believing the articles will be returned for further processing are
---
and the reason the person is not presently known is
---

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14; 19 U.S.C. 66, 1202 (Gen. Hdnte. 11, Tariff Schedules of the United States), 1624)

Consideration will be given to relevant data, views, or arguments, pertaining to the proposed amendment which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20226, and received on or before February 20, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs regulations (19 CFR 103.3(b)), at the Regulations Division, Bureau of Customs, Washington, D.C., during regular business hours.

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

Approved: January 9, 1973.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.73-1198 Filed 1-18-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 12]

CERTAIN LANDS AND WATERS IN McINTOSH COUNTY, GA.

Hunting of Migratory Birds; Designation of Closed Area

Notice is hereby given that it is proposed to designate an area closed to the hunting of migratory birds, as set forth below. The purpose of this designation is to aid administration of the Wolf Island National Wildlife Refuge and to improve the effectiveness of the refuge for the purposes for which it was established by the United States.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposal to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, on or before February 20, 1973.

The text of the proposed designation is as follows:

This action is taken by virtue of and pursuant to section 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755, as amended; 16 U.S.C. 704), and by virtue of the Reorganization Plan II (53 Stat. 1431) and in accordance with section 4(a) of the Administrative Procedure Act of June 11, 1946 (60 Stat. 238, 5 U.S.C. 1003). Having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of migratory birds included in the terms of the convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and the convention between the United States and the United Mexican States for the protection of migratory birds and game mammals, concluded February 7, 1936, I hereby designate as a closed area in or on which pursuing, hunting, taking, capturing, or killing of migratory birds, or attempting

to take, capture, or kill migratory birds is not permitted, all the land, marsh, and water areas in McIntosh County, Ga., within the following-described boundary:

An area of land and water in McIntosh County, Ga., comprising Wolf Island National Wildlife Refuge and certain lands and waters adjacent thereto, embraced within the following boundaries:

WOLF ISLAND

Beginning at a point in the low water mark of Wolf Island at the extreme north end of Wolf Island Spit in Doboy Sound; thence with the low water mark of Wolf Island southerly, with the Atlantic Ocean, westerly and northwesterly with Altamaha Sound, northerly with Little Mud River and easterly with South River, crossing the mouths of numerous unnamed tidal creeks and guts, approximately 53,000 feet, to a point where the low water mark of the west bank of Wolf Creek intersects the low water mark of South River; thence easterly, crossing Wolf Creek, a distance of approximately 400 feet, to a point in the low water mark of the east bank of Wolf Creek where it intersects the low water mark of South River; thence easterly with the low water mark of Wolf Island, a distance of approximately 3,500 feet, to a point in the low water mark of the west bank of Beacon Creek as it intersects the low water mark of Doboy Sound; thence southeasterly, crossing the mouth of Beacon Creek, a distance of approximately 1,100 feet, to the point of beginning.

EGG ISLAND

Beginning at a point in the low water mark of Egg Island, said point being at the extreme northwest end of said island in Altamaha Sound; thence with the low water mark of Egg Island, easterly, southeasterly, southwesterly, and northwesterly with the waters of Altamaha Sound, crossing the mouths of numerous unnamed tidal creeks and guts, a total distance of approximately 24,000 feet, to the point of beginning.

LITTLE EGG ISLAND

Beginning at a point in the low water mark of Little Egg Island at the extreme west end of said island; thence with the low water mark of Little Egg Island easterly, southerly, westerly, and northerly with the waters of Altamaha Sound, a distance of approximately 1,000 feet, to the place of beginning.

E. V. SCHMIDT,
Deputy Director, Bureau of Sport Fisheries and Wildlife.

JANUARY 12, 1973.

[FR Doc.73-1171 Filed 1-18-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 73-10P]

CHESTER RIVER, SOUTHEAST OF CHESTERTOWN, MD.

Proposed Special Anchorage Areas

The Coast Guard is considering amending the anchorage regulations by establishing a special anchorage area on the Chester River southeast of Chestertown, Md., off Rolphs, Md. The area is needed since no special anchorage areas presently exist in the Chester River or in the immediate vicinity for use by pleasure boats. The area is located on the northeast side of the Chester River, northeast of the channel. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments, to the Commander (mps), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705. Each person submitting comments should include his name, and address, identify the notice (CGD 73-10P), and give any reasons for any recommended change in the proposal. Copies of all submissions received will be available for examination by interested persons at the office of the Commander, Fifth Coast Guard District.

The Commander, Fifth Coast Guard District will forward any comments received before February 23, 1973, and his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed to amend Part 110 of Title 33 of Code of Federal Regulations by adding a new § 110.72a to read as follows:

§ 110.72a Chester River, southeast of Chestertown, Md.

The waters of the Chester River enclosed by a line beginning at a point on the Rolph Marina pier at latitude 39°-10'25" N., longitude 76°02'17" W.; thence 327° to a point 400 feet southwest of the entrance to Hambleton Creek at latitude 39°10'55" N., longitude 76°02'-40" W.; thence northeasterly to the eastern side of the entrance to Hambleton Creek; thence southerly following the shoreline to the Rolph Point Marina pier; thence southwesterly along the Rolph Point Marina pier to the point of beginning.

(Sec. 1, 30 Stat. 98, as amended, sec. 6(g)(1)(B), 80 Stat. 937; 33 U.S.C. 180, 49 U.S.C. 1655(g)(1)(B), 49 CFR 1.46(c)(2))

Dated: January 15, 1973.

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

[FR Doc.73-1210 Filed 1-18-73;8:45 am]

[46 CFR Part 146]

[CGD 72-229 P]

METAL BORINGS, SHAVINGS, TURNINGS, CUTTINGS

Proposed Transportation, Description and Characterization; Extension of Time for Comments

In the December 6, 1972 issue of the FEDERAL REGISTER (37 FR 25957), the Coast Guard proposed regulations pertaining to the transport of metal borings, shavings, turnings, and cuttings.

The Coast Guard held a public hearing on this proposal on January 11, 1973. In addition, interested persons were given until January 15, 1973 to submit comments.

The Coast Guard has received numerous requests for extension of the comment period to allow for additional time to prepare detailed comments on the proposal. The Coast Guard finds that the request for additional time is appropriate and hereby extends the period for such comments to March 1, 1973. All relative comments received by that time will be considered.

Interested persons may participate in this proposed rule making by submitting written data, views or arguments to the U.S. Coast Guard (GCMC/82), Washington, D.C. 20590. Each person submitting comments should include his name, address, identify the notice (CGD 72-229 PH) and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC.

Dated: January 15, 1973.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.73-1169 Filed 1-18-73;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-RM-3]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the description of the Sheridan, Wyo., control zone.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station Post Office Box 7213, Denver, CO 80207. All communications received on or before February 20, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the

office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, CO 80010.

The Federal Aviation Administration (FAA) plans to install an instrument landing system (ILS) and implement new instrument approach procedures to take advantage of the new NAVAID serving Sheridan County Airport. These changes require alteration of the Sheridan, Wyo., control zone in order to provide controlled airspace protection for aircraft executing these procedures. The new procedures will become effective concurrently with the designation of the altered control zone.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.171 (38 FR 351) the description of the Sheridan, Wyo., control zone is amended to read as follows:

Within a 5-mile radius of the Sheridan County Airport (latitude 44°46'25" N., longitude 106°58'15" W.); within 4 miles each side of the Sheridan VORTAC 312° and 327° radials, extending from the 5-mile radius zone to 11.5 miles northwest of the VORTAC; and within 4 miles each side of the Sheridan VORTAC 140° radial extending from the 5-mile radius zone to 24½ miles southeast of the VORTAC.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Aurora, Colo., on January 10, 1973.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc.73-1145 Filed 1-18-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-NW-28]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Twin Falls, Idaho Transition Area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before February 20, 1973 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

A new ILS approach procedure is proposed for the Twin Falls City-County Airport, Twin Falls, Idaho. A review of the airspace requirements for the new procedure reveals that additional 700 feet Transition Area airspace would be required to provide controlled airspace protection for aircraft executing the proposed procedure.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (38 FR 435) the description of the Twin Falls, Idaho Transition Area is amended as follows:

In line two of the text, delete the phrase, "* * * VORTAC to 18.5 miles east * * *" and substitute therefor, "* * * VORTAC to 30 miles east * * *"

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Wash., on January 9, 1973.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.73-1181 Filed 1-18-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-NW-27]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Bellingham, Wash., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures, and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before February 20, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

A new instrument approach procedure is proposed for the Bellingham International Airport utilizing Lummi NDB (latitude 48°47'38" N.; longitude 122°32'08" W.), a non-Federal navigational facility, owned and operated by the Washington State Aeronautics Commission. A review of the airspace requirements reveals that additional 700-foot transition area airspace would be required to provide controlled airspace protection for aircraft executing the proposed approach procedure.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (38 FR 435) the description of the Bellingham, Wash., transition area is amended as follows:

To the text add, "and within 3.5 miles north and 8 miles south of the 288° bearing from Lummi NDB (latitude 48°47'38" N.; longitude 122°32'08" W.) extending from the NDB 11.5 miles west of the NDB."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Wash., on January 9, 1973.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.73-1182 Filed 1-18-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-72]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Boyne Falls, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received on or before February 20, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been developed for the Boyne Mountain Airport, Boyne Falls, Mich., based on a new non-Federal NDB. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Boyne Falls, Mich. The new approach procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is added:

BOYNE FALLS, MICH.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Boyne Mountain Airport (latitude 45°-10'03" N., longitude 84°55'30" W.); and within 4½ miles west and 9½ miles east of the 176° bearing from the Boyne Mountain Airport extending from the airport to 24½ miles south of the airport excluding that position which overlies the Gaylord, Mich., Bellaire, Mich., and Grayling, Mich. transition areas.

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

Issued in Des Plaines, Ill., on December 15, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.73-1148 Filed 1-18-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-74]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Champaign, Ill.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received on or before February 20, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new public instrument approach procedure has been developed for the Illini Airport, Urbana, Ill. Accordingly, it is necessary to alter the Champaign, Ill., transition area to adequately protect the aircraft executing the new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is amended to read:

CHAMPAIGN, ILL.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the University of Illinois-Willard Airport (latitude 40°02'25" N., longitude 88°16'35" W.); within a 5½-mile radius of the Illini Airport, Urbana, Ill. (latitude 40°08'31" N., longitude 88°12'00" W.) and within 8 miles southeast and 5 miles northwest of the Champaign VORTAC 030° radial extending from the VORTAC to 12 miles northeast of the VORTAC.

Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)) are authoritative in proposing this amendment.

Issued in Des Plaines, Ill., on December 27, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.73-1149 Filed 1-18-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-75]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Fremont, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received on or before February 20, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new public instrument approach procedure has been developed for the Fremont Municipal Airport, Fremont, Mich. Accordingly, it is necessary to alter the Fremont, Mich., transition area to adequately protect the aircraft executing the new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is amended to read:

FREMONT, MICH.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Fremont Municipal Airport, Fremont, Mich. (latitude 43°26'31" N.; longitude 85°59'29" W.).

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

Issued in Des Plaines, Ill., on December 26, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.73-1146 Filed 1-18-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-76]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Hillsboro, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received on or before February 20, 1973, will be considered before

action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been developed for the Highland County Airport, Hillsboro, Ohio. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Hillsboro, Ohio. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is added:

HILLSBORO, OHIO

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Highland County Airport (latitude 39°11'21" N., longitude 83°32'18" W.).

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

Issued in Des Plaines, Ill., on December 26, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.73-1147 Filed 1-18-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-77]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Birmingham, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received on or before February 20, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been developed for the Ortner Airport, Birmingham, Ohio. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Birmingham, Ohio. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is added:

BIRMINGHAM, OHIO

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Ortner Airport (latitude 41°17'35" N., longitude 82°22'15" W.) excluding that portion which overlies the Cleveland, Ohio, transition area.

Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)) are authoritative in proposing this amendment.

Issued in Des Plaines, Ill., on December 27, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.73-1150 Filed 1-18-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-78]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Iron Mountain, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received on or before February 20, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

Three new instrument approach procedures have been developed for the Ford Airport, Iron Mountain, Mich. Accordingly, is is necessary to alter the Iron Mountain, Mich., control zone and transition area to adequately protect aircraft executing the new procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.171 (38 FR 351), the following control zone is amended to read:

IRON MOUNTAIN, MICH.

Within a 7-mile radius of Ford Airport (latitude 45°48'57" N., longitude 88°06'56" W.); within 3 miles each side of the Iron Mountain VORTAC 192° radial, extending from the 7-mile-radius zone to 8 miles south of the VORTAC.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (38 FR 435), the following transition area is amended to read:

IRON MOUNTAIN, MICH.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Iron Mountain VORTAC; within 6 miles west and 9½ miles east of the Iron Mountain ILS localizer south course extending from the 10-mile-radius area to 24 miles south of the Ford Airport (latitude 45°48'57" N., longitude 88°06'56" W.); within 5 miles each side of the Iron Mountain ILS localizer north course extending from the 10-mile radius to 18 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within a 15½-mile radius of the Iron Mountain VORTAC; within 4½ miles east and 11½ miles west of the Iron Mountain ILS localizer north course extending from the 15½-mile radius to 25 miles north of the airport.

Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)) are authoritative in proposing this amendment.

Issued in Des Plaines, Ill., on December 27, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.73-1151 Filed 1-18-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 74]

[Docket No. 19646]

PUBLIC SAFETY RADIO SERVICES

Reduction of Authorized Bandwidth for Use of Frequencies; Extension of Time for Filing Comments

In the matter of amendment of parts 2 and 74 of the Commission's rules to reduce the authorized bandwidth for the use of the frequencies 166.25 and 170.15 MHz, Docket No. 19646.

1. A petition for an extension of time for filing comments in the above-captioned proceeding has been filed by the National Association of Broadcasters (hereinafter NAB) requesting an extension of the deadline by which comments may be filed from January 12, 1973, to February 12, 1973.

2. According to NAB, its engineering advisory committee was scheduled to meet on January 4 and 5, 1973, to study the effects of the proposed bandwidth reduction. Also, NAB is conducting a survey of broadcast stations utilizing remote pickup broadcast equipment on the two subject frequencies to determine what impact, if any, the proposed action will have on their operations. NAB says that it requires additional time to properly present the information obtained from these studies.

3. The Commission desires to be fully informed of any consequencies which may result because of the proposed bandwidth reduction.[1] It appears that the requested extension would enable NAB to include in its comments relevant information which would not be available prior to the current filing deadline. Also, the Commission understands the difficulty NAB and others may have in completing their filings within the specified time because of the usual slowdowns that occur during the holiday season at end of the calendar year. It does not appear that a 1-month extension would seriously delay this proceeding or prejudice the interests of any interested party.

4. *Accordingly, it is ordered,* Pursuant to authority contained in Section 5(d) of the Communications Act of 1934, as amended, 47 U.S.C. 155(d) and § 0.251 (b) of the Commission's rules 47 CFR 0.251(b), that the date for filing comments in this proceeding is extended from January 12, 1973, to February 12, 1973. Consequently, the date for filing reply comments also is extended from January 22, 1973, to February 22, 1973.

Adopted: January 11, 1973.

Released: January 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
DANIEL R. OHLBAUM,
Deputy General Counsel.

[FR Doc.73-1222 Filed 1-18-73;8:45 am]

[1] Notice of proposed rule making in this matter was published at 37 FR 26128, Dec. 8, 1972.

[47 CFR Part 73]

[Docket No. 19653]

FM BROADCAST STATIONS, GREGORY, S. DAK.

Table of Assignments; Extension of Time for Filing Comments

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations (Gregory, S. Dak.), Docket No. 19653, RM-1759.

1. On November 29, 1972, the Commission adopted a notice of proposed rule making in the above-captioned proceeding. Publication in the FEDERAL REGISTER was given on December 8, 1972 (37 FR 26134). Comments and reply comments were due to be filed on January 12 and January 22, 1973, respectively.

2. On January 10, 1973, Midwest Radio Corp., licensee of Stations KWYR and KWYR-FM, Winner, S. Dak., filed a petition for extensions of time in which to submit comments to and including February 12, 1973, and reply comments to and including February 22, 1973. Counsel for Midwest states he was recently retained to prepare and file comments on the proposed assignment and needs additional time to consult with the licensee of KWYR-FM and with its engineering consultant.

3. It appears that the requested extension is warranted and would serve the public interest. *Accordingly, it is ordered,* That the time for filing comments and reply comments in Docket No. 19653 is extended to and including February 12, 1973, and February 22, 1973, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: January 11, 1973.

Released: January 11, 1973.

[SEAL] HAROLD L. KASSENS,
Acting Chief,
Broadcast Bureau.

[FR Doc.73-1221 Filed 1-18-73;8:45 am]

[47 CFR Parts 81, 83]

[Docket No. 19670; FCC 73-31]

USE OF RADIOTELEPRINTER IN MARITIME SERVICES

Proposed Interim Frequencies and Operating Procedures

In the matter of amendment of Parts 81 and 83, to provide on an interim basis frequencies and operating procedures for the use of radioteleprinter in the maritime services, Docket No. 19670.

1. Notice of proposed rule making in the above-entitled matter is hereby given.

2. This proposal is being issued to facilitate the use of radioteleprinter in the maritime services. The Radio Technical Commission for Marine Services (RTCM) has urged the Commission to amend its rules to provide, on an interim basis, frequencies and operating procedures to cover the period prior to adoption of internationally agreed frequencies and operating procedures. There has been an increasing interest by the maritime services over the past few years in the use of radioteleprinter/data systems. This interest has developed to the point where it now appears that radioteleprinter service will be initiated in the near future on a regular basis between one or more coast stations and a number of ship stations.

3. The Radio Technical Commission for Marine Services (RTCM) established Special Committee 64 (SC-64) to study, among other things, use of radioteleprinter systems in the maritime services. SC-64 has studied this matter since February 18, 1970, and has produced much of the material which the United States will recommend be included in the International Radio Regulations at the ITU World Administrative Radio Conference on Marine Matters, to be convened in Geneva, Switzerland, early in 1974. SC-64 has recognized that 3 to 5 years will elapse before appropriate frequencies and operating procedures can be included in the ITU Radio Regulations and those regulations ratified, to provide for the continued development and use of radioteleprinter systems, SC-64 has developed and recommended that an interim procedure be included in the Commission's rules for the Maritime Services. This procedure is set forth below.

4. It is not possible at this early date to forecast details of the operating procedures which will be adopted at the ITU World Administrative Radio Conference on Marine Matters, Geneva, 1974. It is, however, anticipated that those procedures would be acceptable and, therefore, would be applicable to U.S. registry vessels. On this basis, the interim procedures would be deleted from the rules and would be replaced by the internationally agreed procedures.

5. Several aspects of radioteleprinter systems which were considered by SC-64 are not included in the attached appendix. Primary among these are the use of error detecting and/or correcting equipment and the use of selective calling equipment, which are reviewed below.

A. Error detecting and/or correcting equipment. In simple terms, error detecting equipment has as its objective the determination that an error has occurred, where automatic equipment for correcting that error(s) is not provided. Error correction equipment includes means for determining that errors occurred and for automatically correcting such errors.

Two such systems have been installed aboard ship, one referred to as "SITOR" and the other as "CODEX." CODEX is an error detection system; SITOP is an error correction system. CODEX has limited installation aboard United States registry vessels; SITOR is installed (number unknown) aboard European registry vessels. Use of the SITOR system has been recommended by the ITU International Radio Consultative Committee (CCIR) in Recommendation No. 476. RTCM has recommended use of the SITOR system. The two systems are not compatible, thus coast stations desiring to communicate with vessels employing one or the other of the two systems would be required to fit with both systems. In view of the foregoing, it is our opinion that it would be premature to take any action at this time with regard to error detection/correction equipment.

B. Selective calling equipment.

(i) Industry representatives in meetings convened by the Commission developed a digital selective calling system intended to operate on either radiotelegraph or radiotelephone communication channels available to the maritime services. That system was approved by RTCM, which recommended its development and testing be effected by the Maritime Administration. The Maritime Administration has made substantial progress towards that objective and the test results are expected to be available during the last quarter of 1973. Further, at a CCIR meeting in 1972, the United States presented a paper and discussed its plans to develop this digital selective calling system. Lastly, the United States has indicated its intent to seek inclusion of this digital system in the ITU Radio Regulations at the ITU World Administrative Radio Conference on Marine Matters, Geneva, 1974. It is anticipated that the future need for selective calling by radioteleprinter in the maritime services will be fulfilled by the above digital system.

(ii) During the interim, however, there is a requirement for a device which on a selective basis will turn on and turn off teletypewriting equipment aboard ship or at coast stations. Such a device is referred to by SC-64 as a "stunt box." The function performed by these "stunt boxes" is substantially simpler than that of the digital selective calling system referred to above. On an interim basis, however, they satisfactorily fulfill the dual requirements of reducing (a) the wear and tear on teletypewriting equipment and (b) the quantity of paper which otherwise would be wasted by printing all traffic transmitted on the receiving channel(s) being monitored. The "stunt box" would respond to the call sign of the ship or coast station, turn on the teletypewriter, print the incoming call, and turn off the teletypewriter at the end of the call. Thus, these functions could be carried out whether watch personnel were on duty or off duty, there would be a record of incoming calls, to which replies could be made upon return to duty. As discussed in SC-64, "stunt boxes" capable of performing these limited functions are readily available. In view of the foregoing, it is our opinion that no action is required at this time to prescribe standard technical requirements for these "stunt boxes."

6. A major objective of the interim procedure is to provide a capability by which a ship station may contact a coast station, and vice versa, within the shortest practicable period of time, hopefully within seconds. In developing this procedure, it first appeared that it would be preferable for a coast or ship station to call on its regular working frequencies. This view was dropped after considering the number of frequencies which a coast or ship station would be required to monitor simultaneously, since the cost of such a large number of receivers would be prohibitive. This was further accented when account was taken of the bandwidth and frequency stability required to be provided in the receiver(s). The bandwidth (selectivity) of the receiver should be such that it will reject the adjacent channels, which are positioned at ±500 Hz. Further, considering the frequency shift of the transmitted signal (±85 Hz) and the selectivity of the discriminator (demodulator), the frequency stability of the receiver should be equal to 10 Hz or less for all megacycle orders of received signal.

7. The interim procedure provides that coast stations and ship stations providing a radioteleprinter service will employ six common frequencies (single frequency simplex) for calling. This arrangement requires the fewest number of receivers. It has the disadvantage, of course, that extensive use by any licensee will congest the channel, thus delaying service to others desiring to use the channel(s). To provide partial relief, licensees are required to limit use of the six common channels to calling and to the exchange of information regarding working frequencies to be used for traffic handling. Further, a call on the same frequency may not be repeated within a 15-minute period.

8. The interim procedure provides, by reference to Subpart E (§§ 81.143 and 83.143), for the use of 0.3F1 emission. Transmitter power at coast stations is limited to 1 kilowatt. The limitation is applied in order to minimize the potentiality of interference to ship stations, since the six common frequencies are actually allocated for use by ship stations.

9. With regard to station identification, the interim procedure provides that identification be provided using the same mode by which regular transmissions are made, that is, by emission 0.3F1. This is deemed necessary since many of the vessels which will be initially fitted with radioteleprinter equipment will be radiotelephony fitted vessels, which do not have first or second class radiotelegraph licensed operators on board. Further, the addition of manual Morse identification on the six common channels, at substantially slower speeds, would add to congestion of these channels.

10. The proposed amendments, as set forth below, are issued pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

11. Pursuant to the applicable procedures set forth in § 1.415 of the rules, interested persons may file comments on or before February 23, 1973, and reply comments on or before March 5, 1973. Section 1.419 of the rules requires the original and fourteen (14) copies of comments or reply comments to be filed. Comments and reply comments received in response to this notice of proposed rule making 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: January 10, 1973.

Released: January 15, 1973.

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

A. Part 81, Stations on Land in the Maritime Services and Alaska-Public Fixed Stations is amended as follows:

1. § 81.207, a new paragraph (e) is added to read as follows:

§ 81.207 Frequencies for call and reply.

* * * * *

(e) Pending availability of an internationally agreed plan for establishing two-way communications by radioteleprinter, the interim procedure set forth in this section may be employed.

(1) Frequencies available: 4186.5, 6279.70, 8373.0, 12,559.5, 16,746.0, and 22,262.5 kHz. Transmitter power shall not exceed 1 kilowatt.

(2) Transmission on the frequencies set forth in subparagraph (1) of this section shall be limited to calling necessary to establish communication and, thereafter, to informing the receiving station of the working frequency or frequencies to be used. The frequencies set forth in subparagraph (1) of this section shall not be employed for working.

(3) Unless other arrangements have been made with concerned ship stations, the coast station expecting calls by radioteleprinter should maintain three or more receivers on the frequencies, set forth in subparagraph (1) of this section, most likely to be useable for the propagation path involved.

(4) The radioteleprinter equipment shall conform to the standard technical requirements set forth in Subpart E of this Part.

(5) Since coast radiotelegraph stations and ship stations will share use of the frequencies set forth in subparagraph (1) of this section, station licensees should:

(i) Avoid the creation of interference to transmissions already in progress.

(ii) In initiating calls, transmit the call sign of the station called three times, followed by "DE", followed by the call sign of the calling station, transmitted three times. For example, "WABC WABC WABC DE WLO WLO WLO."

[1] Commissioner Hooks absent.

(iii) When the station called does not reply, the call should not be repeated on the same frequency until after an interval of at least 15 minutes.

(6) Calling and station identification shall be effected by radioteleprinter.

B. Part 83, Stations on Shipboard in the Maritime Services, is amended as follows:

1. In § 83.318, a new paragraph (c) is added to read as follows:

§ 83.318 Ship radiotelegraph calling frequencies.

* * * * *

(c) Pending availability of an internationally agreed plan for establishing two-way communications by radioteleprinter, the interim procedure set forth in this section may be employed.

(1) Frequencies available: 4186.5, 6279.70, 8373.0, 12559.5, 16746.0, and 22262.5 kHz.

(2) Transmission on the frequencies set forth in subparagraph (1) of this section shall be limited to calling necessary to establish communication and, thereafter, to informing the receiving station of the working frequency or frequencies to be used. Ship station working frequencies for radioteleprinter are set forth in section 83.320 of this part. The frequencies set forth in subparagraph (1) of this section shall not be employed for working.

(3) Unless other arrangements have been made with concerned coast stations, the ship station expecting calls by radioteleprinter should maintain a receiver on the frequency or frequencies, set forth in subparagraph (1) of this section, most likely to be usable for the propagation path involved.

(4) The radioteleprinter equipment shall conform to the standard technical requirements set forth in Subpart E of this Part.

(5) Since ship stations and coast radiotelegraph stations will share use of the frequencies set forth in subparagraph (1) of this section, station licensees should:

(i) Avoid the creation of interference to transmissions already in progress.

(ii) In initiating calls, transmit the call sign of the station called three times, followed by "DE", followed by the call sign of the calling station, transmitted three times. For example, "WLO WLO WLO DE WABC WABC WABC."

(iii) When the station called does not reply, the call should not be repeated on the same frequency until after an interval of at least 15 minutes.

(6) Calling and station identification shall be effected by radioteleprinter.

[FR Doc.73-1216 Filed 1-18-73;8:45 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

NOTICE OF GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding 1 year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Ashlock, Ronald R., 1687 175th Street, Hammond, IN, convicted on March 10, 1964, in the Superior Court of Cumberland County, N.C.

Clark, Eugene P., 1328 Augusta Avenue, Augusta, GA, convicted on November 4, 1966 and August 9, 1968 in the Superior Court of Richmond County, Ga.

Cowgill, Eugene H., 663 Oak Lane, Waynesboro, VA, convicted on January 21, 1971, in the Circuit Court of Louisa County, Va.

Crafts, Sandra L., No. 2 Sunshine Street, Box 84, Ruth, NV, convicted on September 13, 1965, in the U.S. District Court, District of Nevada.

Green, Arthur L., 1057 Boynton Avenue, Apt. 1-F, Bronx, NY, convicted on June 19, 1941, in the Criminal Court, County of Martin, Stuart, Fla.

Harper, John, % Sunset Wire Rope, 518 Marine Drive, Port Angeles, WA, convicted on February 10, 1969, in the Superior Court of the State of Washington for Clallam County, and on March 6, 1970, in the U.S. District Court for the Western District of Washington.

Jackson, Clyde J., 3450 West Chicago Boulevard, Detroit, MI, convicted on September 26, 1938, in the Shelby County Criminal Court, Memphis, Tenn.

Leary, Dennis L., 243 Southeast 29th Court, Des Moines, IA, convicted on December 29, 1964, in the District Court of Iowa, Emmet County.

Legrand, John B., 409 North Third, Sapulpa, OK, convicted on November 16, 1959, in the District Court of the Third Judicial District of Nebraska, in and for Lancaster County.

Lynch, John J., Post Office Box 1082, Weston, CT, convicted on October 10, 1952, in the City Court of Norwalk, Norwalk, Conn.

Phillips, Richard E., State Route 607, Crewe, Va., convicted on January 2, 1968 in Nottoway County Virginia Court.

Pruitt, Howard L., Riddle Road (General Delivery), Central Valley, Calif., convicted on August 5, 1963 and December 16, 1963, in the Superior Court of the State of California for the County of Shasta.

Reeb, John R., Route 1, Box 492, Snohomish, WA, convicted on November 6, 1970, in the District Court for Ravalli County, Mont.

Robertson, Blair Z., Rural Delivery 1, Salisbury, Pa., convicted on March 24, 1956, in the Court of Quarter Sessions of Somerset County, Pa.

Schroeder, Daniel D., 1324 L Avenue Northeast, Cedar Rapids, IA, convicted on July 1, 1969, by the Linn County District Court, Cedar Rapids, Iowa.

Smith, Kenny A., 507 Fourth Avenue, Grinnell, IA, convicted on November 9, 1964, in Poweshiek County District Court, Grinnell, Iowa.

Smith, Robert L., 81 Belmont Street, Detroit, MI, convicted on January 31, 1962, in Recorder's Court, Detroit, Mich.

Sparks, William B., 7826 Carrie Street, Detroit, MI, convicted on October 29, 1934, in Macomb County, Michigan Circuit Court, and on May 9, 1935 and July 13, 1943 in Recorder's Court, Detroit, Mich.

Taylor, Vernon S., Jr., 3833 156th Avenue Southeast, Bellevue, WA, convicted on March 17, 1953 in the U.S. District Court Western District of Washington.

Wikle, Earl B., Jr., 700 East 21st Street, Court 29, Topeka, KS, convicted on October 10, 1957, in the District Court of Shawnee County, Kans.

York, Walter R., 206 23d Avenue East, Seattle, WA, convicted on October 30, 1946 by the U.S. District Court in and for the Western District of Washington, Northern Division.

Signed at Washington, D.C., this 9th day of January 1973.

[SEAL] REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.73-1200 Filed 1-18-73;8:45 am]

Bureau of Customs

[T.D. 73-22; Customs Delegation Order 44]

DEPUTY COMMISSIONER OF CUSTOMS ET AL.

Order of Succession to Act as Commissioner of Customs

JANUARY 15, 1973.

By virtue of the authority vested in me by Treasury Department Order No. 129, Revision No. 2, dated April 22, 1955 (20 FR 2875), it is hereby ordered that the following officers of the Bureau of Customs in the order of succession enumerated, shall act as Commissioner of Customs, in the event of an enemy attack or during the absence or disability of the Commissioner of Customs, or when there is a vacancy in such office:

1. The Deputy Commission of Customs.

2. The Assistant Commissioner of Customs, Office of Operations.

3. The Assistant Commissioner of Customs, Office of Regulations and Rulings.

4. The Assistant Commissioner of Customs, Office of Administration.

5. The Assistant Commissioner of Customs, Office of Investigations.

6. The Assistant Commissioner of Customs, Office of Security and Audit.

7. Chief Counsel.

8. The Regional Commissioner of Customs, Region II.

9. If none of the above officials is available, the remaining Regional Commissioners of Customs, in order of their appointment as Regional Commissioners of Customs.

By virtue of authority vested in me by said Treasury Department Order No. 129 (Revision No. 2), and Treasury Department Order No. 165, Revised (T.D. 53654; 19 FR 7241), there is hereby delegated to the regional commissioners of customs, district directors of customs, and port directors of customs, in the event of an enemy attack on the continental United States, authority to perform any function of the Commissioner of Customs which is necessary to insure continuous performance of essential functions otherwise assigned to such officers. This delegation of authority will remain in effect until notice has been received from proper authority that it has been terminated.

This order supersedes Customs Delegation Order No. 32, dated September 28, 1967 (T.D. 67-232; 32 FR 13873), and Customs Delegation Order No. 39, dated November 16, 1970 (T.D. 70-243, 35 FR 17862).

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

[FR Doc.73-1199 Filed 1-18-73;8:45 am]

Office of the Secretary

[Treasury Department Order 190-1]

DEPUTY ASSISTANT SECRETARY FOR TAX POLICY

Delegation of Authority

By virtue of authority vested in the Secretary of the Treasury, which authority has been delegated to me as Assistant Secretary for Tax Policy by Treasury Department Order No. 190 (Revision 8), I hereby delegate to the Deputy Assistant Secretary for Tax Policy (Tax Legislation) authority to approve regulations relating to the internal revenue laws. This authority may be exercised by him in his own capacity and under his own title, and he shall be responsible for referring to the Assistant Secretary for Tax Policy any regulations on which action should appropriately be taken by him.

Dated: January 8, 1973.

[SEAL] FREDERIC W. HICKMAN,
Assistant Secretary for Tax Policy.

Approved:

GEORGE P. SHULTZ,
Secretary of the Treasury.

[FR Doc.73-1270 Filed 1-18-73;8:45 am]

IRON POWDER (EXCLUDING ALLOY AND SPONGE POWDERS) FROM CANADA

Antidumping Proceeding Notice

JANUARY 16, 1973.

On December 7, 1972, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that iron powder (excluding alloy and sponge iron powders) from Canada is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.73-1332 Filed 1-18-73;8:45 am]

PAPERMAKING MACHINERY FROM FINLAND AND SWEDEN; SULPHUR FROM CANADA

Notice of Extension of Time for Investigations

JANUARY 17, 1973.

Information was received on June 6, 1971, and January 21, 1972, respectively, that papermaking machinery from Finland and Sweden; and sulphur from Canada were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). This information was the subject of "Antidumping Proceeding Notices," the first two of which were published in the FEDERAL REGISTER of August 14, 1971, on page 15460; and the third on February 24, 1972, on page 3922.

Upon publication of the "Antidumping Proceeding Notices" the Commissioner of Customs initiated full-scale investigations in order to obtain additional information considered necessary to enable the Secretary to reach a determination as provided in § 153.32(a), Customs regulations (19 CFR 153.32(a)).

Notice is hereby given that it has been determined pursuant to § 153.32(c), Customs regulations (19 CFR 153.32(c)), that because of certain complex issues not yet resolved relating to the treatment of possible sales below cost of production, and in order to permit adequate consideration of the possible impact of these issues on the current investigations, it was not possible to have made tentative decisions within the 9-month period contemplated in section 153.32(c), Customs regulations, and that an additional period of time, not to exceed 3 months, will be necessary before the appropriate actions can be taken.

This "Notice of Extension of Time for Investigations" is published pursuant to § 153.32(c) of the Customs regulations.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary, of the Treasury.

[FR Doc.73-1334 Filed 1-18-73;10:04 am]

POLYPROPYLENE STRAPPING FROM JAPAN

Antidumping Proceeding Notice

JANUARY 16, 1973.

On December 20, 1972, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that polypropylene strapping from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.73-1331 Filed 1-18-73;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

U.S. ARMY COMMAND AND GENERAL STAFF COLLEGE ADVISORY COMMITTEE

Notice of Annual Meeting

JANUARY 10, 1973.

In accordance with section 10, Public Law 92-463, notice is given of the annual meeting of the U.S. Army Command and General Staff College Advisory Committee at Fort Leavenworth, Kans., January 25-26, 1973. The meetings will be held in the Command Conference Room, Bell Hall, Fort Leavenworth and are open to the public. Major agenda items concern relations with higher education, appointment of civilian faculty members, future curriculum plans, developments in strategic studies, and systems-engineering as applied to course development.

EDGAR EGELAND,
Lieutenant Colonel, Infantry, Secretary.

[FR Doc.73-1155 Filed 1-18-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT DES 73-1]

OUTER CONTINENTAL SHELF OFFSHORE TEXAS AND LOUISIANA

Availability of Draft Environmental Impact Statement and Public Hearing Regarding Possible Oil and Gas Lease Sale

JANUARY 18, 1973.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement relating to a possible Outer Continental Shelf general oil and gas lease sale of 129 tracts of submerged lands on the Outer Continental Shelf in the Gulf of Mexico offshore Texas and Louisiana.

The draft environmental statement is available for public review in the Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Suite 3200, The Plaza Tower, 1001 Howard Avenue, New Orleans, LA 70113, and in the Office of Information, Bureau of Land Management (130), Washington, DC 20240. Copies are available for purchase from these offices for $2 per copy.

A composite map of the area of the Gulf of Mexico offshore Texas and Louisiana, upon which tracts being considered for leasing have been depicted and a listing of these tracts may be obtained at no charge from the above-listed offices.

In accordance with 43 CFR 3301.4, a public hearing will be held beginning at 9 a.m. on February 21, 1973, in Room

114, Albert Thomas Convention and Exhibit Center, 612 Smith Street, Houston, TX for the purpose of receiving comments and suggestions relating to the possible lease sale. The hearing has been scheduled to extend through February 22.

The hearing will provide the Secretary with additional information from both the public and private sectors to help evaluate fully the potential effects of the possible offering of the 129 tracts on the total environment, aquatic resources, aesthetics, recreation, and other resources in the entire area during the exploration, development, and operation phases of the leasing program.

The hearing will also provide the Secretary, under section 102(2)(C) of the National Environmental Policy Act of 1969, with the opportunity to receive additional comments and views of interested State and local agencies.

Interested individuals, representatives of organizations and public officials wishing to testify at the hearing are requested to contact the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, at the above-listed address by 4:15 p.m., February 15, 1973. Written comments from those unable to attend the hearing should be addressed to the Director (Attn: 392), Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240. The Department will accept written testimony and comments on the draft environmental statement until March 5, 1973. This should allow ample time for those unable to testify at the hearing to make their views known and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit the length of oral presentations to 10 minutes. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearing officer will give others present an opportunity to be heard.

After all testimony and comments have been received and analyzed a final environmental statement will be prepared.

ED HASTEY,
Acting Associate Director, Bureau of Land Management.

Approved:

W. W. LYON,
Deputy Assistant Secretary of the Interior.

[FR Doc.73-1324 Filed 1-18-73;9:41 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 6]

SALES OF CERTAIN COMMODITIES

Monthly Sales List

The CCC Monthly Sales List for the fiscal year ending June 30, 1973, published in 37 FR 13352 is revised to read as follows:

1. The last sentence of section 1(b) entitled "General" published in 37 FR 22639 is revised to read as follows: Interest at 7 percent will be charged for delinquent payments on consignment and track grain sales from the date of sale to the date payment is received.

2. The last sentence of section 1(c) entitled "General" published in 37 FR 13352 is revised to read as follows: Interest to date of payment will be at 7 percent.

Effective date: 2:30 p.m., e.s.t., December 29, 1972.

Signed at Washington, D.C., on January 12, 1973.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.73-1225 Filed 1-18-73;8:45 am]

Office of the Secretary

LAGUNA AND JICARILLA INDIAN LANDS IN NEW MEXICO AND SOUTHERN UTE INDIAN LANDS IN COLORADO

Feed Grain Donations

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Laguna and Jicarilla Indian lands in New Mexico and the Southern Ute Indian Lands in Colorado has been materially increased and become acute because of severe drought during the 1971 and 1972 growing seasons creating a serious shortage of livestock feeds. These lands are reservation or other lands designated for Indian use and are utilized by members of the Indian tribes for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribes will not displace or interfere with normal marketing of agricultural commodities.

Based on the above determinations, I hereby declare the reservations and grazing lands of these tribes to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestockmen who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribes utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through the duration of the existing emergency or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on January 17, 1973.

EARL L. BUTZ,
Secretary.

[FR Doc.73-1330 Filed 1-18-73;8:45 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARDS TASK GROUP 12—SIGNIFICANCE AND IMPACT OF ASCII AS A FEDERAL STANDARD

Notice of Public Meeting

Pursuant to Public Law 92-463 and Executive Order 11686, notice is hereby given that the Federal Information Processing Standards Task Group 12—Significance and Impact of ASCII as a Federal Standard will hold a meeting from 11 a.m. to 4 p.m. on Monday, January 29, 1973, in Room B-27, Building 225, of the National Bureau of Standards in Gaithersburg, Md.

The purpose of the meeting is to review proposed ASCII questionnaires and to consider matters related to their processing.

The public will be permitted to attend, to file written statements, and, to the extent that time permits, to present oral statements. Persons planning to attend should notify the Office of Information Processing Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (phone 301-921-3551).

Dated: January 16, 1973.

LAWRENCE M. KUSHNER,
Acting Director.

[FR Doc.73-1256 Filed 1-18-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 9206; Docket No. FDC-D-414; NDA 10-431]

ABBOTT LABORATORIES

Selinium Sulfide With Hydrocortisone Acetate Ointment; Notice of Withdrawal of Approval of New Drug Application

A notice was published in the FEDERAL REGISTER of March 28, 1972 (37 FR 6343),

extending to Abbott Laboratories, 14th and Sheridan Road, North Chicago, IL 60064 and to any interested person, an opportunity for hearing on the proposal of the Commissioner of Food and Drugs to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of NDA 10-431 for Selsunef Ointment (selenium sulfide and hydrocortisone acetate). The basis of the proposed action was the lack of substantial evidence that the drug is effective for its labeled indications.

By letter of December 8, 1971, Abbott Laboratories stated that marketing of the drug had been discontinued on May 7, 1969, requested withdrawal of approval of the application, and waived opportunity for a hearing. This request and waiver had been inadvertently overlooked when the said notice was published.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application reviewed and are subject to this notice. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

The Commissioner of Food and Drugs pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with respect to the drug, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing finding, approval of new drug application No. 10-431 and all amendments and supplements thereto is withdrawn effective on January 19, 1973.

Shipment in interstate commerce of the above-listed drug product or of any identical, related, or similar product, not the subject of an approved new drug application, is henceforth unlawful.

Dated: January 12, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-1165 Filed 1-18-73;8:45 am]

[DESI 64; Docket No. FDC-D-574; NDA No. 64, etc.]

CERTAIN BARBITURATE-ANALGESIC COMBINATION DRUGS FOR ORAL USE

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New-Drug Applications

In a notice (DESI 64) published in the FEDERAL REGISTER of March 14, 1972 (37 FR 5308), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the drugs described below stating that the drugs are regarded as possibly effective and lacking substantial evidence of effectiveness for the various labeled indications. The possibly effective indications have been reclassified as lacking substantial evidence of effectiveness in that no new evidence of effectiveness of the drugs have been submitted pursuant to the notice.

NDA 64; Allonal Tablets containing aprobarbital and phenacetin; Roche Laboratories, Division Hoffmann-LaRoche, Inc., Roche Park, 340 Kingsland Street, Nutley, NJ 07110.

NDA 4-296; Pentobarbital-Aspirin Capsules; Cooper Laboratories, Inc. (successor to Tilden-Yates Laboratories, Inc.), 2900 North 17th Street, Philadelphia, PA 19132.

NDA 2-898; Cyclopal and Aspirin Tablets containing cyclopentenylallylbarbituric acid and aspirin; The Upjohn Co., 7171 Portage Road, Kalamazoo, MI 49002.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, MD 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

On or before February 20, 1973, the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, on or before February 20, 1973, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be

seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: January 12, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-1164 Filed 1-18-73;8:45 am]

[DESI 843; Docket No. FDC-D-554; NDA 843]

CIBA PHARMACEUTICAL CO.

Desoxycorticosterone Acetate for Intrabuccal Administration; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

In a notice (DESI 843) published in the FEDERAL REGISTER of September 19, 1970 (35 FR 14662), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Percorten Acetate Linguets containing desoxycorticosterone acetate; Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Avenue, Summit, NJ 07901 (NDA 843).

The notice stated that desoxycorticosterone acetate for intrabuccal administration is probably effective as partial therapy in Addison's disease. On June 22, 1972, Ciba Pharmaceutical Co. informed the Food and Drug Administration that no clinical trials are underway nor are any contemplated. The probable effective indication for the product intended for intrabuccal administration has been reclassified as lacking substantial evidence of effectiveness in that no new evidence of effectiveness of the drug has been submitted pursuant to the notice.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of pertinent parts of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

On or before February 20, 1973, the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of pertinent parts of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, on or before February 20, 1973, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: January 11, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-1166 Filed 1-18-73;8:45 am]

[Docket No. FDC-D-533; NADA 11-353V]

WHITMOYER LABORATORIES, INC.

Thera-Tergent; Notice of Withdrawal of Approval of New Animal Drug Application

In the FEDERAL REGISTER of November 11, 1972 (37 FR 24053), the Commissioner of Food and Drugs published a notice proposing to withdraw approval of new animal drug application (NADA) No. 11-353V for Thera-Tergent; marketed by Affiliated Laboratories, Division Whitmoyer Laboratories, Inc., 19 North Railroad Street, Myerstown, PA 17067 (formerly marketed by Warren-Teed Pharmaceuticals).

Neither Whitmoyer Laboratories, Inc. nor any other interested persons have filed a written appearance in response to the above-cited notice. This is construed as an election by said persons not to avail themselves of the opportunity for a hearing.

Based on the grounds set forth in said notice of opportunity for a hearing, the Commissioner concludes that approval of said new animal drug application should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat.

343–351; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 11-353V, including all amendments and supplements thereto, is hereby withdrawn effective on January 19, 1973.

Dated: January 12, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-1163 Filed 1-18-73;8:45 am]

Office of the Secretary

TUSKEGEE SYPHILIS STUDY AD HOC ADVISORY PANEL

Notice of Subcommittee Meeting

A subcommittee meeting of the Tuskegee Syphilis Study Ad Hoc Advisory Panel is to be held on January 24, 1973. This Panel was established by the Assistant Secretary for Health to provide advice on the circumstances surrounding the Tuskegee, Alabama, Study of Untreated Syphilis in the Male Negro initiated by the U.S. Public Health Service in 1932. The Assistant Secretary for Health requested the Panel to advise him on the following specific aspects of the Tuskegee Syphilis Study:

1. Determine whether the study was justified in 1932 and whether it should have been continued when penicillin became generally available.

2. Recommend whether the study should be continued at this point in time, and if not, how it should be terminated in a way consistent with the rights and health needs of its remaining participants.

3. Determine whether existing policies to protect the rights of patients participating in health research conducted or supported by the Department of Health, Education, and Welfare are adequate and effective and to recommend improvements in these policies, if needed.

This meeting is for the sole purpose of considering and formulating the advice which the Panel will give to the Assistant Secretary for Health on the third charge outlined above, and will involve exclusively the internal expression of views and judgments of its members. Accordingly, under the authority of the Assistant Secretary's notice of determination of January 17, 1973, this meeting is closed to the public. The meeting will begin at 1:30 p.m. at the National Urban League in New York City. A summary of the meeting and a roster of Panel members may be obtained from Mr. John Blamphin (202–962–7906), Room 5614, HEW North Building, 330 Independence Avenue SW., Washington, DC 20201.

Dated: January 17, 1973.

R. C. BACKUS,
Executive Secretary, Tuskegee Syphilis Study Ad Hoc Advisory Panel.

[FR Doc.73-1314 Filed 1-18-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRCRAFT EMISSIONS HEARINGS

Notice of Availability of Draft Tentative Federal Aviation Regulations

On Tuesday, December 12, 1972, the Environmental Protection Agency (EPA) published its proposed Part 87, Aircraft and Aircraft Engines—Proposed Standards for Control of Air Pollution (37 FR 26488). On that date, the Federal Aviation Administration also published a notice of participation in hearings to be held by EPA on its proposed regulations (37 FR 26458). In that notice, it was stated that FAA's regulatory response to EPA proposed Part 87, or at least an early draft, would be made available so that "public commentators will have full knowledge of both the EPA and the probable FAA proposals prior to the hearings."

A working draft of tentative FAA emission control regulations has been prepared and is available in the Office of Environmental Quality, Room 939, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies will also be available at the hearings. This draft is not a formal notice of proposed rule making, and should not be so regarded. However, it contains detailed regulatory language that represents the kinds of FAA rule making that, under section 232 of the Clean Air Act as amended, would have to follow the final issuance of EPA Part 87 if that part is adopted as proposed. In addition to persons generally concerned with the environmental aspects of FAA rule making, the draft is of particular interest to the following classes of persons within the aviation community:

(1) Applicants for type certificates and changes to type certificates (U.S. and foreign products).

(2) Applicants for standard airworthiness certificates.

(3) Applicants for, and holders of, delegation option authorizations.

(4) Applicants for approval of materials, parts, processes, and appliances (U.S. and foreign).

(5) Applicants for, and holders of, Designated Alteration Station (DAS) authorizations.

(6) Applicants for Technical Standard Order (TSO) Authorizations.

(7) Operators of products for which certain airworthiness directives are issued.

(8) Persons maintaining, rebuilding, altering, or performing preventive maintenance on U.S. and foreign civil air aircraft.

(9) Persons operating U.S. and foreign civil aircraft in the United States.

Issued in Washington, D.C., on January 17, 1973.

RICHARD P. SKULLY,
Director, Office of Environmental Quality.

[FR Doc.73-1232 Filed 1-18-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-387, 50-388]

PENNSYLVANIA POWER & LIGHT CO.

Notice of Availability of Applicant's Environmental Report, Amendments to Environmental Reports, and AEC Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations set forth in Appendix D to 10 CFR Part 50, notice is hereby given that documents entitled: "Applicant's Environmental Report, Revised July 1972," "Amendment No. 1 to Environmental Report," and "Amendment No. 2 to Environmental Report" (collectively known as the Environmental Reports"), submitted by the Pennsylvania Power & Light Co., have been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC and with the Economic Development Council of Northeast Pennsylvania, Warm Building, Post Office Box 777, Avoca, PA 18651. The reports are also available at the Luzerne County Planning Commission, Courthouse, Wilkes-Barre, Pa. 18702 and the State Clearing House, 5100 Finance Building, Harrisburg, Pa. 17120.

Notice of availability of the applicant's Environmental Report was published in the FEDERAL REGISTER on August 1, 1972 (37 FR 15393).

The reports have been analyzed by the Commission's Directorate of Licensing, and a Draft Environmental Statement related to the proposed Construction of the Susquehanna Steam Electric Station Units 1 and 2, located near Berwick in Luzerne County, Pa., has been prepared and has been made available for public inspection at the locations designated above. Copies of the Commission's Draft Environmental Statement 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.

Pursuant to Appendix D to CFR Part 50, interested persons may, on or before March 5, 1973, submit comments for the Commission's consideration on the Environmental Reports and on the Draft Environmental Statement. Appropriate Federal and State agencies are being provided with copies of the Draft Environmental Statement and when comments thereon of the Federal, State, and local officials are received, they will be made available for public inspection at the above designated locations. Comments on the Draft Environmental Statement from interested members of the public should be 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 January 1973.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.73-1153 Filed 1-18-73;8:45 am]

[Docket No. 50-301]

WISCONSIN ELECTRIC POWER CO. ET AL.

Assignment of Alternate Chairman of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, because of the unavailability of Michael L. Glaser, Chairman of the Atomic Safety and Licensing Appeal Board for this proceeding, during the period from January 15, 1973, to and including January 28, 1973, the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned himself, under the authority of 10 CFR 2.787(a), to serve as Chairman of the Appeal Board for this proceeding during this period of time.

Dated: January 15, 1973.

WILLIAM L. WOODARD,
Executive Secretary, Atomic Safety and Licensing Appeal Panel.

[FR Doc.73-1152 Filed 1-18-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25111; Order 73-1-46]

AEROLINEAS PERUANAS, S.A.

Statement of Tentative Findings and Conclusions and Order To Show Cause Regarding Cancellation of Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of January 1973.

By Order 70-8-65 dated July 8, 1970, and approved by the President on August 14, 1970, the Board renewed the foreign air carrier permit of Aerolineas Peruanas, S.A. (APSA) which authorized the carrier to engage in foreign air transportation with respect to persons, property, and mail between various foreign points and various points in the United States and to engage in off-route charter trips.[1]

The Board has been advised by the Peruvian Government that on July 19, 1972, APSA was removed from designation under the bilateral agreement between Peru and the United States.

Based upon the foregoing, the Board tentatively finds that the foreign air carrier permit now held by APSA should be canceled, and that, unless objections are received within 20 days from the date of service of this order, the Board should make such tentative findings final and submit to the President for his approval a final order canceling the said permit.

Accordingly, it is ordered: 1. That all interested persons are directed to show cause why the Board should not issue an order which would make final the tentative findings and conclusions herein and which would, subject to the approval of the President, cancel the foreign air carrier permit held by Aerolineas Peruanas, S.A.

2. That any interested person having objections to the issuance of such an order shall file with the Board a statement of objections supported by evidence within 20 days of service of this order;[2]

3. That if timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. That in the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. That Aerolineas Peruanas, S.A. and the Ambassador of Peru shall be served copies of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.73-1206 Filed 1-18-73;8:45 am]

[Docket No. 24488; Order 73-1-48]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger-Fare Matters

Adopted by the Civil Aeronautics Board at is office in Washington, D.C., on the 15th day of January 1973.

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 Traffic Conferences of the International Air Transport Association (IATA). The agreement was adopted for expedited January 15, 1973, effectiveness at the Caribbean Area Passenger Traffic Conference held November 1972 at Miami, and has been assigned the above-designated CAB agreement number.

The agreement would amend an existing resolution governing group inclusive tour (GIT) fares from the United States to Venezuela, by establishing peak-season (December through April) fares for groups of at least 20 persons from U.S. points to Caracas. The fares are set at the same level as existing off-peak GIT fares for groups of 15, and are subject to a weekend surcharge of $25 round trip. No stopovers are permitted. Additionally, the agreement would increase existing peak-season GIT fares for groups of 50 by approximately 5 percent, and would specify fares under this category from additional U.S. points. Finally, the agreement adopts a new resolution which would establish 5-day GIT fares from San Juan to Caracas at $95 round trip. The fares would be available year round, be subject to a minimum/maximum stay requirement of 3/5 days, and no stopovers would be permitted.

The resulting structure of GIT fares from the United States to Venezuela is not out of line with other promotional fares in the Caribbean area, and was adopted for limited effectiveness through March 31, 1973 only. We will herein approve the resolution, subject where applicable to conditions previously imposed by the Board in connection with this type of fare. Any extension of effectiveness beyond the agreed expiry date will be considered in light of a complete fares package for the Caribbean.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the following resolutions, incorporated in the agreement as indicated, to be adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to the conditions hereinafter ordered:

Agreement CAB	IATA No.	Title	Application
23448:			
R-1	084j	TC1 14-day group inclusive tour fares—Venezuela (amending)	1
R-2	084jj	TC1 5-day group inclusive tour fares—Venezuela (new)	1

[1] The permit authorizes ASPA (a) to engage in foreign air transportation of persons, property, and mail (1) between a point or points in Peru; the intermediate points Guayaquil, Ecuador; Barranquilla and Bogota, Columbia; Panama City, Panama; Miami, Fla.; and Washington, D.C.; and the terminal point Montreal, Canada, and (2) between a point or points in Peru; the intermediate points Guayaquil, Ecuador, and Mexico City, Mexico; and the terminal point Los Angeles, Calif., and (b) to operate off-route charter trips pursuant to Part 212 of the Board's Economic Regulations.

[2] Since provision is made for a response to this order, petitions for reconsideration of this order will not be entertained.

Accordingly, it is ordered, That:

Agreement CAB 23448, R–1 and R–2, be and hereby is approved, provided that:

1. With respect to Resolution 084j, approval is subject to conditions previously imposed by the Board; and

2. With respect to Resolution 084jj,

(a) The provision which at departure would permit a lesser number of passengers than that prescribed by the resolution to travel shall not be limited to situations caused by circumstances beyond the control of the passengers dropping out of the group and the balance of the group may travel at no added cost;

(b) In the event a passenger discontinues his journey en route for any reason, the amount of the fare paid may be applied as a credit toward the purchase of transportation at the applicable fare calculated from the original point of origin;

(c) Full refund shall be made in the event of death or illness of the passenger or of a member of the passenger's immediate family prior to travel;

(d) The amount of the forfeiture to be imposed in the event of cancellation by the group or member of the group at departure time for any reason shall not exceed 25 percent of the fare paid and after departure the forfeiture shall not exceed 25 percent of the excess of the price of the group-fare ticket over the cost of normal-fare transportation from point of origin to point of cancellation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.73–1207 Filed 1–18–73;8:45 am]

[Docket No. 24801]

NORDAIR LTEE—NORDAIR LTD.

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 February 21, 1973, at 10 a.m., e.s.t., in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Harry H. Schneider.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report served on December 11, 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., January 15, 1973.

[SEAL] HARRY H. SCHNEIDER,
Administrative Law Judge.

[FR Doc.73–1205 Filed 1–18–73;8:45 am]

[Dockets Nos. 24505, 17971; Order 73–1–47]

TEXAS INTERNATIONAL AIRLINES, INC.

Order To Show Cause Regarding Certificate of Public Convenience and Necessity

Application of Texas International Airlines, Inc., requesting route realinement by a show cause order, Docket 24505; application of Texas International Airlines, Inc., for exemption authority and amendments of its certificate of public convenience and necessity for route 82, Dockets 17971, 20607, 22085, 22086.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of January 1973.

By application and petition filed on May 26, 1972, Texas International Airlines, Inc. (TXI) requests that the Board issue an order directing interested persons to show cause why TXI's certificate of public convenience and necessity for route 82 should not be amended to the extent necessary to realine TXI's route system by consolidating the existing 14 segments into one segment, and by eliminating certain restrictions.

In support of its request, TXI asserts, inter alia, that its 14-segment route system was "fashioned piecemeal" over a period of years, resulting in arbitrary segment junction point restrictions and other restrictions which no longer serve useful purposes. TXI contends that these restrictions compel the carrier to bear the burden of circuitous routings and unnecessary stops. The carrier claims that consolidation of all points on a single segment would allow TXI to test new services which would by-pass the Houston and Dallas hubs, giving the carrier increased flexibility while at the same time reducing air traffic congestion at Houston and Dallas.[1]

TXI further states that if the proposed relief is granted the carrier will be able to schedule its aircraft in a more economical and efficient manner and thus provide the public with improved transportation services; that there will be a reduction in airport and air traffic congestion by elimination of unnecessary stops at high-density airports; and that significant cost savings will result, providing long-range route strengthening.

Answers were filed by American Airlines, Inc. (American), Braniff Airways, Inc. (Braniff), and Delta Air Lines, Inc. (Delta) in which the carriers indicate that they have no objection to the issuance of a show cause order proposing to amend TXI's certificate as the carrier requests, so long as the order contains a condition precluding the utilization by TXI of the "on-segment procedures" of Subpart M of the Board's Regulations. In addition, an answer was filed by the City and County of Denver, Colo. supporting TXI's requested route realignment subject to the condition that TXI not obtain improved authority in the Denver-Memphis and Denver-Jackson, Miss. markets, both of which markets will be considered in Docket 19314, which contains a request by Denver for improved authority between Denver and certain southeast points. Finally, the City of Clovis, N. Mex., filed an answer in support of TXI's proposal.

As stated in the recent Air West route realignment,[2] it has been Board policy to realign local service carriers' routes in order to provide opportunities for maximum scheduling flexibility and equipment utilization; to conform route authority to traffic flows; and to eliminate or modify certificate conditions which serve no useful purpose, impair meaningful market development, and inhibit significant economic improvement. The ultimate objectives of the Board's route realignment policy are to reduce subsidy payments to local service carriers while at the same time improving air service to the public.

Upon consideration of the pleadings and all the relevant facts, we tentatively find and conclude that TXI's route realignment and certificate amendment proposal is consistent with the Board's policy and objectives and that substantial public service and carrier benefits will derive from the realigned route system.[3]

It is our tentative view that the proposed realinement and certificate amendments offer TXI the potential for significant route strengthening and for a substantial reduction in the carrier's subsidy need and subsidy payments which should be reflected in the carrier's subsidy mail rate for fiscal 1974, assuming that TXI takes full advantage of the operational benefits made available by the realinement and conducts its operations in a manner which produces maximum economic improvements in terms of cost efficiency and traffic development. Thus, consolidating TXI's existing 14-segment route system into one segment and modifying or eliminating unnecessary and burdensome conditions as proposed by the carrier, will allow TXI to provide new or improved service in numerous markets in which such service is presently restricted as a result of either the arbitrary segmentation of the carrier's route or outmoded certificate restrictions. Full implementation of the potential operational and scheduling flexibility offered by the realined system should

[1] According to the carrier, TXI's present route system is effectively divided in two by "a figurative wall" between the terminal points Houston and Dallas/Fort Worth, providing almost no opportunity to fly between the two halves of the system without having to serve these two junction points.

[2] Order 72–4–140, Apr. 26, 1972.

[3] See Orders 72–9–58, Sept. 14, 1972; 72–4–140, Apr. 26, 1972; 71–4–113, Apr. 16, 1971; 71–2–12, Feb. 2, 1971; 68–11–74, Nov. 18, 1968; 68–7–63, July 12, 1968; E–26868, June 4, 1968.

also increase the carrier's average length of hop and passenger haul, and thus lower its unit costs and increase the average yield per passenger mile.

TXI has proposed a number of restrictions on its realined system in order to lessen the competitive impact on other carriers. In general, no restrictions have been proposed which would give TXI less authority than it presently possesses. In noncompetitive markets no restrictions have been proposed, and, in competitive markets (a) where the authority and services of TXI and a competitor are comparable, in terms of the number of intermediate stops, TXI has maintained the stop restrictions but has eliminated the requirement to serve specific points; (b) in markets in which a competitor provides single-plane service, TXI's authority will require one intermediate stop more than the competitor's service; (c) where a competitor is authorized but does not provide service in a market, TXI's authority will require one intermediate stop more than the competitor's best authority; and (d) in markets in which TXI presently has a restriction against single-plane service, the restriction has been retained.

The Board tentatively finds and concludes that the conditions contained in TXI's proposed certificate, subject to the modifications discussed below, are sufficient to maintain the regional characteristics of TXI's local service route system, preserve the competitive balance in key markets, and substantially lessen the likelihood of adverse economic impact on competing carriers. In addition, we tentatively find and conclude that elimination and modification of the operating restrictions as proposed by TXI is consistent with the Board's policy of removing or modifying conditions which serve no useful purpose and which are otherwise wasteful and undesirable.[4]

In addition, we have also decided to remove the requirements in TXI's present certificate authorizing mandatory nonstop service between Albuquerque, on the one hand, and Los Angeles and Dallas,[5] on the other hand. These requirements were imposed as pretrial restrictions designed to limit the scope of the "Service to Albuquerque Case."[5a] In view of the present-day conditions in these markets the mandatory service requirements appear to be superfluous, serving no useful purpose.

Finally, the Board tentatively finds and concludes that all new nonstop authority in markets where traffic generation is large enough to support a finding that such operations are economcially feasible, will be made ineligible for subsidy assistance.[6]

With regard to the objections raised by American, Braniff, and Delta, we have tentatively determined not to adopt those carriers' requests that the Board impose a condition in TXI's amended certificate to restrict TXI's utilization of the "on-segment" procedures of Subpart M of the Board's regulations. As we have pointed out in Orders 72–9–58 and 72–12–104, there are no substantive differences between the so-called "on-segment" and "off-segment" procedures of Subpart M. The only difference involves the timing and manner in which the application goes to the preliminary stages (prior to hearing) at which answers and motions to consolidate are due. If the Board fails to stay an application filed under the "on-segment" procedure (14 CFR 302.1305(a)) answers are due within the specified time limitation. Under the "off-segment" procedures (14 CFR 302.1305 (b)) answers are not due until the Board orders further proceedings. Consequently, the availability of "on-segment" procedures merely expedites the prehearing stages of Subpart M. It must be emphasized, however, that no Subpart M application—whether filed pursuant to "on-segment" or "off-segment" procedures—can move forward to the hearing stage in the absence of affirmative action by the Board setting the application for hearing.[7] Furthermore, we do not agree with the suggestion that TXI's future use of the "on-segment" procedures of Subpart M would result in procedural unfairness to opposing parties and would limit the Board's flexibility to such an extent as to require the inclusion of a broad prospective restriction in TXI's certificate. The Board has ample authority, both under Subpart M and under its general power, to issue stays and grant extensions of time to assure procedural fairness to all parties and to safeguard its own ability to exercise its statutory responsibilities. In these circumstances, we see no need for imposing the restriction requested.

Lastly, we have tentatively decided to reject the request of the Denver parties to prohibit improved TXI authority in the Denver-Memphis and Denver-Jackson markets. We are not persuaded that the pendency of Denver's request in Docket 19314 for nonstop authority between Denver and Memphis warrants the imposition of restrictions on TXI's proposed one-stop authority in these markets at this time. Should Denver's application in Docket 19314 be set for hearing, we do not believe that the improvements we propose in TXT's existing one-stop authority[8] in the Denver-Memphis or Denver-Jackson markets will, as a matter of economic fact, preclude the subsequent award of Denver-Memphis nonstop authority to another carrier. As we have previously stated, a potential one-stop operation in a market would not be sufficiently competitive with nonstop service so as to preclude—on that basis—a subsequent award of nonstop authority.[9] In any event, Denver will be given the opportunity, in responding to this order, to state its objections with greater clarity and to demonstrate more precisely the extent to which the proposed realinement will deprive other carriers of a fair and comparative hearing regarding Denver-Memphis nonstop authority.[10]

A specimen certificate is attached. We note that in accordance with TXI's request (application p. 8, n. 18) we have added Monroe, La., El Paso, Tex., and Salt Lake City, Utah, to the list of points which may be overflown after receipt of one daily round trip. El Paso and Salt Lake City are presently terminal points and therefore are not now subject to the two-daily-round-trip-overflight restriction. However, consolidation of those points as intermediates on one segment will make them subject to the two-daily-round-trip-skip-stop proscriptions to which they were not previously subject. Monroe, on the other hand, is presently an intermediate point on segment 7, and is subject to the two-daily-round-trip-overflight restriction. However, TXI operates only one daily round trip to Monroe, and does not operate any flights which overfly the point. Consolidation of TXI's 14 segments would, as a practical matter, terminate TXI's ability to

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[4] We further find that TXI is a citizen of the United States within the meaning of the Act and is fit, willing, and able properly to perform the transportation proposed herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder. In addition, we tentatively find and conclude that the proposed realinement of TXI's route 82 is required by the public convenience and necessity.

[5] Mandatory nonstop service is required between Dallas and Albuquerque by reason of Condition (11), which we propose to eliminate, and between Los Angeles and Albuquerque by reason of the fact that those two points are located on a separate segment.

[5a] Service to Albuquerque Case, Order 69–7–136, July 24, 1969, p. 4, n. 5 and 5a.

[6] Appendix A below contains a revised list of subsidy ineligible operations.

[7] Applicants for the same authority always have a right to a contemporaneous consideration of their applications, and are in no way prejudiced by the Subpart M procedure.

[8] TXI presently has one-stop authority in both the Denver-Jackson and the Denver-Memphis markets, via San Antonio or Houston, which involves extreme circuity. TXI proposes one-stop authority in the Denver-Memphis market with a stop at Abilene or a point south, and one-stop authority in the Denver-Jackson market with a stop at Lubbock or a point south.

[9] Piedmont Aviation, Inc./Eastern Air Lines, Inc. Route Transfer and Certificate Amendments Case, Order 72–11–22, November 7, 1972, pp. 3–4.

[10] We note that TXI was granted exemptions by Orders 71–2–94, effective February 22, 1971 (Docket 17971), and 72–3–14, effective March 7, 1972 (Docket 22086), and has on file certificate amendment applications relating to such exemptions (Dockets 20607 and 22085, respectively) which exemptions and certificate amendment applications will be mooted by realinement of TXI's route as proposed. Accordingly, we intend to terminate these exemptions and dismiss the applications if TXI's certificate is amended as proposed herein. For these purposes, we will consolidate Dockets 17971, 20607, 22086, and 22085 with the instant proceeding. In addition, we have decided not to include Fort Polk in TXI's certificate as the carrier has proposed. Fort Polk is presently served under exemption authority issued pursuant to Order E–20702, April 15, 1964, and the carrier has made no showing to warrant permanent certification of Fort Polk.

schedule only one round trip to Monroe, since the carrier will necessarily schedule many daily flights which will overfly Monroe. Accordingly, we tentatively find and conclude that grant of authority to overfly Monroe, El Paso, and Salt Lake City after those cities receive one daily round trip is in the public interest.

Interested persons will be given 30 days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

During the same period prescribed above, we will expect TXI to file with the Board an estimate, with supporting data, of the annual gross transport revenue increase for the first full year of operations to result from the award proposed herein. This data is necessary for the purpose of computing the license fee pursuant to § 389.25(a)(2) of the Board's regulations.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending Texas International's certificate in the manner set forth in the accompanying specimen certificate;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth herein shall, within 30 days after service of a copy of this order, file with the Board and serve upon all persons listed in Appendix B attached below a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board.[11]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action;

5. Dockets 17971, 20607, 22085, and 22086 be and they hereby are consolidated with Docket 24505;

6. A copy of this order shall be served on Texas International which is hereby made a party to this proceeding; and

7. A copy of this order shall be served upon all persons listed in Appendix B attached below.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

SPECIMEN CERTIFICATE TEXAS INTERNATIONAL #82

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR LOCAL OR FEEDER SERVICE

(AS AMENDED)

FOR ROUTE 82

Texas International Airlines, Inc. is hereby authorized, subject to the provisions hereinafter set forth, the provisions of Title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in air transportation with respect to persons, property, and mail, as follows:

1. Between the terminal point Los Angeles-Long Beach, Calif., the intermediate points Albuquerque and Santa Fe, N. Mex., Salt Lake City, Utah, Denver, Colo., Amarillo and Lubbock, Tex., Clovis and Roswell, N. Mex., El Paso, Tex., Carlsbad and Hobbs, N. Mex., Midland-Odessa, Big Spring, San Angelo, Brownwood, Abilene, Wichita Falls, Dallas-Fort Worth, Waco, Temple, Austin, San Antonio, Laredo, Mission-McAllen-Edinburg, Harlingen-San Benito, Corpus Christi, Victoria, Houston, Beaumont-Port Arthur, College Station-Bryan, Dufkin, Tyler and Longview-Kilgore-Gladewater, Tex., Sheveport, La., Texarkana, Tex-Ark., Hot Springs, Little Rock, and Jonesboro, Ark., Memphis, Tenn., Pine Bluff and El Dorado-Camden, Ark., Monroe, Alexandria, Lake Charles, Lafayette, Baton Rouge and New Orleans, La., and the terminal point Jackson, Miss.

The service herein authorized is subject to the following terms, conditions, and limitations:

(1) The holder shall render service to and from each of the points named herein, except as temporary suspensions of service may be authorized by the Board; and may begin or terminate, or begin and terminate, trips at points short of terminal points.

(2) The holder may continue to serve regularly, any point named herein through the airport last regularly used by the holder to serve such point prior to the effective date of this certificate. Upon compliance with such procedure relating thereto as may be prescribed by the Board, the holder may, in addition to the service herein above expressly prescribed, regularly serve a point named herein, other than a point required to be served through a single airport, through any airport convenient thereto.

(3) On each trip operated by the holder over all or part of route 82, the holder shall stop at each point named between the point of origin and point of termination of such trip, except a point or points with respect to which (a) the Board, pursuant to such procedure, as the Board may from time to time prescribe, may by order relieve the holder from the requirements of such condition, (b) the holder is authorized by the Board to suspend service, (c) the holder is unable to render service on such trip because of adverse weather conditions or other conditions which the holder could not reasonably have been expected to foresee or control, or (d) the holder has scheduled at least two daily round trips, in which case the holder may omit such point or points on any additional trip scheduled over all or part of said route, subject to the conditions in paragraphs (4) through (13) below.

(4) The holder shall schedule service to a minimum of one intermediate point between the following pairs of points:

From	*To*
Albuquerque, N. Mex.	Amarillo, Tex.
	Denver, Colo.
	El Paso, Tex.
	Houston, Tex.
	Memphis, Tenn.
	San Antonio, Tex.
Alexandria, La.	Baton Rouge, La.
	Dallas, Tex.
	Shreveport, La.
Amarillo, Tex.	El Paso, Tex.
	Hot Springs, Ark.
	Houston, Tex.
	Little Rock, Ark.
	Memphis, Tenn.
	New Orleans, La.
	San Antonio, Tex.
	Santa Fe, N. Mex.
Austin, Tex.	Los Angeles/Long Beach, Calif.
	New Orleans, La.
Denver, Colo.	Sante Fe, N. Mex.
Baton Rouge, La.	Dallas/Ft. Worth, Tex.
	Jackson, Miss.
	Little Rock, Ark.
	Memphis, Tenn.
	Monroe, La.
	Shreveport, La.
Beaumont/Port Arthur, Tex.	Shreveport, La.
Corpus Christi, Tex.	Dallas/Ft. Worth, Tex.
	Denver, Colo.
	Memphis, Tenn.
Dallas/Ft. Worth, Tex.	El Paso, Tex.
	Jackson, Miss.
	Los Angeles/Long Beach, Calif.
	Lubbock, Tex.
	Memphis, Tenn.
	Monroe, La.
	New Orleans, La.
	Shreveport, La.
Denver, Colo.	Hot Springs, Ark.
	Little Rock, Ark.
	Memphis, Tenn.
	New Orleans, La.
El Paso, Tex.	Houston, Tex.
	Little Rock, Ark.
	Lubbock, Tex.
	Memphis, Tenn.
	San Antonio, Tex.
Hot Springs, Ark.	Salt Lake City, Utah.
Houston, Tex.	Little Rock, Ark.
	Lubbock, Tex. (except on flights which serve Denver, Colo. and Salt Lake City, Utah).
	Memphis, Tenn.
Jackson, Miss.	Los Angeles/Long Beach, Calif.
	Monroe, La.
	Shreveport, La.
Little Rock, Ark.	Salt Lake City, Utah.
Los Angeles/Long Beach, Calif.	Lubbock, Tex.
	Midland/Odessa, Tex.
	Salt Lake City, Utah.
	Shreveport, La.
Lubbock, Tex.	Memphis, Tenn.
	New Orleans (except on flights which serve Denver, Colo., Albuquerque, N. Mex., or a point west of El Paso, Tex.).
	San Antonio, Tex. (except on flights which serve Denver, Colo., Albuquerque, N. Mex., or a point west of El Paso, Tex.).

[11] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

From	To
Memphis, Tenn.	Monroe, La. Salt Lake City, Utah. Shreveport, La.
Monroe, La.	Shreveport, La.
Midland/Odessa, Tex.	New Orleans, La.
New Orleans, La.	San Antonio, Tex. (except on flights which serve Denver, Colo. or Salt Lake City, Utah).
Salt Lake City, Utah.	Santa Fe, N. Mex.

(5) The holder shall schedule service to a minimum of two intermediate points between the following pairs of points:

From	To
Albuquerque, N. Mex.	New Orleans, La.
Alexandria, La.	Los Angeles/Long Beach, Calif.
Amarillo, Tex.	Los Angeles/Long Beach, Calif.
Baton Rouge, La.	Los Angeles/Long Beach, Calif.
Denver, Colo.	El Paso, Tex.
El Paso, Tex.	Los Angeles/Long Beach, Calif. New Orleans, La. Sante Fe, N. Mex. Wichita Falls, Tex.
Houston, Tex.	Los Angeles/Long Beach, Calif.
Jackson, Miss.	Memphis, Tenn. New Orleans, La.
Little Rock, Ark.	Los Angeles/Long Beach, Calif.
Los Angeles/Long Beach, Calif.	Memphis, Tenn. Monroe, La. San Antonio, Tex. Wichita Falls, Tex.
Salt Lake City, Utah.	Albuquerque, N. Mex. El Paso, Tex.

(6) The holder shall schedule service to a minimum of three intermediate points between the following pairs of points:

From	To
Denver, Colo.	Los Angeles/Long Beach, Calif. (one point to be Lubbock, Tex. or a point south thereof).
Los Angeles/Long Beach, Calif.	New Orleans, La.
Memphis, Tenn.	New Orleans, La.

(7) Notwithstanding the provisions of paragraphs (3) (a) and (d), (4), (5), and (6) above:

(a) The holder may not schedule service with only one intermediate stop between Monroe, La. and Memphis, Tenn., unless it has scheduled two daily round trips between Little Rock and El Dorado-Camden, Ark., respectively, on the one hand, and Monroe, La., or points south thereof, on the other hand.

(b) The holder shall, on each trip between Amarillo, Tex. and Hot Springs or Little Rock, Ark. or Memphis, Tenn. serve Dallas, Tex. or a point south thereof as an intermediate.

(c) The holder shall on each flight serving Denver, Colo. or Salt Lake City, Utah, also serve Lubbock, Tex., or a point south thereof; *Provided, however,* That on each flight serving Denver, Colo., or Salt Lake City, Utah and Hot Springs or Little Rock, Ark. or Memphis, Tenn., the holder shall serve Abilene, Tex. or a point south thereof as an intermediate, and on flights serving El Paso, Tex. the holder shall serve Abilene, Tex., or a point east thereof as an intermediate; and *Provided further,* That on each flight serving Salt Lake City, Utah which does not also serve Hot Springs or Little Rock, Ark., or Memphis, Tenn., or El Paso, Tex. or Santa Fe or Albuquerque, N. Mex., shall serve Midland/Odessa, Tex. or a point south thereof.

(d) The holder shall on each flight serving Denver, Colo., and Midland/Odessa, Tex., also serve San Antonio or Houston, Tex., or New Orleans, La.

(8) Flights serving Los Angeles, Calif., and Dallas, Tex., with one intermediate point shall serve Albuquerque, N. Mex., as the intermediate, otherwise a minimum of two intermediate points shall be served.

(9) Flights serving both Houston, Tex., and San Antonio, Tex., shall originate or terminate at a point beyond Houston or San Antonio, Tex.

(10) The holder shall not schedule single-plane service between (a) Monroe and New Orleans, La., and (b) between Dallas-Fort Worth, Tex., and Salt Lake City, Utah, or Denver, Colo.

(11) The holder may omit service to El Paso, Tex., Monroe, La., or Salt Lake City, Utah, in excess of one daily round trip.

(12) The holder is authorized to render flag-stop service at any of the above points by omitting physical landing of its aircraft at any intermediate point scheduled to be served on a particular flight: *Provided,* That there are no persons, property or mail on the aircraft destined for such points and no such traffic available at such point for the flight at the scheduled time of departure: *Provided further,* That the Board in its discretion may at any time disapprove the use of such authority with respect to service to any point on any flight or flights.

(13) The holder's authority to engage in the transportation of mail with respect to those operations set forth in Appendix A to order is limited to the carriage of mail on a nonsubsidy basis, i.e., on a service mail rate to be paid entirely by the Postmaster General, and the holder shall not be entitled to any subsidy with respect to such operations.

The exercise of the privileges granted by this certificate 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.

The holder acknowledges and agrees that it is entitled to receive only service mail pay for the mail service rendered or to be rendered solely in connection with the operations specified in paragraph (13) and that it is not authorized to request or receive any compensation for mail service rendered or to be rendered for such operations in excess of the amount payable by the Postmaster General.

The services authorized by this certificate were originally established pursuant to a determination of policy by the Civil Aeronautics Board that in the discharge of its obligation to encourage and develop air transportation under the Civil Aeronautics Act, as amended, it is in the public interest to establish certain air carriers who will be primarily engaged in short-haul air transportation as distinguished from the service rendered by trunkline air carriers. In accepting this certificate the holder acknowledges and agrees that the primary purpose of this certificate is to authorize and require it to offer short-haul, local or feeder, air transportation service of the character described above.

This certificate shall be effective on_____: *Provided, however,* That the effective date of said certificate shall be automatically postponed until further Board order if the appropriate license fee is not paid pursuant to § 389.21(b) of the regulations.

In WITNESS WHEREOF, the Civil Aeronautics Board has caused this certificate to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the —— day of

[SEAL] HARRY J. ZINK,
Secretary.

APPENDIX A

TEXAS INTERNATIONAL AIRLINES, INC.

List of Certificated Operations Ineligible for Subsidy

1. Flight stages to and from the following points: Baton Rouge, Denver, Wichita Falls, Salt Lake City, all points in Mexico.

2. Operations over segments 11 and 13 as described in Order 71-4-73.

3. Turnaround operations between Alexandria and New Orleans.

4. Nonstop turnaround operations between Little Rock and Memphis.

5. Nonstop operations between the following pairs of points:

From	To
Albuquerque	Dallas/Fort Worth. Los Angeles/Long Beach.
Amarillo	Corpus Christi. Dallas/Fort Worth.
Corpus Christi	Lubbock. New Orleans.
Dallas/Fort Worth.	Laredo. Midland/Odessa. San Antonio.
Houston	Laredo. New Orleans. Shreveport. Texarkana.
Jackson	San Antonio.
New Orleans	Shreveport.
Shreveport	Texarkana.

APPENDIX B

This order is being served upon the following cities and persons in interest:

I. Abilene, Tex., Albuquerque, N. Mex., Alexandria, La., Amarillo, Tex., Austin, Tex., Baton Rouge, La., Beaumont, Tex., Big Spring, Tex., Brownwood, Tex., Bryan, Tex., Camden, Ark., Carlsbad, N. Mex., Clovis, N. Mex., College Station, Tex., Corpus Christi, Tex., Dallas, Tex., Denver Colo., Edinburg, Tex., El Dorado, Tex., El Paso, Tex., Fort Polk, La., Fort Worth, Tex., Galveston, Tex., Gladewater, Tex., Harlingen, Tex., Hobbs, N. Mex., Hot Springs, Ark., Houston, Tex., Kilgore, Tex., Jackson, Miss., Jonesboro, Ark., Lafayette, Ark., Lake Charles, La., Laredo, Tex., Little Rock, Ark., Long Beach, Calif., Longview, Tex., Los Angeles, Calif., Lubbock, Tex., Lufkin, Tex., McAllen, Tex., Memphis, Tenn., Midland, Tex., Mission, Tex., Monroe, La., New Orleans, La., Odessa, Tex., Pine Bluff, Ark., Port Arthur, Tex., Rosewell, Tex., Salt Lake City, Utah, San Angelo, Tex., San Antonio, Tex., San Benito, Tex., Santa Fe, N. Mex., Shreveport, La., Temple, Tex., Texarkana, Tex., Texarkana, Ark., Tyler, Tex., Victoria, Tex., Waco, Tex., Wichita, Falls, Tex.

II. Aeronautics Departments or Commissions for the States of: Arkansas, California, Colorado, Louisiana, Mississippi, New Mexico, Texas, Utah.

III. American Airlines, Braniff Airways, Continental Air Lines, Delta Air Lines, Eastern Air Lines, Frontier Airlines, National Airlines, Northwest Airlines, Trans World Airlines, United Air Lines, Western Air Lines, Hughes Airwest, Southern Airlines, North Central Airlines, Ozark Air Lines, Piedmont Aviation, Allegheny Airlines.

[FR Doc.73-1208 Filed 1-18-73;8:45 am]

COMMISSION ON CIVIL RIGHTS

CALIFORNIA STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of

the U.S. Commission on Civil Rights, that a meeting of the California State Advisory Committee will convene at 11:30 a.m. on January 22, 1973, at the Madonna Inn, 100 Madonna Road, San Luis Obispo, CA 93401. Persons wishing to attend this meeting should contact the committee chairman, or the Mid-Atlantic Regional Office of the Commission at 2120 L Street NW., Washington, DC 20425. The purpose of this meeting will be to release the California State Committee Report on Educational Neglect of Mexican American Students in the Lucia Mar Unified School District, Pismo Beach, Calif.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., January 15, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-1302 Filed 1-18-73;8:45 am]

DELAWARE RIVER BASIN COMMISSION

COMPREHENSIVE PLAN AND CERTAIN APPLICATIONS

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, January 24, 1973, in the South Auditorium of the ASTM Building, 1916 Race Street in Philadelphia, beginning at 2 p.m. The subjects of the hearing will be as follows:

I. *Comprehensive Plan amendments.* A proposal to amend the Comprehensive Plan so as to include therein the following water resources projects:

1. *Fred Acierno.* A sewage treatment project to serve the 700-unit mobile home park known as Red Lion Village in New Castle County, Del. Treatment facilities will provide 93 percent removal of BOD_5 from the average sewage flow of 200,000 gallons per day.

2. *Yardley Water Co.* A water treatment plant to serve Yardley Borough and portions of Lower Makefield and Falls Townships, Bucks County, Pa. Initially 1 million gallons per day will be withdrawn and up to 2 million gallons per day has been requested from the Delaware River. A wastewater flow of about 40,000 gallons per day will be discharged to a tributary of Brock Creek after removal of 99 percent of suspended solids.

3. *Oley Township Municipal Authority.* A sewage treatment plant to be constructed by the Municipal Authority of Oley Township, Berks County, Pa. The facility will be designed to treat a sewage flow of 250,000 gallons per day and provide removal of approximately 95 percent of BOD_5. Treated wastewater will discharge to Manatawny Creek.

4. *Basile Corp.* A sewage treatment plant designed to serve an apartment complex known as Painter Crossing located in Birmingham Township, Delaware County, Pa. The treatment plant would provide 97 percent removal of BOD_5 to a sewage flow of 70,000 gallons per day. Treated effluent would discharge to an unnamed tributary to Harvey Run in the Brandywine drainage basin. The project will be phased out when municipal sewerage service becomes available.

5. *Earl Jamison.* Upgrading and expansion of the sewage treatment plant serving the Peddler's Village complex in Solebury Township, Bucks County, Pa. The project will provide 98 percent removal of BOD_5 to a sewage flow of 50,000 gallons per day. Treated effluent will discharge to a tributary of Aquetong Creek.

6. *Chalfont-New Britain Township Joint Sewer Authority.* A project to increase sewage treatment plant capacity at the Authority's existing plant in Doylestown Township, Bucks County, Pa. Capacity will be increased to 2 million gallons per day and will provide removal of 90 percent of BOD_5. Treated effluent will continue to discharge to Neshaminy Creek.

7. *Amity Township Municipal Authority.* A sewage treatment plant in Amity Township, Berks County, Pa. The project would provide treatment to a sewage flow of 800,000 gallons per day and would provide removal of 90 percent of BOD_5 and 95 percent suspended solids. Treated effluent would discharge to the Schuylkill River.

II. *Water pollution abatement schedule.* A proposal to approve the following water pollution abatement schedule as submitted in accordance with § 3-4.2(2) of the Basin Regulations-Water Quality:

1. *Pearsall Corp. (A-71-24 revision).* A violation of the effluent requirements of the Commission's Basin Regulations was determined for this facility located in Harmony Township, N.J., and discharging into Zone 1D of the Delaware River. An abatement schedule for this facility was approved on July 28, 1971, that required compliance by September 30, 1971. The proposed revision permits the company to recycle and concentrate all industrial effluent for marketing purposes and requires the facility to cease the discharge of industrial effluents by May 15, 1973.

III. *Special public hearing.* Applications for review and approval of the electric generating projects noted below have been pending before the Commission since early 1970. The Commission proposes to take partial and limited action under section 3.8 of the Compact with respect to the water supply and demand aspects of each project as summarized. The proposed action is intended to meet procedural requirements of the United States Atomic Energy Commission and the National Environmental Policy Act. The proposed action shall not be deemed to constitute approval of either project pursuant to Article 11 or section 3.8 of the Delaware River Basin Compact.

Philadelphia Electric Co. Limerick Nuclear Generating Station: A nuclear powerplant located on the east bank of the Schuylkill River in Limerick Township, Montgomery County, Pa. Two generating units of 1,100 megawatt capacity each would be constructed. Maximum consumptive and nonconsumptive use of water would be 42 and 14 million gallons per day, respectively. Schuylkill River water would not be used consumptively when the flow at Pottstown falls below 560 cubic feet per second. Perkiomen Creek water would not be used when the flow at Graterford falls below 150 cubic feet per second. Delaware River water would not be used consumptively (via Perkiomen Creek) when the flow at Trenton falls below 3,000 cubic feet per second.

Public Service Electric & Gas Co. Newbold Island Nuclear Generating Station: A nuclear powerplant located on Newbold Island in Bordentown Township, Burlington County, N.J. Two generating units of 1,088 megawatt capacity each would be constructed. Maximum consumptive and nonconsumptive water use would be 41 and 153 million gallons per day respectively. Delaware River water would not be used consumptively when the flow at Trenton falls below 3,000 cubic feet per second.

Draft copies of docket decisions relating to the Limerick and Newbold Island projects to be considered by the Commission are available at the offices of the Commission. Documents relating to other items on this hearing notice may be examined at the Commission offices. All persons wishing to testify are requested to register in advance with the Secretary to the Commission.

W. BRINTON WHITALL,
Secretary.

[FR Doc.73-1172 Filed 1-18-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

Availability of Comments

On November 1, 1971, EPA instituted, pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 and section 309 of the Clean Air Act, as amended, a procedure for the publication of a listing of draft environmental impact statements and other actions affecting the environment that have been reviewed and commented on by the Agency. Twenty (20) such listings have been published since the inception of the procedure. Each listing contained a classification of the nature of EPA's comments on the impact statements and other actions reviewed.

This procedure for making available to the public our comments has been re-evaluated and a revised procedure has been promulgated in EPA Order 1640.1 dated November 30, 1972. From this date, each notice will contain five (5) appendixes.

Appendix I will contain a listing of draft environmental impact statements reviewed and commented upon in writing during the referenced reviewing period. The listing will include the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix II will introduce the new definitions of the classifications of EPA's comments. Previously, the Agency comments were set forth in four classifications, which integrated comments on the adequacy of the draft statement with those on the environmental impact of the project. Henceforth, comments on the draft impact statements will be designated by two notations: Categories LO, ER, or EU, will represent a comment on the environmental impact of the proposed project; and categories 1, 2, or 3, will represent a comment on the adequacy of the impact statement. Explanations of the new categories are as follows:

ENVIRONMENTAL IMPACT OF THE ACTION

LO (Lack of Objections)—EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER (Environmental Reservations)—EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these aspects.

EU (Environmentally Unsatisfactory)—EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

ADEQUACY OF THE IMPACT STATEMENT

Category 1 (Adequate)—The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2 (Insufficient Information)—EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3 (Inadequate)—EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonably available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and asked that substantial revision be made to the impact statement.

It is noted that where a draft impact statement is assigned a Category 3, no comment will be forthcoming on the environmental impact of the proposed action.

Appendix III will introduce a new concept by setting forth a listing of final environmental impact statements reviewed and commented upon in writing during the referenced reviewing period. The listing will include the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix V. The summary of the nature of EPA's comments will include a brief abstract of the comments and will designate those projects or actions which have been determined by the Administrator to be unsatisfactory from the standpoint of health, welfare, or environmental quality, and therefore, referred to the Council on Environmental Quality.

Appendix IV will contain a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing will include the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix V. The summary of the nature of EPA's comments will include a brief abstract of the comments and will designate those proposed actions which have been determined by the Administrator to be unsatisfactory from the standpoint of health, welfare, or environmental quality, and, therefore, referred to the Council on Environmental Quality.

Appendix V will contain a listing of the names and addresses of the sources for copies of EPA comments listed in Appendixes I, III, and IV.

Attached below in Appendixes I through V is a listing of all environmental impact statements and other actions impacting the environment which EPA has reviewed and commented upon in writing during the period from December 1, 1972, to December 29, 1972. Copies of the EPA Order 1640.1, setting forth new policies and procedures for EPA's review of agency actions may be obtained by writing the Public Inquiries Branch, Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460. Copies of the draft and final environmental impact statements referagency or from the National Technical originating Federal department or agency or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Dated: January 9, 1973.

SHELDON MEYERS,
Director,
Office of Federal Activities.

APPENDIX I—DRAFT ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN DECEMBER 1, 1972 AND DECEMBER 29, 1972

Responsible Federal Agency	Title and Identifying Number	General nature of comments	Source for copies of comments
Atomic Energy Commission	D-AEC-06066-CA: Rancho Seco Nuclear Generating Station, Calif.	ER-2	A
Do	D-AEC-06065-NJ: Forked River Nuclear Generating Station, Unit 1, N.J.	ER-2	C
Do	D-AEC-06061-PA: Peach Bottom Atomic Power Station, Units 2 and 3, Pa.	ER-2	D
Do	D-AEC-06062-SC: Virgil C. Summer Nuclear Station, Unit 1, S.C.	ER-2	E
Do	D-AEC-05422-LA: Waterford Steam Electric Generating Station, La.	ER-2	G
Corps of Engineers	D-COE-35047-CT: Maintenance Dredging of North Haven Harbor, Conn.	ER-2	B
Do	D-COE-36173-MA: North Atlantic Regional Resources Study, Maine.	LO-2	B
Do	D-COE-30046-NY: Staten Island Beach Erosion Control, N.Y.	3	C
Do	D-COE-32380-VA: Gathright Lake, Jackson River, Bath County, Va.	EU-2	D
Do	D-COE-35048-VA: Water Intake and Pump Station, Chesapeake, Va.	ER-2	D
Do	D-COE-36176-PA: Addition of Conservation Pool, Union City Dam, Erie County, Pa.	ER-2	D
Do	D-COE-30052-FL: Blount Island Duval County, Fla.	3	E
Do	D-COE-30047-AL: Dredging of Dead-Reef Shells, Mobile Bay, Ala.	3	E
Do	D-COE-32307-MS: Dam and Lake Construction on Tallahala Creek in Jasper County, Miss.	ER-2	E
Do	D-COE-32304-AL: Intracoastal Waterway, Fla.	LO-2	E
Do	D-COE-32305-MS: Edinburg Dam and Lake, Pearl River Basin, Miss. and La.	LO-2	E
Do	D-COE-35043-FL: Lake Ocheechobee, Fla.	LO-2	E
Do	D-COE-32307-FL: St. Lucie Inlet Navigation Survey, Martin County, Fla.	ER-2	E
Do	D-COE-32304-OH: Updated Draft-Eastlake-Chagrin River, Ohio.	LO-2	F
Do	D-COE-32309-MN: Zumbro River Basin, Olmsted County, Minn.	ER-1	F
Do	D-COE-32306-MI: Diked Disposal Area—Dickinson Island, Mich.	LO-1	F

APPENDIX I—Continued

Responsible Federal Agency	Title and Identifying Number	General nature of comments	Source for copies of comments
Do.	D-COE-21028-OH: Diked Disposal Area, Huron Harbor, Erie County, Ohio.	LO-2	F
Do.	D-COE-30010-IL: Lake Forest Beach Erosion, Ill.	LO-1	F
Do.	D-COE-21029-OH: Diked Disposal Area Number 12, Cuyahoga County, Ohio.	LO-2	F
Do.	D-COE-30044-IL: Lake Bluff Beach Erosion Control, Ill.	LO-1	F
Do.	D-COE-32363-MI: Great Lakes connecting channels, St. Mary's, Mich.	LO-1	F
Do.	D-COE-30111-AR: Operating and maintenance of Bull Shoals Lake, Ark.	LO-1	G
Do.	D-COE-36155-KS: Flood protection project, Lawrence, Kans.	LO-1	H
Do.	D-COE-36186-MO: South fork of Blackwater River Watershed, Mo.	LO-2	H
Do.	D-COE-32358-MO: Pattonsburg Lake, Grand River, Mo.	ER-2	H
Do.	D-COE-32358-CA: Oakland outer harbor maintenance, Alameda County, Calif.	LO-1	J
Do.	D-COE-32336-CA: Sacramento River, bank protection project, Calif.	LO-1	J
Do.	D-COE-36168-HI: Kaneohoe-Kailua area, Oahu, Hawaii.	ER-2	J
Do.	D-COE-24045-AK: Kodiak Sewerage Disposal System, Alaska.	LO-2	K
Department of Agriculture	D-DOA-63051-ID: Herbicide control of sagebrush and wyethia, Idaho.	LO-1	A
Do.	D-DOA-63024-OR: Vegetation management project on Suislaw NF, Oreg.	ER-1	A
Do.	D-DOA-36031-NC: Clarks Fork and Bullocks Creek watershed, N.C.	LO-1	E
Do.	D-DOA-36025-SC: Rabon Creek Watershed, Laurens and Greenville Counties, S.C.	LO-2	E
Do.	D-DOA-63024-ID: Kaniksu NF timber management plan, Idaho.	ER-2	K
Department of Commerce	D-DOC-36023-NC: Project Nos. 03-1-00759 and 03-2-00760, Stantonsburg, N.C.	ER-2	E
Do.	D-DOC-51012-NC: Roanoke-Chowan Technical Institute near Union, N.C.	ER-2	E
Do.	D-DOC-24014-KY: Sanitary sewage improvements, Hardin County, Ky.	LO-2	E
Do.	D-DOC-24012-NC: Extension of Water and Sewer System, Williamston, N.C.	LO-2	E
Do.	D-DOC-20413-NC: Lower Cape Fear, Kings Bluff, Bladen County, N.C.	LO-2	E
Department of the Interior	D-DOI-60060-NJ: Allamuchy Mountain State Park Land Acquisition, N.J.	LO-1	C
Do.	D-DOI-60062-OH: Cuyahoga River Valley, Cuyahoga and Summit Counties, Ohio.	LO-1	F
Do.	D-DOI-61078-CO: Savery-Pot Hook Project, Colorado and Wyoming.	ER-2	I
Do.	D-DOI-67068-UT: Bonneville Unit of Central Utah Project, Utah.	ER-2	I
Do.	D-DOI-61091-WY: Grand Teton National Park, Wyo.	LO-1	I
Do.	D-DOI-36288-CA: Delux Heights Municipal Water District, Calif.	LO-1	J
Do.	D-DOI-63009-OR: Columbian White-Tailed Deer National Wildlife Refuge, Oreg.	LO-1	K
Department of Transportation	D-DOT-41568-MA: Route 52, Worcester, Mass.	LO-2	B
Do.	D-DOT-41569-CT: U.S. 5 Relocation, East Hartford, Conn.	ER-2	B
Do.	D-DOT-51197-NH: Concord Municipal Airport, NH.	LO-2	B
Do.	D-DOT-51203-ME: Biddeford Municipal Airport, Maine.	ER-2	B
Do.	D-DOT-41565-NJ: U.S. Route 206 Freeway, Atlantic County, N.J.	3	C
Do.	D-DOD-41599-PA: L.R. 346, SEC 6, Route 45, Huntington City, Pa.	LO-1	D
Do.	D-DOT-41598-VA: Route 365, Danville Expressway, Pittsylvania County, Va.	LO-2	D

APPENDIX I—Continued

Responsible Federal Agency	Title and Identifying Number	General nature of comments	Source for copies of comments
Do.	D-DOT-41583-PA: L.R. 1127, Erie County, Pa.	LR-2	D
Do.	D-DOT-41539-WV: I-77 Jackson County, W. Va.	LO-1	D
Do.	D-DOT-51017-NC: Lincolnton-Cherryville Airport, N.C.	LO-1	E
Do.	D-DOT-40410-NC: NC-68, Westchester Drive, U.S. 311 to Elgin Avenue, N.C.	LO-1	E
Do.	D-DOT-41579-SC: Sumter County, Sumter, S.C.	LO-2	E
Do.	D-DOT-40308-FL: Highway project for Charlotte County, Fla.	LO-1	E
Do.	D-DOT-40370-AL: Highway project F-377(2), Mobile County, Ala.	LO-1	E
Do.	D-DOT-51196-NC: Jackson County Airport, Sylva, N.C.	LO-2	E
Do.	D-DOT-40397-FL: State Road 35(U.S.-17), Charlotte County, Fla.	LO-1	E
Do.	D-DOT-40433-GA: Cobb County, Georgia Highway Project, Ga.	LO-1	E
Do.	D-DOT-51201-GA: Valdosta Municipal Airport, Ga.	LO-1	E
Do.	D-DOT-40368-AL: Highway project S-30-E, Russell County, Ala.	ER-2	E
Do.	D-DOT-51200-MS: Panola County Airport, Miss.	LO-2	E
Do.	D-DOT-40395-AL: Highway project S-384-D, Cullman County, Ala.	LO-1	E
Do.	D-DOT-40394-NC: I-85, from State Route-2025 (Davidson County) to Groomtown (Guilford County), N.C.	LO-1	E
Do.	D-DOT-40431-FL: State Route 44, Lake County, Fla.	LO-1	E
Do.	D-DOT-41582-WI: C.T.H. "H" Eau Claire Street, Buffalo County, Wis.	LO-2	F
Do.	D-DOT-41586-IL: FAS Route 2579, Sec 81Q, Adams County, Ill.	LO-1	F
Do.	D-DOT-41584-IL: FA 24, SBI 23, La Salle County, Ill.	LO-1	F
Do.	D-DOT-41566-IL: FAU Route 8825, Rockford County, Ill.	LO-1	F
Do.	D-DOT-41524-MN: T.H. 71, Beltrami County, Minn.	3	F
Do.	D-DOT-41533-WI: U.S.H. 10, S.T.H. 110, Waupaca County, Wis.	LO-1	F
Do.	D-DOT-51193-IL: Ingersoll Airport, Fulton County, Ill.	LO-1	F
Do.	D-DOT-51194-WI: Tomahawk Airport, Lincoln County, Wis.	3	F
Do.	D-DOT-41525-WI: T.H. 90, La Crosse-Tomah Road, La Crosse County, Wis.	LO-1	F
Do.	D-DOT-51197-OK: Will Rogers Municipal Airport, Okla.	LO-2	G
Do.	D-DOT-51190-MO: Mississippi County Airport, Mo.	LO-2	H
Do.	D-DOT-41200-KS: Widening of 98th Street, Leawood and Overland Park, Kans.	3	H
Do.	D-DOT-41092-NB: Crescent Lake Wilderness Area, Garden County, Nebr.	LO-1	H
Do.	Nelson-South, Highway 14, Nuckolls County, Nebr.	LO-1	H
Do.	D-DOT-41628-NB: Highway Improvement, Project F172(5) Cuming County, Nebr.	LO-1	H
Do.	D-DOT-41609-NB: Improvement of 27th Street, Project M-8053, Lincoln, Nebr.	LO-1	H
Do.	D-DOT-41581-KS: U.S. Highway 54, Sedgewick County, Kans.	LO-2	H
Do.	D-DOT-41563-CA: Route 395, Inyo County, Calif.	LO-2	J
Federal Power Commission	D-FPC-65052-AL: Crooked Creek Project, Clay and Randolph Counties, Ala.	3	E
Department of Housing and Urban Development	D-HUD-86002-MA: Chatham West I Apartments, Brockton, Mass.	ER-2	B
Do.	D-HUD-86007-MD: Lakeland Urban Renewal (MD. R-44), College Park, Md.	ER-2	D
Do.	D-HUD-86006-VA: Rivera Apartments, Virginia Beach, Va.	LO-2	D
Do.	D-HUD-86004-VA: Fair Oaks Apartments, Henrico County, Va.	ER-1	D

APPENDIX II—DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

ENVIRONMENTAL IMPACT OF THE ACTION

LO—Lack of objection. EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental reservations. EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives of modifications is required and has asked the originating Federal agency to reassess these aspects.

EU—Environmentally unsatisfactory. EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

ADEQUACY OF THE IMPACT STATEMENT

Category 1—Adequate. The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient information. EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate. EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonably available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

If a draft impact statement is assigned a Category 3, no rating will be made of the project or action, since a basis does not generally exist on which to make such a determination.

APPENDIX III—FINAL ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN DECEMBER 1, 1972 AND DECEMBER 29, 1972

Identifying number	Title	General nature of comments	Source for copies of comments
NONE			

APPENDIX IV—REGULATIONS, LEGISLATION AND OTHER FEDERAL AGENCY ACTIONS FOR WHICH COMMENTS WERE ISSUED BETWEEN DECEMBER 1, 1972 AND DECEMBER 29, 1972

Agency	Title	General nature of comments	Source for copies of comments
Federal Communication Commission.	Procedures for implementation of National Environmental Policy Act of 1969.	Recommended that the proposed procedures be reevaluated to consider in more detail the requirements of NEPA and the CEQ guidelines including the necessity to set forth technical guidelines for applicants and to establish a more definitive role for FCC officials.	A
Do.	Statement of general policy to implement procedures for compliance with the national Environmental Policy Act of 1969.	Recommended that the proposed procedures be reevaluated to consider in more detail the requirements of NEPA and the CEQ guidelines including the necessity to set forth technical guidelines for applicants, to establish criteria for determining what is a major Federal action, and to provide internal guidance for staff analyses in drafting FPC impact statements.	A

APPENDIX V—SOURCES FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, Room 847, 26 Federal Plaza, New York, N.Y. 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street NE., Atlanta, GA 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 1 North Wacker Drive, Chicago, IL 60606.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, TX 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, MO 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, Room 916, 1860 Lincoln Street, Denver, CO 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, CA 94102.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

[FR Doc.73-1133 Filed 1-18-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19419; FCC 73-43]

AMERICAN TELEPHONE & TELEGRAPH CO. AND WESTERN UNION TELEGRAPH CO.

Memorandum Opinion and Order Instituting Investigation

In the matter of American Telephone & Telegraph Co., Long Lines Department (A.T. & T.), Revisions of Wide Area Telephone (WATS) Tariff FCC No. 259 and Private Line Service (PLS) Tariff FCC No. 260 and The Western Union Telegraph Co. (Western Union), Revisions of Tariff FCC No. 254, Docket No. 19419.

A. *Background.* 1. In a memorandum opinion and order released February 7, 1972 in this docket, we suspended and instituted an investigation into the lawfulness of certain tariff revisions filed by A.T. & T. in the above-noted interstate WATS and PLS tariffs (33 FCC 2d 518). These revisions were originally scheduled to go into effect on February 4, 1972. However, we suspended them until May 4, 1972 and A.T. & T. postponed the effective date still further until July 4, 1972.

2. As originally filed these tariffs included (a) substantial reduction in existing interstate charges for A.T. & T.-provided "Dataphone" sets that are offered to customers who wish to connect their own data terminal facilities to the switched telephone network (either through WATS or PLS facilities); (b) establishment of new interstate charges for an A.T. & T.-provided "automatic data access arrangement" that is also offered to customers who wish to connect their own data facilities to the switched telephone network; (c) changes in existing interstate tariff regulations to permit more flexible use of A.T. & T.-provided "multi-channel data station equipment" offered to customers who wish to use such channel-deriving equipment in combination with voice-grade data channels obtained from the telephone company; and (d) establishment of new interstate rates for an additional category of "Dataphone" sets suitable for combined sending and receiving and for handling data at higher speeds. Each of these A.T. & T.-provided facilities are competitive, in varying degrees, with similar equipment or facilities offered by independent manufacturers and suppliers or other common carriers. In its petition IDCMA [1] made a number of allegations (which we summarize in paragraph 3 of our February 7, 1972 action, 33 FCC 2d, at page 519), to the effect that these competitive offerings of the Bell System in its private line services were being subsidized by the monopoly services of Bell, and were anti-competitive vis-a-vis members of IDCMA who supplied similar facilities to the public in competition with Bell. Based upon these allegations, we suspended the original A.T. & T. tariffs for the full 3-month period provided for in section 204 of the Act and we stated that we would consider particularly the question of the lawfulness of these tariff schedules in light of their potentially anti-competitive effects (33 FCC 2d, at page 520).

3. Before the original tariff schedules could go into effect A.T. & T. applied for special permission to file revised tariffs in substitution for the original tariffs. The stated purpose of A.T. & T. was to ameliorate the alleged anti-competitive effects of the original filing and to expedite the resolution of the issues in the

[1] Independent Data Communications Manufacturers Association, Inc.

hearing. Based upon alleged "changed circumstances" subsequent to the filing of the original tariffs, A.T. & T. proposed to establish monthly rates for the "Dataphone" sets and channel-deriving equipment higher than those originally proposed and to establish monthly rates for the automatic data access arrangement lower than those originally proposed.

4. We granted A.T. & T.'s request and the substitute tariffs were filed and became effective July 3, 1972 thereby canceling the originally filed tariffs. By virtue of language in our memorandum opinion and order of February 7, 1972, the substitute tariff pages were automatically set for hearing in this docket in lieu of the original tariffs (33 FCC 2d, p. 520). Inasmuch as it appeared to us that the revised tariffs might possibly ameliorate the alleged anti-competitive features of the original filing, we invited interested parties to submit comments and reply comments on the new submission. Further, by memorandum opinion and order of June 26, 1972 we ordered the deferral of hearings herein until we could consider such comments (36 FCC 2d 498). On about July 26, 1972 IDCMA submitted its comments in the form of a "Petition to Reject or Suspend." Although IDCMA agreed that the revisions made by A.T. & T. in the substitute rates were in the proper direction, IDCMA contended that the revisions were not sufficient in degree at least and that the revised rates continued to be based upon cross-subsidization by the monopoly services of Bell and were anti-competitive as to the independent suppliers of competitive data devices supplied by members of IDCMA. A.T. & T. opposed IDCMA's petition to reject or suspend [1] and urged that this proceeding be terminated. Western Union also filed comments on A.T. & T.'s substitute tariffs contending that A.T. & T.'s revised charges for its data sets and for multichannel equipment would have a significant impact on Western Union's competitive service offerings and that A.T. & T.'s charges for such services are unduly discriminatory as between A.T. & T.'s own customers.

5. In addition to submitting its comments on the A.T. & T. substitute tariffs, Western Union filed its own tariff schedules effective August 10, 1972 matching the A.T. & T. rates for certain of the data sets offered by A.T. & T. On or about August 29, 1972 IDCMA filed a "Petition to Reject or Suspend" [1] the Western Union tariffs on the same basis as it opposed the revised A.T. & T. rates.

6. On November 24, 1972, A.T. & T. filed further revised PLS tariff schedules to become effective December 24, 1972 establishing a new rate for the first time in its interstate PLS tariffs applicable to a Series 200 Data-Phone Data Set (Type 208). This device provides for combined sending and receiving transmission and is suitable for conditioning signals at a rate of 4,800 bits per second. Competitive data sets are offered by certain members of IDCMA. At our request the effective date of this tariff was postponed from December 24, 1972 until January 14, 1973. A timely petition to suspend was filed by IDCMA on December 29, 1972. An opposition thereto was filed by A.T. & T. on January 9, 1973.

B. *Disscussion.* 7. As indicated in the foregoing, this proceeding was commenced in February 1972 (a) to investigate the lawfulness of the charges of A.T. & T. for providing certain data service facilities that are competitive with similar facilities available from alternative suppliers and (b) to determine whether and to what extent we should prescribe new tariffs if we should find any such unlawfulness (33 FCC 2d 518). However, the proceeding has been temporarily stayed by us pending further order (36 FCC 2d 498).

8. The questions that are now properly before us for decision are (1) whether we should terminate the proceeding herein as A.T. & T. has urged us to do over the opposition of IDCMA; (2) whether, if we do not terminate, we should also set Western Union's matching rates for hearing in this proceeding as requested by IDCMA; and (3) whether we should suspend and set for hearing in this proceeding the recently filed interstate rate of A.T. & T. for the 208 Data set, which IDCMA has requested us to do.

9. With respect to the question of whether we should terminate this proceeding, we are of the opinion that the substitute rates now under investigation continue to raise essentially the same cross-subsidization and anti-competitive questions that were raised by the original tariffs and which we summarized in our original action herein. (See 33 FCC 2d, 518). For example, the fact that the substitute tariff reduces the prior monthly rate for A.T. & T.'s 200 Data set from $72 to $55 a month whereas the original tariff filing would have reduced the rate from $72 to $47 a month does not warrant our finding that the substitute rates are now free of any substantial questions of lawfulness. Accordingly, we conclude that the hearing herein on the original issues of lawfulness under sections 201(b) and 202(a) of the Act should proceed without any further undue delay, particularly in view of IDCMA's claims that its members are being adversely affected by the competitive A.T. & T. rates and that IDCMA is entitled to a prompt hearing and resolution of its contentions. As to the second question, we agree with IDCMA that the matching rates of Western Union also raise substantially the same questions of lawfulness as do the A.T. & T. rates. We shall therefore set the Western Union rates for hearing in this proceeding.

10. With regard to the third question, IDCMA contends in its petition to suspend and investigate the recently filed rate of A.T. & T. for the competitive 208 Data set, that this new filing raises all of the same questions of lawfulness that prompted the Commission to suspend for the full statutory period and set for hearing the original tariffs for the other A.T. & T.-provided data facilities involved in this proceeding; that A.T. & T. expressly admits that its pricing of the competitive 208 Data set is based upon alleged "incremental costs" which the Commission has not as yet approved in principle and which is at issue in pending docket 18128; [2] that, in any event, A.T. & T. has not allocated all of the carriers' costs that should be allocated to this Data set in fixing the rates; and that members of IDCMA that supply competitive Data sets are and will be adversely and unlawfully affected by A.T. & T.'s proposed rates. We believe that IDCMA raises substantial questions of lawfulness that warrant our setting the new 208 Data rates for hearing under the issues herein. Moreover, consistent with our original action on the other competitive rates in issue in this case, we shall suspend the effectiveness of the new charges for the maximum 3-month period specified in section 204 of the Act. However, since A.T. & T., at our request, postponed the original effective date of the tariff from December 24, 1972, to January 14, 1973, we shall suspend the tariff for 3 months from the former, rather than the latter date.

11. IDCMA requests further alternative relief in the form of an order that A.T. & T. be required to give written notification to customers who may order A.T. & T.'s 208 Data set, that questions of lawfulness have been raised as to the rates therefor and that such rates are under investigation in this proceeding and are subject to being changed by the Commission. This is an entirely appropriate request and we shall order A.T. & T. to supply such notice in the form and manner prescribed by the Chief, Common Carrier Bureau.

12. *Accordingly, it is ordered,* That pursuant to sections 201, 202, 203, 204, 205, and 403 of the Communications Act of 1934, as amended, an investigation is instituted herein into the lawfulness of the tariff schedules filed (a) by A.T. & T. with its transmittal No. 11618, effective January 14, 1973, and (b) by Western Union under its transmittal No. 6772; including any cancellations, amendments, or reissues thereto; and that the issues heretofore specified herein shall also apply to such tariff schedules;

13. *It is further ordered,* That pursuant to the provisions of section 204 of the Act, the effectiveness of the tariff schedules filed by A.T. & T. with transmittal No. 11618 are hereby suspended

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[1] We have not considered IDCMA's petition insofar as it requests "rejection" or "suspension" of tariffs for the reasons that (a) the pleading violated section 1.44 of our rules prohibiting joinder of requests for action delegated to the staff (rejection of tariffs) and for action by the Commission (suspension of tariffs) and (b) it violated section 1.773 of our rules requiring suspension requests to be filed at least 14 days before the effective date of the tariff in question.

[2] In its reply of Jan. 9, 1973 A.T. & T. also submitted alternative calculations of its costs on the basis of embedded costs which indicates costs slightly less than the "incremental" costs.

until March 24, 1973 and that A.T. & T. shall provide the notice to customers as set forth in paragraph 11 hereof;

14. *It is further ordered,* That paragraph 5 of our order herein of June 26, 1972, 36 FCC 2d, at page 449, staying the proceedings herein, is vacated, and the hearing in this proceeding shall commence at the Commission offices in Washington, D.C. at a time to be specified by the presiding Administrative Law Judge; and that such Administrative Law Judge shall certify the record without preparation of an initial or recommended decision, and the Chief of the Common Carrier Bureau shall thereafter issue a recommended decision which shall be subject to the submittal of exceptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277, after which the Commission shall issue its decision as provided in 47 CFR 1.282;

15. *It is further ordered,* That IDCMA's Petition To Suspend is granted;

16. *It is further ordered,* That the Western Union Telegraph Co. is named Party Respondent.

Adopted: January 10, 1973.

Released: January 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.73-1217 Filed 1-18-73;8:45 am]

[Dockets Nos. 18906, 18907; FCC 73R-17]

SOUTHERN BROADCASTING CO. (WGHP-TV) AND FURNITURE CITY TELEVISION CO., INC.

Memorandum Opinion and Order Enlarging Issues

In re applications of Southern Broadcasting Co. (WGHP-TV) High Point, N.C., Docket No. 18906, File No. BRCT-574, for renewal of broadcast license; Furniture City Television Co., Inc., High Point, N.C., Docket No. 18907, File No. BPCT-4302, for construction permit for new television broadcast station.

1. Before the Review Board is a petition to enlarge issues, filed August 3, 1972, by Southern Broadcasting Co., (WGHP-TV) (Southern) seeking the addition of rule 1.65, rule 1.526 and ineptness issues against Furniture City Television Co., Inc. (Furniture City).[1] Each issue will be considered separately.[2]

RULE 1.65 ISSUE

2. In support of its request, Southern alleges that Furniture City failed to amend table II, section II of its application (FCC Form 301) to reflect the interests of two Furniture City principals, J. Harriss Covington and Sidney A. Gayle, Jr., in a travel agency located in High Point, N.C., in contravention of Commission rule 1.65.[3] In a supplement to its petition, Southern further alleges that Furniture City also failed to report that its principals Herman W. Bernard and John W. Thomas, Jr., hold stock in the High Point branch of the North Carolina National Bank. The Broadcast Bureau supports Southern's request; however, the Bureau would consider this matter under the existing rule 1.65 issue against Furniture City.[4][5] In opposing the request, Furniture City alleges that: although the travel agency was incorporated on February 11, 1972, it did not go into business until May 9, 1972; Covington and Gayle are stockholders and not officers; and the two principals have other full-time occupations. In light of these facts, Furniture City argues that the information was not significant enough to report. Furniture City opposes Southern's petition for leave to file supplemental pleading as untimely filed.

3. The Review Board will grant the request in the initial petition to enlarge issues and will deny the request for leave to supplement. The existing rule 1.65 issue against Furniture City will be considered broadened to encompass the applicant's alleged failure to report Gayle's and Covington's business interests. In a recent Memorandum Opinion and Order, FCC 72R-366, —— FCC 2d ——, released December 8, 1972, in this proceeding, we modified the existing rule 1.65 issue[6] against Furniture City to encompass the applicant's failure to report all the business interests of seven of its principals. For the same reasons advanced in our previous Memorandum Opinion and Order, supra, the Board believes the existing rule 1.65 issue should encompass the alleged failure of Furniture City to report Covington's and Gayle's business interests.

4. With respect to Southern's petition for leave to file a supplemental pleading, the Board stated in its Public Notice No. 90836, released October 11, 1972 (filing of supplemental pleading before the Review Board) that we would closely scrutinize all alleged justifications for the filing of supplemental pleadings. As the court stated in Valley Telecasting Co., Inc. v. FCC, 119 U.S. App. D.C. 169, 338 F. 2d 278 (1964), with respect to late filed petitions before the Commission, it "cripples any decision making process and handicaps the agency in carrying out its functions." Petitioner's request to supplement its initial petition to enlarge issues comes 3 months after the filing of its initial petition and Southern has not presented a persuasive argument for the delay. Southern has not satisfactorily explained why it did not include this material in its initial petition. As the Broadcast Bureau points out, Bernard's interest was reported in the December 31, 1970, Directory of the North Carolina National Bank Corporation Subsidiaries and Thomas' interest was reported in the July 19, 1972, High Point Enterprise.

RULE 1.526 ISSUE

5. Southern requests a Rule 1.526 issue against Furniture City for its failure to maintain and make available for public inspection its file containing a copy of its application and related documents. As alleged in its supporting affidavits, on July 24, 1972, at approximately 10:30 a.m., James H. Hoke and C. T. Leonard, Jr.,[7] requested (of the receptionist-switchboard operator) to see Furniture City's inspection file at the location listed in the notice published in the local newspapers by Furniture City.[8] Southern's representatives were referred to a Mrs. Evelyn Lee who advised them that John Hutchens, who kept the file, was out of town. Mrs. Lee attempted, unsuccessfully, to locate the file and inquired of John Hutchens' brother as to its whereabouts, also without success. She stated that John Hutchens was expected back that day after 3 p.m. and suggested that Southern's representatives return later, first calling to see if John Hutchens had returned to his office. Southern's representatives left at 10:45 a.m. The Bureau supports the petitioner's request.

6. In opposing the request, Furniture City adds the following facts to those recited by Southern: The subject file has always been and still is available at its published location. Mrs. Evelyn Lee, John

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[4] Commissioners Johnson and Reid dissenting; Commissioner Hooks absent.

[1] Also before the Review Board are the following related pleadings: (a) Opposition, filed Aug. 15, 1972, by Furniture City; (b) Broadcast Bureau's comments, filed Aug. 16, 1972; (c) reply, filed Aug. 25, 1972, by Southern; (d) petition for leave to file supplemental pleading and supplement to petition, filed Oct. 31, 1972, by Southern; (e) Broadcast Bureau's comments to (d), filed Nov. 7, 1972; and (f) opposition to (d), filed Nov. 13, 1972, by Furniture City.

[2] The Review Board will treat petitioner's petition as timely filed. It appears that the rule 1.526 issue request is based on events that occurred on July 24, 1972, and that the ineptness issue is based on a series of events dating from 1969 to the present. It is unclear when Southern came into possession of the information upon which it bases its request for a rule 1.65 issue. The Board, however, in light of a lack of strenuous opposition, will also consider the request for a rule 1.65 issue as timely filed.

[3] According to the Articles of Incorporation attached to Southern's petition, the two principals are directors of Travels Unlimited of High Point, Inc., which was incorporated Feb. 11, 1972.

[4] See 33 FCC 2d 1044, 23 RR 2d 1197 (1972).

[5] The Bureau opposes Southern's petition for leave to file supplementary pleading to its petition to enlarge as untimely filed.

[6] See note 4, supra.

[7] Hoke is vice president and chief engineer of Southern and Leonard is Station WHGP-TV's local counsel.

[8] Rule 1.526(d) specifies:

> (d) Location of records. The file shall be maintained at the main studio of the station, or at any other accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed, and shall be available for public inspection at any time during regular business hours.

Hutchens'[8] secretary, familiar with the file but not its location when Hoke and Leonard made their request, attempted to locate it by asking George Hutchens, John Hutchens' brother and business associate, who informed her that only John Hutchens, away until that afternoon, knew the location of the file. To save Hoke and Leonard any inconvenience, Mrs. Lee suggested that they phone before returning to John Hutchens' office to determine if he was in. At 11:30 a.m. that day, George W. Lyles, Jr., president, director, and 10 percent stockholder of Furniture City, was informed by Mrs. Lee of the Hoke-Leonard visit and, at 11:45 a.m., he attempted to contact representatives of Southern, first by calling the law firm with which Leonard is associated and then, at the suggestion of one of the attorneys, by calling Southern's Station WGHP–TV, to inform them that Furniture City's public inspection file was available. At the above station, he was advised that Leonard was with Philip Lombardo, the station's general manager. When Lyles sought to speak to Leonard, he was advised that Leonard had left. Lyles left a message as to the availability of the files with Lombardo's secretary and, on the same day, so advised Leonard by letter. Further, the regular receptionist who was on vacation that day was informed of the location of the file and was instructed to show the file to anyone who requested to view it if Hutchens was not present. Furniture City submitted supporting affidavits of John Hutchens, Frederica McDowell (the regular receptionist), Lyles and Lee. The statements set forth in these documents are substantially uncontrovered.

7. The Review Board will deny the requested issue. No dispute exists over the fact that during the 15 minutes they were present, Hoke and Leonard were unable to obtain Furniture City's public inspection file at the place where it was supposed to be located and at a time (during regular business hours) when it was supposed to be available. Standing alone, these facts would ordinarily warrant the framing of a 1.526 issue. The Review Board believes, however, that the particular facts here involved obviate the need for the requested issue. Although Hoke and Leonard were unable to obtain the subject file upon request, Southern did not establish that the file was not at Hutchens' office and that had Hoke and Leonard returned that same afternoon, they would not have been able to obtain the file. Compare Jacksonville Broadcasting Co., 26 FCC 2d 929, 20 RR 2d 626 (1970). Further, it appears that Hutchens' secretary made a serious effort to locate the file and Lyles, after being informed of the Hoke-Leonard visit, went to considerable lengths that same day to inform Southern that the files were available (see paragraph 6, supra). Although it appears that Hoke and Leonard had no purpose in seeing the file other than to determine its availability and thereby determine Furniture City's compliance with Rule 1.526(d), their right to see it does not differ from that of any other interested party. While the Hoke-Leonard visit did raise a question as to whether Furniture City, on the day and at the time of the visit, was in technical violation of the rule, we believe that in the circumstances of this case, an issue is not warranted. Ward L. Jones, 7 FCC 2d 831, 9 RR 2d 1962 (1967).

[8] John Hutchens, secretary, director, and 10 percent stockholder of Furniture City, "is charged by Furniture City with the responsibility of maintenance of its public inspection file * * *."

INEPTNESS ISSUE

8. In support of its request, Southern alleges that the following violations of the Commission's rules and regulations by Furniture City establishes a pattern of carelessness and ineptness: (a) The failure to disclose eight business interests of its stockholders in its 1969 application in violation of Rule 1.514(a); (b) the failure to update Question 10(e), Section II of its application (FCC Form 301) to report the antitrust suits brought by the United States of America against the Wachovia Corp. and The Wachovia Bank and Trust Co., N.A. in which several Furniture City principals are stockholders in violation of Rule 1.65; (c) the addition by the Review Board in its memorandum opinion and order, 31 FCC 2d 790, 21 RR 2d 868 (1971), of an abuse of process issue against Furniture City for the manner in which it submitted a list of witnesses to be called at hearing; and (d) the addition by the Review Board of a Rule 1.65 issue in its memorandum opinion and order, 33 FCC 2d 1044, 23 RR 2d 1165 (1972), for failure to report an antitrust suit against a company in which one of its principals held an interest in violation of Commission Rule 1.65. Both the Broadcast Bureau and Southern oppose the request. The Bureau believes that the alleged disqualifying conduct is adequately covered by the existing issues; however, should the Board believe an issue is warranted, the Bureau suggests the matter be considered under the comparative issue.

9. The Review Board will deny Southern's request for an ineptness issue. In our opinion, petitioner's allegations cannot be said to demonstrate a pattern of carlessness, inadvertence, neglect, and indifference to the Commission's rules and regulations, nor does the totality of the allegations reflect adversely upon Furniture City's qualifications to be a Commission licensee. See Media, Inc., 22 FCC 2d 886, 19 RR 2d 2 (1970); compare Beamon Advertising, Inc., FCC 63R–467, 1 RR 2d 285 (1963). While a number of rule violations have been properly raised by Southern, we believe the existing and separate issues previously specified by the Board (see paragraph 8, supra) sufficiently deal with the alleged violations. See Home Service Broadcasting Corp., 22 FCC 2d 464, 18 RR 2d 972 (1970).

10. *Accordingly, it is ordered*, That the petition to enlarge issues, filed August 3, 1972, by Southern Broadcasting Co., is granted to the extent herein indicated, and is denied in all other respects; and

11. *It is further ordered*, That the petition for leave to file supplementary pleading and supplement to petition to enlarge issues, filed October 31, 1972, by Southern Broadcasting Co., is denied; and

12. *It is further ordered*, That the Rule 1.65 issue against Furniture City Television Co., Inc., added by the Review Board by memorandum opinion and order (33 FCC 2d 1044, 23 RR 2d 1197, released Mar. 22, 1972) is broadened to include the matters as indicated above.

Adopted: January 10, 1973.

Released: January 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[10]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73-1218 Filed 1-18-73;8:45 am]

[Dockets Nos. 15461, etc.; FCC 73R–8]

CHAPMAN RADIO & TELEVISION CO. ET AL.

Memorandum Opinion and Order Enlarging Issues

In re applications of William A. Chapman and George K. Chapman, d/b/a Chapman Radio & Television Co., Homewood, Ala., Docket No. 15461, File No. BPCT–3283; Alabama Television, Inc., Birmingham, Ala., Docket No. 16760, File No. BPCT–3706, Birmingham Broadcasting Co., Birmingham, Ala., Docket No. 16761, File No. BPCT–3707; for construction permit for new television broadcast station, Birmingham Television Corp. (WBMG), Birmingham, Ala., Docket No. 16758, File No. BPCT–3663, for modification of construction permit.

1. The above-captioned mutually exclusive applications were designated for hearing by order, FCC 66–636, released July 20, 1966. Presently before the Review Board is a joint petition to enlarge issues,[1] filed November 28, 1972, by Birmingham Television Corp. (WBMG) and Alabama Television, Inc., requesting an issue to determine whether Birmingham Broadcasting Co. (BBC) possesses the requisite character qualifications to be a Commission licensee.[2]

2. A character qualifications issue will be added. As petitioners note, a final criminal conviction was entered in the U.S. Court of Appeals for the Fifth Circuit against Oscar E. Hyde, a principal of BBC, for multiple violations of Section 1951 of title 18 of the United States

[10] Board member Kessler dissenting with respect to the requested Rule 1.526 and the ineptness issues.

[1] Other related pleadings before the Board for consideration are: (a) Opposition, filed Dec. 11, 1972, by BBC; (b) Broadcast Bureau's comments, filed Dec. 12, 1972; and (c) reply, filed Dec. 15, 1972, by WBMG.

[2] The Board notes that the joint petition is untimely and that petitioners have failed to show good cause for their tardiness. However, in view of the serious public interest questions raised by the allegations, the joint petition shall be considered. See Medford Broadcasters, Inc. (KDOV), 18 FCC 2d 699, 16 RR 2d 900 (1969); The Edgefield-Saluda Radio Co., 5 FCC 2d 148, 8 RR 2d 611 (1966).

Code.[3] Violation of Federal law, either by an applicant or one of its principals, on its face, raises a sufficient question regarding character to merit careful examination in order to determine whether an applicant is qualified to operate a broadcast station in the public interest.[4] Contrary to BBC's assertions, Hyde's belated attempts to disassociate himself and his unlawful conduct from the corporate applicant do not affect our determination, since he remains a principal of the applicant.[5]

3. *Accordingly, it is ordered,* That joint petition to enlarge issues, filed November 28, 1972, by Birmingham Television Corp. (WBMG) and Alabama Television, 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 to include the following:

To determine in light of the conviction of Oscar E. Hyde for violations of 18 U.S.C. § 1951, whether Oscar E. Hyde and Birmingham Broadcasting Co. are qualified to own and operate a television broadcast station in Birmingham, Ala.; and

5. *It is further ordered,* That the burden of proceeding with the introduction of evidence shall be on Birmingham Television Corp. (WBMG) and Alabama Television, Inc., and the burden of proof under this issue shall be on Birmingham Broadcasting Co.

Adopted: January 8, 1973.

Released: January 10, 1973.

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

[FR Doc.73-1219 Filed 1-18-73;8:45 am]

[Docket No. 19325]

ITU WORLD ADMINISTRATIVE RADIO CONFERENCE

Extension of Time for Comments

Order. In the matter of preparation for the ITU World Administrative Radio Conference for Maritime Mobile Telecommunications to be convened at the beginning of 1974, Docket No. 19325.

1. On November 1, 1972, the Commission adopted its Second Notice of Inquiry in this proceeding, preparatory to a World Administrative Radio Conference for Maritime Mobile Telecommunications (WARC-MAR) to be convened by the International Telecommunication Union in Geneva, on April 22, 1974, and requested comments to be filed on or before November 30, 1972, and reply comments on or before December 15, 1972.

2. The aforementioned deadlines were extended by the Commission's Order of November 17, 1972, due to the unavailability until November 28 of copies of the Preliminary Views of the United States for the Conference, from November 30 to December 31 for the filing of comments and from December 15 to January 15 for reply comments.

3. While copies of the preliminary views have been available in limited quantities at the Commission from November 28 onward, it has now become apparent that, because of absences during the holiday season, many interested parties were unable to file comments by the closing date of December 31 (January 2, 1973). In view of the importance of obtaining the greatest number and variety of comments in this proceeding and recognizing the number of late comments expected to be filed, the filing period is being extended to the maximum, but limited by the deadlines necessary to meet international commitments.

4. Accordingly, the date for filing comments in this proceeding is further extended from January 2 to January 15, and reply comments from January 15 to January 31, 1973. Authority for this action is taken pursuant to § 0.251(b) of the Commission's rules.

Adopted: January 11, 1973.

Released: January 11, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN W. PETTIT,
General Counsel.

[FR Doc.73-1220 Filed 1-18-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP71-119]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Motion of Monroe City, Mo. for Extraordinary Relief

JANUARY 16, 1973.

On January 11, 1973, Monroe City, Mo. (Monroe) filed a petition for emergency relief under the Panhandle Eastern Pipe Line Co. (Panhandle) interim curtailment tariff, approved by the Commission on June 20, 1972, in the above proceeding. Monroe seeks an order temporarily waiving or modifying the aforementioned interim curtailment plan in order to obtain additional volumes of natural gas beyond its authorized contract demand and a waiver of the penalty provisions pertaining to excessive takes.

In its petition, Monroe alleges that it is a small town with a population of 2,500, and that it owns and operates the municipal gas and electric utility serving the community's residential and small commercial customers. It purchases its entire natural gas supply from Panhandle under a contract entitling it to firm service up to a maximum demand of 2,600 Mc.f. per day.

Monroe's electric generating plant supplies the city's entire electric requirements and is not interconnected with any other utilities. Hence, it stated it is unable to acquire power from other sources in the event that its plant becomes inoperative as a result of an emergency. It contends that the power generated in its plant is essential to meet human needs requirements throughout the community. Homes in Monroe, which are heated by oil or gas, also require electricity to operate oil- and gas-burning furnaces. Additionally, other essential community services such as water supply, fire protection, and sewage treatment are wholly dependent upon the operation of the city's powerplant.

The Monroe powerplant is a dual-fuel facility capable of burning either natural gas or fuel oil. At offpeak periods gas is normally burned in the powerplant, and oil is burned during periods when its gas allocation is needed to serve its residential and commercial loads. At the present time, the entire daily gas allocation is being used to serve residential and small commercial loads. The powerplant and all interruptible customers have been fully curtailed.

During the recent cold spell, Monroe states it has experienced difficulty in obtaining supplies of No. 2 fuel oil. Its local supplier has indicated that it will provide an additional 6,500 gallons of oil on January 11, 1973, but that no additional supplies would be forthcoming for this winter. Monroe has also sought to obtain additional fuel from other suppliers in the region, and has solicited the assistance of the regional Office of Emergency Preparedness in its efforts to obtain fuel oil.

Monroe contends that in the event further fuel oil supplies are not forthcoming, it will be forced to take up to 600 Mcf per day from Panhandle in excess of its daily contract demand in order to keep the plant running. Hence, it anticipates that it may be required to take 3,200 Mcf per day from Panhandle in order to keep generating electricity.

In its aforementioned petition, Monroe seeks a waiver of the provisions of Article VI(E)(1) of the interim curtailment plan approved by the Commission on June 20, 1972. As it relates to Monroe, this provision enables it to exceed its curtailment allocation without payment of the $10 per Mcf penalty charge as long as it does not add new industrial usage, or exceed its contract demand entitlement. Monroe has been able to fully comply with those conditions until this time. However, it contends that the current emergency situation, which is beyond its control, could require it to

[3] In a previous Memorandum Opinion and Order, 7 FCC 2d 461, 9 RR 2d 727 (1967), the Board held that it was preferable to await the final outcome of the criminal proceeding against Hyde and to impose a condition on a possible grant of BBC's application, rather than to specify issues against the applicant. However, since the conviction has become final, there is no further impediment to specifying a character issue against BBC.

[4] See Report on Uniform Policy as to Violation by Applicants of Laws of the United States, 1 RR pt. 3, 91:495 (1951).

[5] In this connection, the Board notes that the BBC amendments reflecting Hyde's resignation as officer and director of BBC, and the divestiture and transfer of his 26.7 percent stock interest in the applicant were refused by the presiding judge by Memorandum Opinions and Orders, FCC 67M-122, released Jan. 24, 1967, and FCC 70M-1411, released Oct. 14, 1970. The Board also notes its agreement with the Broadcast Bureau that the issue need not encompass a determination of all the facts and circumstances surrounding the conviction since they have already been adjudicated by an appropriate court.

exceed its contract demand by up to 600 Mcf per day. Under such circumstances, it would be subjected to daily penalties of up to $6,000. Monroe contends it could not sustain such an economic burden. It points out that if it were to use its contract demand of 2,600 Mcf per day during 29 days of the month and 3,200 Mcf on a single day when completely out of fuel oil that the penalty incurred for such usage could possibly be $64,000. It stresses again that such a penalty incurred for such usage would be beyond the scope of its financial resources.

Hence, Monroe requests that the Commission order Panhandle to deliver to it a quantity of natural gas that would exceed its contract demand by 600 Mcf and further enable it to take such volumes without incurring the penalties provided under Article VI E(1) of Panhandle's interim curtailment plan.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 5, 15, and 16 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the request is required by the public convenience and necessity. If a petition for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1233 Filed 1-18-73;8:45 am]

TASK FORCE ON ENVIRONMENTAL CONSIDERATIONS AND IMPACTS OF THE TECHNICAL ADVISORY COMMITTEE ON FUELS

Agenda of Meeting

Agenda for a meeting of the Task Force on Environmental Considerations and Impacts of the Technical Advisory Committee on Fuels, to be held at the Federal Power Commission Offices, 441 G Street NW., Washington, DC, January 25, 1973, immediately following adjournment of meeting of Technical Advisory Committee on Fuels and in room as announced.

1. Meeting called to order.
2. Objectives and purposes of meeting.
A. Development of task force assignment from TAC on fuels.
B. Assignment of duties.
C. Other business.
D. Date of next meeting.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1301 Filed 1-18-73;8:45 am]

TASK FORCE ON FUELS AVAILABILITY OF THE TECHNICAL ADVISORY COMMITTEE ON FUELS

Agenda of Meeting

Agenda for a meeting of the Task Force on Fuels Availability of the Technical Advisory Committee on Fuels to be held at the Federal Power Commission Offices, 441 G Street NW., Washington, DC, January 25, 1973, immediately following adjournment of meeting of Technical Advisory Committee on Fuels, and in room as announced.

1. Meeting called to order.
2. Objectives and purposes of meeting.
A. Development of task force assignment from TAC on fuels.
B. Assignment of duties.
C. Other business.
D. Date of next meeting.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1298 Filed 1-18-73;8:45 am]

TASK FORCE ON FUEL USE ALTERNATIVES OF THE TECHNICAL ADVISORY COMMITTEE ON FUELS

Agenda of Meeting

Agenda for a meeting of the Task Force on Fuel Use Alternatives of the Technical Advisory Committee on Fuels, to be held at the Federal Power Commission Offices, 441 G Street NW., Washington, DC, January 25, 1973, immediately following adjournment of meeting of Technical Advisory Committee on Fuels, and in room as announced.

1. Meeting called to order.
2. Objectives and purposes of meeting.
A. Development of task force assignment from TAC on fuels.
B. Assignment of duties.
C. Other business.
D. Date of next meeting.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1300 Filed 1-18-73;8:45 am]

TASK FORCE ON UTILITY FUELS REQUIREMENTS OF THE TECHNICAL ADVISORY COMMITTEE ON FUELS

Agenda of Meeting

Agenda for a meeting of the Task Force on Utility Fuels Requirements of the Technical Advisory Committee on Fuels, to be held at the Federal Power Commission Offices, 441 G Street NW., Washington, DC, January 25, 1973, immediately following adjournment of meeting of Technical Advisory Committee on Fuels and in room as announced.

1. Meeting called to order.
2. Objectives and purposes of meeting.
A. Development of task force assignment from TAC on fuels.
B. Assignment of duties.
C. Other business.
D. Date of next meeting.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1299 Filed 1-18-73;8:45 am]

TECHNICAL ADVISORY COMMITTEE ON FUELS

Agenda of Meeting

Agenda for a meeting of the Technical Advisory Committee on Fuels, to be held at the Federal Power Commission Offices, 441 G Street NW., Washington, DC, January 25, 1973, 9:30 a.m., e.s.t., Room 2043.

1. Meeting called to order.
2. Objectives and purposes of meeting.
A. Approval of minutes of meeting November 28, 1972.
B. Report by Mr. Martinka on EAC Coordinating Committee action on Proposed Assumptions for Use by the NPS Technical Advisory Committees.
C. Assignment of topics to be covered in the draft reports of the task forces.

D. Announcement of room locations for meetings of constituent task forces on: Fuels Availability; Utility Fuels Requirements; Fuel Use Alternatives; and Environmental Considerations and Impacts.

E. Other business.

F. Date of next meeting.

3. Adjournment.

This meeting is open to the public. Any interest person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1297 Filed 1-18-73;8:45 am]

FEDERAL RESERVE SYSTEM

ALABAMA BANCORPORATION

Acquisition of Bank

Alabama Bancorporation, Birmingham, Ala., 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 Alabama National Bank of Montgomery, Montgomery, Ala. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 12, 1973.

Board of Governors of the Federal Reserve System, January 15, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1201 Filed 1-18-73;8:45 am]

K-S BANCO, INC.

Formation of One-Bank Holding Company

K-S Banco, Inc., Kellogg, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Kellogg Savings Bank, Kellogg, Iowa. 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 Chicago. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than January 31, 1973.

Board of Governors of the Federal Reserve System, January 15, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1202 Filed 1-18-73;8:45 am]

THE LEVELLAND CO.

Acquisition of Bank

The Levelland Co., Levelland, Tex., 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 Sundown State Bank, Sundown, Tex. 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 Dallas. 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 February 12, 1973.

Board of Governors of the Federal Reserve System, January 15, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1203 Filed 1-18-73;8:45 am]

PATAGONIA CORP.

Proposed Acquisition of Creditel Corporation of Nebraska Nos. 1, 2 and 4

Patagonia Corp., Tucson, Ariz., 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 through its subsidiary, Model Finance Co., voting shares of Creditel Corporation of Nebraska No. 1, Omaha; Creditel Corporation of Nebraska No. 2, Omaha; and Creditel Corporation of Nebraska No. 4, Columbus, all located in the State of Nebraska and each of which is a wholly owned subsidiary of Creditel Corp., Omaha, Nebr. Notice of the application was published on November 17, 1972, in the Omaha World-Herald, a newspaper circulated in Omaha, Nebr.

Applicant states that the proposed subsidiary would engage in the activities of making, acquiring, or servicing loans or other extensions of credit for personal, family, or household purposes, and acting as insurance agent or broker in selling insurance to borrowers from such finance subsidiaries, to include credit life insurance, accident and health insurance, and property damage insurance for collateral supporting loans made by such finance subsidiaries. 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 San Francisco.

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 February 8, 1973.

Board of Governors of the Federal Reserve System, January 12, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1204 Filed 1-18-73;8:45 am]

FEDERAL TRADE COMMISSION

CORPORATE PATTERNS SURVEY

Authorization of Collection of Economic Reports

Notice is hereby given that the Federal Trade Commission pursuant to section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) has approved, adopted, and entered of record the following resolution:

Whereas, the Federal Trade Commission is authorized by section 6 of the Federal Trade Commission Act to gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of corporations (as specified in the Federal Trade Commission Act) engaged in commerce, and their relation to other corporations and to individuals, associations, and partnerships; and

Whereas, the Federal Trade Commission may require that such corporations file annual or special reports, or both, furnishing to the Commission such information as may be needed as to their organization, business, conduct, practices, management, and their relation to other corporations, partnerships, and individuals; and

Whereas, it is deemed necessary in the public interest for the Federal Trade Commission to gather information as to the nature of business and the relation of such corporations to other corporations, individuals, associations, and partnerships, as to the ownership of such

corporations, as to various financial characteristics of such corporations, and as to the value of sales or output by product class and other category of such corporations which are interrelated in varying degrees with other corporations, individuals, associations, and partnerships within the various industries and lines of commerce in the United States and outside the United States, for the purpose of making the reports authorized under section 6(f) of the Federal Trade Commission Act and aiding in the enforcement and administration of statutes committed to the Commission.

Now, therefore, it is hereby resolved that the Federal Trade Commission, in the exercise of the powers vested in it by section 6 of the Federal Trade Commission Act, and with the aid of any and all powers conferred upon it by law and any and all compulsory processes available to it, do forthwith proceed to investigate and collect information, including information in the form of reports, of the nature and for the purposes hereinabove stated, from such corporations engaged in commerce as may be designated by the Commission pursuant to general or special orders.

By direction of the Commission dated September 28, 1972.

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

[FR Doc.73-1195 Filed 1-18-73;8:45 am]

LAUNDERING PROCEDURES FOR CARPETS AND RUGS

Extension of Requirement

The Commission by notice published in the FEDERAL REGISTER on May 19, 1972 (37 FR 10104), announced that it had determined to suspend temporarily the present washing requirement under DOC FF 1-70 for carpets containing alumina trihydrate in the backing until September 15, 1972, during which time public hearings would be held for the purpose of (1) considering the possible need for an alternative washing procedure, (2) considering the adoption of specified alternative procedures proposed in the course of the hearings, and (3) obtaining information concerning alumina trihydrate and other substances possessing flame retardant properties and their utilization and characterization as fire retardant treatments. (The suspension of washing procedures did not apply to carpets that are subject to DOC FF 2-70.) Such suspension was subsequently extended to November 3, 1972, by notice published in the FEDERAL REGISTER on September 21, 1972 (37 FR 19674), and further extended to January 2, 1973, by notice published in the FEDERAL REGISTER on November 22, 1972 (37 FR 24853).

In view of unavoidable complications which arose during the analysis of the proposed alternative laundering procedure by the National Bureau of Standards and the Laboratory of the Federal Trade Commission, which prevented a final determination of this matter by January 2, 1973, the Commission has determined to extend its suspension of the present washing requirement under DOC FF 1-70 for carpets containing alumina trihydrate in the backing until March 6, 1973.

By direction of the Commission dated January 9, 1973.

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

[FR Doc.73-1194 Filed 1-18-73;8:45 am]

POSTAL RATE COMMISSION

CORRESPONDENCE REGARDING CERTAIN DATA REQUESTS

Notice of Availability for Inspection

JANUARY 16, 1973.

Notice is hereby given that, pursuant to Subpart A, § 3001.42(b)(6) of the Commission's rules of practice and procedures [39 CFR 3001.42(b)(6)], correspondence between Postal Rate Commission staff officials and officials of the U.S. Postal Service has been placed in the Commission's Reading Room at its offices located in Suite 500, 2000 L Street NW., Washington, DC. The correspondence consists of data requests initiated by Postal Rate Commission staff officials and the responses thereto by the Postal Service.

The correspondence is available for inspection and copying during the Commission's regular business hours, 8:45 a.m. to 5:15 p.m., Monday through Friday.

By Direction of the Commission.

JOSEPH A. FISHER, *Secretary.*

[FR Doc.73-1156 Filed 1-18-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

SPENCE & GREEN CHEMICAL CO.

Order Suspending Trading

JANUARY 11, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.50 par value, and all other securities of Spence & Green Chemical Co., 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 from 10 a.m. e.s.t., on January 12, 1973, through January 21, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-1284 Filed 1-18-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Rev. S.O. 994; I.C.C. Order 81]

ANN ARBOR RAILROAD CO.

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, Agent, the Ann Arbor Railroad Co. is unable to transport traffic over its car ferry between Frankfort, Mich., and Manitowoc, Wis., because of damage to its boat *Arthur K. Atkinson*.

It is ordered, That:

(a) The Ann Arbor Railroad Co. being unable to transport traffic over its car ferry between Frankfort, Mich., and Manitowoc, Wis., because of damage to its boat *Arthur K. Atkinson*, that line is hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 5 p.m., January 11, 1973.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 31, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 11, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-1192 Filed 1-18-73;8:45 am]

[Notice 159]

ASSIGNMENT OF HEARINGS

JANUARY 16, 1973.

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 97904 Sub 13, Knoxville-Maryville Motor Express, Inc., now assigned January 30, 1973, at Nashville, Tenn., is postponed indefinitely.

MC-117943 Sub 1, Joseph M. Booth, doing business as J. M. Booth Trucking, now assigned hearing January 24, 1973, at Miami, Fla., will be held in room 208, Federal Building, 51 Southwest First Avenue, Miami, Fla.

MC 134082 Sub 6, K. H. Transport, Inc., now assigned January 17, 1973, at Washington, D.C., is cancelled and transferred to modified procedure.

MC 83539 Sub 353, C. & H. Transportation Co., Inc., now assigned February 13, 1973, at Washington, D.C., is cancelled and application dismissed.

MC 106274 Sub 17, Raeford Trucking Co., now assigned January 23, 1973, at Raleigh, N.C., will be held in room 342, Federal Building, 310 New Bern Avenue.

AB 52, New Mexico Central Railway Co., and The Atchison, Topeka and Santa Fe Railway Co., Abandonment Between Willard and Calvert, Torrance County, N. Mex., now being assigned February 28, 1973, at Estancia, N. Mex., in a hearing room to be later designated.

MC-134599 Sub 46, Interstate Contract Carrier Corp., now assigned February 15, 1973, at Washington, D.C., is cancelled and application dismissed.

MC 100666 Sub 219, Melton Truck Lines, Inc., now being assigned March 5, 1973 (3 days), at Albuquerque, N. Mex., in a hearing room to be later designated.

MC 1334 Sub 11, Riteway Transport, Inc., now being assigned March 12, 1973 (1 week), at Cortez, Colo., in a hearing room to be later designated.

MC-115113 Sub 30, Iowa Packers, Xpress, Inc., now assigned January 31, 1973, at Omaha, Nebr., is cancelled and transferred to modified procedure.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-1186 Filed 1-18-73;8:45 am]

[Rev. S.O. 994; ICC Order 80]

BEAVER, MEADE, AND ENGLEWOOD RAILROAD CO. AND MISSOURI-KANSAS-TEXAS RAILROAD CO.

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, agent, because of track conditions, the Beaver, Meade and Englewood Railroad Co. is unable to transport traffic over its entire line, and the Missouri-Kansas-Texas Railroad Co. is unable to transport traffic over its line between Altus, and Forgan, Okla., in time to clear these lines prior to January 15, 1973, the effective date of their abandonments.

It is ordered, That:

(a) Because of track conditions, the Beaver, Meade and Englewood Railroad Co., being unable to transport traffic over its entire line, and the Missouri-Kansas-Texas Railroad Co. being unable to transport traffic over its line between Altus and Forgan, Okla., in time to clear these lines prior to January 15, 1973, the effective date of their abandonments, these carriers are hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11 a.m., January 10, 1973.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 26, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 10, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-1189 Filed 1-18-73;8:45 am]

[Ex Parte No. 241; Rule 19, Third Rev. Exemption 22]

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

It appearing, That there are substantial movements of grain and grain products moving in plain, 40-foot, narrow-door boxcars between points on the following railroads:

Chicago, Rock Island and Pacific Railroad Co.
Missouri Pacific Railroad Co.
St. Louis-San Francisco Railway Co.
Union Pacific Railroad Co.

and that unlimited exchange of such cars among these railroads will increase car utilization by reductions in switching and other movements of empty cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC R.E.R. No. 386, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches or less and equipped with doors less than 9-feet wide owned by any of the aforementioned railroads and located empty on such lines, may be loaded with grain or grain products, as defined herein, to stations located on any of the aforementioned railroads. When so loaded, such cars shall be exempt from the provisions of Car Service Rules 1 and 2.

The term "grain and grain products" shall comprise the commodities specifically named in lists 1, 2, 5, 6, 7, and 8 published in Western Trunk Lines Freight Tariff 330-U, ICC A-4797, issued

by Fred Ofcky, supplements thereto, or consecutive issues thereof.

Effective: January 15, 1973.

Expires: April 30, 1973.

Issued at Washington, D.C., January 12, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-1191 Filed 1-18-73;8:45 am]

[No. MC-42963 (Sub-No. 45)]

DANIEL HAMM DRAYAGE CO.

Extension; Overland Ink; Order Requesting Compliance

At a session of the Interstate Commerce Commission, Review Board No. 3, held at its office in Washington, D.C., on the seventh day of December, 1972.

Investigation of the matters and things involved in this proceeding having been made, and said review board, on the date hereof, having made and filed a report herein containing its findings of fact and conclusions thereon: [1]

It is ordered, That unless compliance is made by applicant with the requirements of sections 215, 217, and 221(c) of the Interstate Commerce Act within 90 days after the date of service hereof, or within such additional time as may be authorized by the Commission, the grant of authority made in said report shall be considered as null and void and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

By the Commission, Review Board No. 3.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-1185 Filed 1-18-73;8:45 am]

[Ex Parte No. 241; Rule 19, Corrected Exemption 11, Amdt. 3]

INDIRECT CONNECTIONS

Exemption Under Mandatory Car Service Rules

Upon further consideration of Corrected Exemption No. 11 issued July 25, 1972 (37 FR 15961).

It is ordered, That, under authority vested in me by Car Service Rule 19, Corrected Exemption No. 11 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire April 30, 1973.

This amendment shall become effective January 15, 1973.

Issued at Washington, D.C., January 12, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-1190 Filed 1-18-73;8:45 am]

[1] Findings and conclusions filed as part of the original document.

[No. MC-19157 (Sub-No. 16)]

McCORMACK'S HIGHWAY TRANSPORTATION, INC.

Extension; Electric Tractors; Denial of Application

At a session of the Interstate Commerce Commission, Review Board No. 3, held at its office in Washington, D.C., on the 1st day of December 1972.

Investigation of the matters and things involved in this proceeding having been made, and said review board, on the date hereof, having made and filed a report herein containing its findings of fact and conclusions thereon [1]:

It is ordered, That the motion of applicant to dismiss the application be, and it is hereby, denied for the reasons stated in the report.

It is further ordered, That said application, except to the extent granted in said report, be, and it is hereby, denied.

And it is further ordered, That unless compliance is made by applicant with the requirements of sections 215, 217, and 221(c) of the Interstate Commerce Act within 90 days after the date of service hereof, or within such additional time as may be authorized by the Commission, the grant of authority made in said report shall be considered as null and void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

By the Commission, Review Board No. 3.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc. 73-1184 Filed 1-18-73;8:45 am]

[Rev. S.O. 994; I.C.C. Order No. 57-A]

PENN CENTRAL RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 57 (Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees), and good cause appearing therefor:

It is ordered, That:

(a) I.C.C. Order No. 57 be, and it is hereby, vacated and set aside.

(b) *Effective date.* This order shall become effective at 11:59 p.m., January 15, 1973.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 12, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-1188 Filed 1-18-73;8:45 am]

[1] Findings and conclusions filed as part of the original document.

[Ex Parte No. 241; Rule 19, Rev. Exemption 16]

PITTSBURGH AND LAKE ERIE RAILROAD CO.

Exemption Under Mandatory Car Service Rules

It appearing, that the Pittsburgh & Lake Erie Railroad Co. (P&LE) owns numerous open hoppers; that, under present conditions, there is virtually no demand for these cars on the P&LE; that return of these cars to the P&LE has resulted in their being stored idle on that line; that such accumulation of idle cars has resulted in excessive congestion on the lines of the P&LE and storage of cars on main and auxiliary tracks, greatly interfering with service to shippers served by that line and with normal train and switching operations; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the P&LE; and that compliance with Car Service Rules 1 and 2 prevents such use of open hoppers owned by the P&LE, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, open hoppers described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 386, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation HK, HT, or HM and bearing reporting marks assigned to the Pittsburgh & Lake Erie Railroad Co., shall be exempt from the provisions of Car Service rules 1, 2(a), and 2(b).

Effective: January 10, 1973.

Expires: April 30, 1973.

Issued at Washington, D.C., on January 10, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-1193 Filed 1-18-73;8:45 am]

[Notice 195]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before February 8, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding

pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–74012. By order of January 10, 1972, the Motor Carrier Board approved the transfer to Charles L. Bartleson, doing business as W. C. Leasing, Pedricktown, N.J., of Permits Nos. MC–125826 Subs 2, 5, 6 and 8, issued March 28, 1968, June 5, 1969, May 31, 1972, and November 29, 1971, respectively, to Bartleson Brothers, Inc., Penns Grove, N.J., authorizing the transportation of: Liquefied and solidified carbon dioxide from and to points in New York, New Jersey, Connecticut, Massachusetts, Pennsylvania, Rhode Island, Virginia, Maryland, Ohio, West Virginia, and the District of Columbia. Morton E. Kiel, 140 Cedar Street, New York, NY 10006, applicants' representative.

No. MC–FC–74150. By order of January 3, 1973, the Motor Carrier Board approved the transfer to Blue & White Towing & Wrecker Service, Inc., Indianapolis, Ind., of the operating rights in Certificates No. MC–111773 and MC–111773 (Sub-No. 1) issued March 31, 1952, and April 24, 1963, respectively to Blue & White Service, Inc., Indianapolis, Ind., authorizing the transportation of wrecked and disabled motor vehicles between points in Indiana and Ohio, with exceptions, Ohio, the Lower Peninsula of Michigan, Illinois, Missouri, Tennessee, Kentucky, West Virginia, Wisconsin, Minnesota, and portions of New York, Pennsylvania, Maryland, Virginia, and North Carolina. Pete A. Pappas, 120 East Market Street, Indianapolis, IN 46204, attorney for transferee. Kirkwood Yockey, 300 Union Federal Building, Indianapolis, Ind. 46204, attorney for transferor.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73–1196 Filed 1–18–73;8:45 am]

[Ex Parte No. 241; Rule 19, Exemption 29, Amdt. 1]

WESTERN MARYLAND RAILWAY CO.

Exemption Under Mandatory Car Service Rules

Upon further consideration of Exemption No. 29 issued December 19, 1972 (37 FR 28668).

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 29 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby, amended to expire January 19, 1973.

This amendment shall become effective January 5, 1973.

Issued at Washington, D.C., January 5, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73–1187 Filed 1–18–73;8:45 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

Modifications and Supersedeas Decisions to Area Wage Determination 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 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 USC 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 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing 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. A new Area Wage Determination Decision number AP–605 for Minnesota.

Modifications to Area Wage Determination Decisions for the following States (the numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State):

Arizona	AP–221; AP–222, Aug. 18, 1972.
Arkansas	AP–319, Aug. 25, 1972.
Florida	AP–127, Nov. 17, 1972.
Kentucky	AP–141, Dec. 1, 1972.
Maryland	AP–443, Nov. 17, 1972.
Mississippi	AM–8,618; AM–8,619, June 2, 1972.
New York	AM–1,732, Aug. 11, 1971.
Oklahoma	AP–360, Nov. 17, 1972. AP–364, Dec. 8, 1972.
Pennsylvania	AM–1,855; AM–1,858, AM–1,861; AM–1,866, Aug. 20, 1971. AM–9,681, Feb. 25, 1972. AM–9,323, June 16, 1972. AP–404; AP–408, July 28, 1972. AP–423; AP–424, Sept. 29, 1972. AP–429; AP–430, Oct. 6, 1972.
Tennessee	AM–8,610, May 19, 1972. AP–138, Nov. 25, 1972.
Vermont	AP–438, Oct. 13, 1972.
Virginia	AP–441, Nov. 3, 1972. AP–443, Nov. 17, 1972.
Washington	AM–6,706, Mar. 10, 1972.
Wisconsin	AP–53; AP–54; AP–55; AP–56; AP–57; AP–58; AP–59; AP–60; AP–61; AP–62; AP–63; AP–64; AP–65; AP–66, Dec. 1, 1972. AP–70; AP–71; AP–72; AP–73; AP–74; AP–75, Dec. 8, 1972.
Wyoming	AM–2,476, Aug. 27, 1971. AP–250, Nov. 10, 1972.
Washington, DC	AP–442, Nov. 17, 1972.

Supersedeas Decisions to Area Wage Determination Decisions for 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):

Arizona	AM–6,116(AP–259), Nov. 12, 1971. AM–6,710(AP–260), Mar. 24, 1972.
Kentucky	AP–108(AP–145); AP–109(AP–143); AP–110(AP–146); AP–112(AP–147); AP–113(AP–144), Aug. 18, 1972.
Massachusetts	AP–413(AP–456); AP–414(AP–457); AP–415(AP–458); AP–416(AP–459); AP–417(AP–460); AP–418(AP–461), Sept. 1, 1972.
Minnesota	AM–2,377(AP–606); AM–2,378(AP–607); AM–2,379(AP–608); AM–2,380(AP–609); AM–2,381(AP–610), Aug. 13, 1971. AM–6,248(AP–612); AM–6,249(AP–613); AM–6,250(AP–614); AM–6,251(AP–611), Nov. 19, 1971.
Texas	AP–324(AP–372); AP–325(AP–373); AP–326(AP–374); AP–327(AP–375); AP–328(AP–376); AP–329(AP–377); AP–330(AP–378); AP–331(AP–379); AP–332(AP–380); AP–333(AP–381); AP–334(AP–382); AP–335(AP–383); AP–336(AP–384); AP–337(AP–385); AP–338(AP–386); AP–339(AP–387), Sept. 22, 1972.

Signed at Washington, D.C., this 12th day of January 1973.

BEN P. ROBERTSON,
Acting Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Minnesota
DECISION NUMBER: AP-505
COUNTY: Anoka
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (Excluding single family homes and garden type apartments up to and including 4 stories)

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	/OTH
ASBESTOS WORKERS	$8.17	.30	.35		.02	
BOILERMAKERS	7.80	.30	.85		.02	
BOILERMAKERS' HELPERS	7.55	.30	.85		.02	
BRICKLAYERS; Stonemasons	7.61	.455	.23	.56		
CARPENTERS:						
Carpenters; Millwrights; Piledrivermen	7.36	.40	.20	.50	.02	
When working with material that has been treated with toxic carbolineum or toxic creosote excluding piling	7.61	.40	.20	.50	.02	
CEMENT MASONS	7.88	.30	.25			
ELECTRICIANS (Townships of Anoka & Fridley)	8.00	4%	4%	7½%		
ELECTRICIANS (Remainder of Anoka Co.)	8.00	5%	2.5%	11.5%	1.5%	
ELEVATOR CONSTRUCTORS	7.23	.17	.185	2%a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.17	.185	2%a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	7.70	.15	.10	.13		
IRONWORKERS:						
Ornamental; Reinforcing; Structural	7.60	.40	.45		.02	
LABORERS:						
Carpenter Tender; Common laborers; Earth dumpman; Power buggy op.; Steel joist handler (Erection)	5.90	.35	.35	.40		
Reinforcing steel handlers	5.95	.35	.35	.40		
Concrete Joint saw; Laborers, demolition & wrecking (not incl. remodeling); Men handling cement 2 hours per day (bulk or sack, excl. mortar mixer)	6.00	.35	.35	.40		
Automatic tamper; Gunite machine; Concrete vibrator; Chipping hammer; Hot tar caulkers & cookers; Jackhammer; Laborers on swing stage single line scaffolds (not incl. "Patent" scaffolding); Mixers of Mortar, cement or any other substitute material or composition; Paving buster	6.05	.35	.35	.40		
Drivers on heavy building excavating; Sheeting setter; Underground work	6.15	.35	.35	.40		
Pipelayers	6.20	.35	.35	.40		
Caisson work; Underpinning	6.25	.35	.35	.40		
Nozzlemen	6.30	.35	.35	.40		
Dynamite men; Power drillers for blasting purposes	6.605	.35	.35	.40		
LATHERS	7.60	.20			.01	
MARBLE SETTERS	7.385	.305	.23	.53		
PAINTERS:						
Brush	7.60	.35	.25		.04	
Spray; Structural Steel	8.10	.35	.25		.04	
PLASTERERS	7.39	.31	.20		.01	
PLUMBERS	7.28	.38	.35	$1.25	.02	

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2-MINN-1 (2-2)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
ROOFERS:	$7.49	.39	.25			
SHEET METAL WORKERS	8.73	.32	.40		.04	
SOFT FLOOR LAYERS	7.65b	c		d		
SPRINKLER FITTERS	8.75	.30	.50		.02	
TILE SETTERS	7.59	.22	.50			
TRUCK DRIVERS	6.30	.25	.25			
WELDERS- Receive rate prescribed for craft performing operation to which welding is incidental.						

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

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.
b. Out-of-town contractors will pay the rate of $8.40 per hour with no fringe benefits payments.
c. Employer shall contribute $25.00 per month for each employee into the Health & Welfare Fund.
d. Employees with at least 1,700 hours service during the current year & one year's service, one week vacation with pay; three years' service, two weeks' vacation with pay; fifteen years' service, three weeks' vacation with pay.

2-MINN-2-3 T

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
CARPENTERS	$7.36	.40	.20	.50	.02	
PILEDRIVERMEN	7.36	.40	.20	.50	.02	
CEMENT MASONS	7.65	.30	.25			

AP-605 P. 3

MINN-1-PED-1-F (1-1)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
HELICOPTER OPERATORS (Hoisting material)	$11.40	.25	.25			
TRUCK & CRAWLER CRANES with 200' of boom & over inc. JIB	9.00	.25	.25			
TRUCK & CRAWLER CRANES with 150' of boom incl. JIB up to 200' of boom	8.65	.25	.25			
TRAVELING TOWER CRANE	8.55	.25	.25			
MASTER MECHANIC	8.45	.25	.25			
DERRICK (GUY & STIFF LEG): Hoist engineer (3 drums or more); Locomotive op., master mechanic; Overhead crane op. (inside building perimeter); Truck & crawler cranes up to 150' of boom incl. JIB	8.20	.25	.25			
AIR COMPRESSOR OPERATOR, Pump op. &/or Conveyor, 2 or more machines: Hoist engineer (2 drums); Mechanic or welder; Pumpcrete or Coneplaco type machine op.	8.08	.25	.25			
FORK LIFT OPERATOR	8.08	.25	.25			
BOOM TRUCK OPERATOR; Concrete mixer op.; Drill rigs (heavy duty rotary or churn drill when used for caisson drilling or when drilling for elevator cylinder on building construction); Fron end loader op.; Hoist engineer (1 drum); Power plant engineer (100 KWH & over); Straddle carrier op.; Tractor op. (over D-2); Well point pump op.	8.00	.25	.25			
CONCRETE BATCH PLANT OPERATOR; Gunite op.; Tractor op (D-2 or similar size & front end loader operator up to ½ cu. yd.)	7.73	.25	.25			
AIR COMPRESSOR OPERATOR, Pump &/or Conveyor op.; Fireman, Temporary heat; Brakeman; Pick up sweeper (combustion engine operated); Truck crane oiler	7.45	.25	.25			
MECHANIC SPACE HEATER (Temporary heat); Oiler or greaser	7.00	.25	.25			

AP-605 P. 4

MINN-9-LAB-2-3- (1-2)

Site preparation, excavation and incidential paving

LABORERS:

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
UNSKILLED LABORERS; Drill runner helper; Landscape gardener; Sod layer & nurseryman; Powder monkey; Reinforced steel laborer; Reinforced steel setter (pavement); Salamander heater & blower tender; Carpenter tender; Winch handler (manual)	$5.65	.35	.35	.40		
LABORER, WRECKING & DEMOLITION; Bituminous batcherman (stationary plant); Bituminous shoveler; Blacksmith helper; Bottom man (sewer, water or gas trench); Bricklayer tender; Cement handler (bulk or bag); Cement coverman (batch trucks); Compaction equipment (hand operated); Concrete shoveler, temper & puddler (paving); Concrete vibrator; Concrete batcherman (proportioning plant); Concrete longitudinal floatman (manual bull float on paving); Conduit layers (w/o wiring); Chipping hammer; Curb setter (stone or precast concrete); Dumper (wagon, truck, etc.); Dump man; Dump man (paver-batch truck, etc.); Form setter (municipal type curb & sidewalk); Formsetter (pavement); Hydrant & valve setter; Joint filler (concrete pavement); Kettleman (bituminous or lead); Service connection maker (water or gas); Power buggy; Joint sawer; Squeegeeman (bituminous brick or block); Stabilizing batcherman (stationary plant); Stonemason tender; Drill runner (heavy, incl. churn drill)	5.85	.35	.35	.40		
CHAINSAW MAN; Concrete mixer (1 bag); Jackhammer man & paving buster; Mortar mixer; Pipe handler (water, gas, cast iron); Pipe derrickman (triped, manual)	6.00	.35	.35	.40		

LABORERS CONTINUED:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
BOTTOM MAN (sewer, water or gas trench, more than 8 ft. below starting level of manual work); Tunnel laborer (Atmospheric pressure); Underground laborers; cofferdam work; Tunnel work; Underpinning work; Caisson work; Other work more than 8 ft. below starting level of manual work; Open ditch work	6.10	.35	.35	.40		
BITUMINOUS TAMPER; Pipelayer (sewer, water, gas); Sand cushion & bed maker	6.15	.35	.35	.40		
CEMENT GUN (1½ in. & over); Leadman	6.20	.35	.35	.40		
NOZZLEMEN (gunite)	6.25	.35	.35	.40		
BRICK OR BLOCK PAVING SETTER	6.28	.35	.35	.40		
BITUMINOUS RAKER, FLOATER & UTILITY MAN	6.30	.35	.35	.40		
POWDERMAN; Tunnel man (air pressure); Tunnel miner	6.53	.35	.35	.40		

Site preparation, excavation and incidental paving	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	O--
POWER EQUIPMENT OPERATORS						
DREDGE DECK HAND; Gravel screening plant (portable, not crushing or washing); Greaser truck & tractor; Leverman; Mechanic helper; Mechanic space heater (temporary heat); Oilers (power shovel, crane, dragline)	$ 6.45	.25	.25			
TRACTOR, 50 H.P. OR LESS WITHOUT POWER TAKE-OFF	6.48	.25	.25			
BATCH PLANT (Concrete); Brakeman or switchman; Conveyor; Fireman; Tank car heater; Self-propelled vibrating packer (pad type) (35 H.P. & over); Truck crane oiler	6.55	.25	.25			
AIR COMPRESSOR; Lead greaser on grease truck or grease rack (where no mechanic is employed)	6.70	.25	.25			
CONCRETE DISTRIBUTOR & SPREADER; Finishing machine; Longitudinal float; Joint machine; Spray op.; Concrete saw (multiple blade) (power operated); Fine grade op.; Form trench digger (power); Power actuated jacks; Pumps; Shouldering machine (power) (Apsco or similar type incl. self-propelled sand & chip spreader); Stump chipper; Self-propelled chip spreader (Flaherty or similar); Curb machine	6.72	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING MACHINE (Helper) (Power)	6.80	.25	.25			
CONCRETE MIXER ON JOB SITE 14s & UNDER: Front end loader, up to & incl. 1 cu. yd.; Gunite op. gunall; Loader (Barber Greene or similar type); Power acutate augers; Boring machine; Rollers up to 8 tons; Tractor, D2, TD6 or similar H.P. w/power take-off	6.83	.25	.25			
GRADER OPERATOR (Motor Patrol)	6.90	.25	.25			
ASPHALT BITUMINOUS STABILIZER PLANT: Automatic road machine (CMI or similar) Backfiller; Bituminous spreader &						

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MINN-6-PEO-2-3-E (2-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (cont'd):						
finishing machine (power); Boom truck (power operated boom); Concrete mixer, on job site over 14S; Crushing plant (gravel & stone); Gravel washing, crushing & screening plant; Dope machine (pipeline); Drill rigs; Heavy duty rotary churn or cable drills; Engineer in charge of plant requiring first class license; Fork lift; Straddle carrier; Fork lift or lumber stacker (for construction job site); Front end loader, over 1 cu. yd. up to 5 cu. yds.; Launcherman (tankerman or pilot license); Locomotives, all types; Mechanic or welder; Hoist engineer (power); Paving breaker or tamping machine (power driven) (Mighty Mite or similar type); Power actuated horizontal boring machines over 6" operator; Pick-up sweeper, 1 cu. yd. & over hopper cap.; Pipeline wrapping cleaning or bending machine; Power plant engineer 100 K.W.H. & over; Pugmill; Rollers 8 tons & over; Rubber tired tractor backhoe attachs.; Sheep foot roller (self-propelled) (3 drum & over); Slip form (power driven)(paving); Tie tamper & ballast machine; Tractor, over D2, TD6 or similar H.P. with power take-off; Tractor, over 50 H.P. without power take-off; Trenching machine (sewer, water, gas); Turnapull (or similar type); Well point installation, dismantling or repair mechanics; Two or more pumps; Compressors; Welding machines	$ 7.48	.25	.25			
SELF-PROPELLED TRAVELING SOIL STABILIZER	7.55	.25	.25			
DUAL TRACTOR; Elevating grader; Pumpcrete; Scraper struck cap. 32 cu. yd. & over	7.58	.25	.25			
CABLEWAY; Concrete Mixer, stationary plant over 43E; Derrick (Guy & stiff leg) (power) (skids or stationary); Dredge op. or engineer; Dredge op. (power) & engineer; Front end loader 5 cu. yds. & over; Grader or motor patrol, finishing, earth work & bituminous; Locomotive crane; Master						

AP-605 P. 8

MINN-6-PEO-2-3-E (3-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (cont'd):						
mechanic; Mixer (paving) concrete paving, road; Mole op. incl. power supply; Mucking machine (incl. mucking operations) (Conway or similar); Power shovel and/or other equip. with shovel type controls, up to 3 cu. yds.; Refrigeration plant engineer; Tandem scrapper; Tractor, boom type; Truck crane; Tugboat, 100 H.P. & over	$ 7.70	.25	.25			
CRANE WITH OVER 135 BOOM, EXCL. JIB; Power shovel and/or other equip. with shovel type controls, 3 cu. yds. & over	7.96	.25	.25			

MINN-3-TD-2-3- d

Site preparation, excavation and incidental paving
TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
GROUP I						
DRIVER (hauling machinery for employer's own use, incl. operation of hand & power operated winches); Truck train Mechanic; Welder; Tractor-trailer; Off-road truck	$6.80	.25	.25			
GROUP II						
TRI-AXLE (incl. four axles); Dump; Dry batch hauler; Tank truck (gas oil road oil & water); Boom & A" frame; Ready mix concrete; Slurry driver	6.50	.25	.25			
GROUP III						
BITUMINOUS DISTRIBUTOR DRIVER: Bituminous distributor (one man operation); Tandem axle.	6.40	.25	.25			
GROUP IV						
BITUMINOUS DISTRIBUTOR SPRAY (rear-end oiler); Dumpman; Grease & truck service man; Tank truck helper (gas, oil road oil & water); Teamster & stableman; Tractor op. (wheel type used for any purpose)1 Pilot car; Self-porpelled packer; Slurry op.; Single axle	6.20	.25	.25			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-221 - Mod. #3 (37 FR 16737 - August 18, 1972) Maricopa County, Arizona						
Change:						
Line Construction						
Zone Bases; Phoenix:						
Zone 1 (0-30 miles):						
Cable splicer	$8.39	.23	5%		5%	
Linemen	8.10	.23	5%		5%	
Equipment operators	7.62	.23	5%		5%	
Zone 2 (other areas):						
Cable splicer	9.53	.23	5%		5%	
Linemen	9.25	.23	5%		5%	
Equipment operators	8.78	.23	5%		5%	
Groundmen	7.80	.23	5%		5%	
DECISION #AP-222 - Mod. #4 (37 FR 16744 - August 18, 1972) Cochise and Pima Counties, Arizona						
Change:						
Line Construction:						
Zone 1 (Tucson and 30 miles radius):						
Linemen	$8.10	.23	5%		5%	
Cable splicers	8.39	.23	5%		5%	
Equipment operators	7.62	.23	5%		5%	
Groundman	6.61	.23	5%		5%	
Zone 2 (Other Areas):						
Linemen	9.25	.23	5%		5%	
Cable splicers	9.53	.23	5%		5%	
Equipment operators	8.78	.23	5%		5%	
Groundman	7.80	.23	5%		5%	
DECISION #AP-319 - Mod. #4 (37 FR 17303 - August 25, 1972) Union County, Arkansas						
Change:						
Plumbers - Pipefitters	$7.40		.30		.05	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
DECISION #AP-127 - Mod. #2 (37 FR 24531 - November 17, 1972) Dade County, Florida						
Change:						
Building Construction:						
Bricklayers:						
Bricklayers	$8.10	.40	.39			
Cement Masons	8.10	.40	.39			
Marble Masons	8.10	.40	.39			
Plasterers	8.10	.40	.39			
Stonemasons	8.10	.40	.39			
Terrazzo Workers	8.10	.40	.39			
Tile Setters	8.10	.40	.39			
Electricians:						
Electricians, welders & equip. op:						
Zone 1 - 24½ mi. radius from the Dade County Courthouse	8.80	4%	1% + .20	7%	1%	
Zone 2 - 6 mi. radius from Zone 1	9.40	4%	1% + .20	7%	1%	
Zone 3 - 6 mi. radius from Zone 2	10.00	4%	1% + .20	7%	1%	
Zone 4 - 6 mi. radius from Zone 3	10.60	4%	1% + .20	7%	1%	
Cable Splicers (25¢ an hour above journeymen's rate)						

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-141 - Mod. #2 (37 FR 25690 - December 1, 1972) Boone, Campbell & Kenton Counties, Kentucky						
Add: Pendleton County						
Change:						
Heavy & Highway Construction						
Truck Drivers:						
Truck Helper	$5.44	a	b			
Driver, 3 Tons and Under; Greaser, Tire Changer and Mechanic Helper	5.55	a	b			
Driver, Over 3 Tons; Driver of Distributors; Driver, Dump Truck Tandem Axle; Driver, Semi-Trailer or Pole Trailer when used to pull Building Material or Equipment; Truck Mechanic	5.73	a	b			
Driver on Mixer Trucks (All types)	5.76	a	b			
Driver, Euclid and Other Heavy Earth-Moving Equipment and Low Boy; Driver, Fork Lift Truck when used to transport building materials; Driver on Pavement Breakers; Driver, Winch Truck and A-Frame Truck when used in transporting materials	5.83	a	b			

Footnotes:

a. $9.50 per week for each employee.

b. $12.00 per week for each employee who has been employed a minimum of twenty (20) workdays within any ninety (90) consecutive day period for that employer.

MODIFICATIONS P. 4

Kentucky 3-FEO-F (1-2)

DECISION #AP-141 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Highway Construction						
Power Equipment Operators:						
Class A						
Air Compressor on Steel Erection, Boiler Operator on Compressor or Generator when mounted on a rig, Cableways, Combination Concrete Mixer and Tower, Concrete Plants (over 4 yd. capacity), Concrete Pumps, Cranes (all types, including A Frames, Boom Trucks, Cherry Pickers), Derricks, Draglines, Dredge (dipper, clam or suction), Elevating Grader or Euclid Loader, Floating Equipment (all types), Helicopter Crew (Operator-hoist or winch), Hoes (all types), Hoisting Engines on Shaft or Tunnel Work, Hoisting Engines, Industrial-Type Tractor, Jet Engine Dryer (D8 or D9) Diesel Tractor, Locomotives (Standard Gauge), Maintenance Operator Class A, Mixer, Paving (Single or Double Drum), Mucking Machines, Multiple Scraper, Piledriving Machines (all types), Power Shovels, Quad 9 (double pusher), Refrigerating Machine (freezer operation), Rotary Drill on Caisson Work, Slip-Form Paver, Survey Crew Party Chief, Tower Derricks, Tree Shredder, Trench Machines (over 24" wide), Truck Mounted Concrete Pumps, Tug Boat, Tunnel Machine, Wheel Excavator	$7.41	.38	.65		.09	
Class B						
Asphalt Paver, Automatic Subgrade Machine, Self-propelled (CMI type), Bulldozers, endloader, Koiman Loader (production type - Dirt), Lead Grease Man, Maintenance Operators Class B, Power Grader, Power Scoops and Scrapers, Push Cat, Trench Machines (24" wide and under).	7.34	.38	.65		.09	
Class C						
Air Compressors on Tunnel Work (low pressure), Asphalt Plant Engineer, Locomotive (narrow gauge), Mixers, Concrete (more than one bag capacity), Mixers, one bag capacity (side loader), Power Boilers over 15 lb. pressure, Pump Operator installing						

Kentucky 3-P80-F (2-2)

DECISION #AP-141 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
Highway Construction						
Power Equipment Operators (cont'd):						
Class C (cont'd)						
and operating Well Points, Pumps (4" and over discharge), Rollers (Asphalt, Utility Operator (small equipment), Welding Machines and Generators	$6.73	.38	.65		.09	
Class D						
Backfillers, Bar, Joint and Mesh Installing Machines, Batch Plant, Bull Floats, Burlap and Curing Machines, Compressors (portable, sewer, heavy and highway), Concrete Plant (capacity 4 yd. and under), Concrete Saw (multiple), Conveyors (highway), Crushers, Deckhand, Drill, highway (with integral power), Farm type tractors with attachments (highway), Finishing Machines, Fireman, Floating Equipment (all types), Fork Lift (highway), Form Trenchers, Hydro Seeders, Plant Mixers, Post Driver, Post Hole Digger (power auger), Power Brush Burner, Power Form Handling Equipment, Road Widening Trencher, Rollers (brick, grade, macadam), Self-propelled Power Spreaders, Self-propelled Power Subgraders, Steam Fireman, Survey Instrument Man, Tractor (pulling sheepfoot roller or grader), Vibratory Compactors (with integral power)	6.46	.38	.65		.09	
Class E						
Drum Fireman (asphalt plant), Helpers, Inboard-Outboard Motor Boat-Launch, Oil Heaters (asphalt plants), Oilers, Power Driven Heaters, Pumps (Under 4" discharge), Signalmen, Survey Rodmen or Chainmen, Tire Repairmen	5.78	.38	.65		.09	

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-8618 - Mod. #5 (37 FR 11140 - June 2, 1972) Hinds County, Mississippi						
Change:						
Plumbers and steam fitters	$6.92	.15	.15			
DECISION #AM-8619 - Mod. #4 (37 FR 11142 - June 2, 1972) Harrison and Pearl River Counties, Mississippi						
Change:						
Bricklayers:						
Bricklayers, stone masons, marble masons, block masons, caulkers and pointers	6.70					
Plasterers, terrazzo workers and tile setters	6.60					
Cement masons	6.08					
Electricians	7.05	.25	1% + .20			c
Cable splicers	7.30	.25	1% + .20			c
Laborers:						
Laborers	3.95					
Vibrator-jackhammer, mortar mixer, pipelayers (sewer; power saw op.)	4.15					
Mason tenders, plasterers' tenders	4.05					

MODIFICATIONS P. 7

DECISION #RM-1,732 - Mod. #5
(36 FR 14965 - August 11, 1971)
Orange County, New York

Change:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Building Construction:						
Laborers, (Building):						
Laborers, common, mason tender, mortar mixers, hod carriers, scaffold builder, concrete men, vibrator men, poured gypsum roof work, wrecking, walking power buggy men, landscaper and chipping hammer (air or electric 1" or under), flagmen, signal men	$6.77	.50	.50	b+.50		
Asphalt men pipe layers, air or electric jackhammer, powdermen, gunnite, sandblasting, barmen, chain saw, riding power buggy, vibro, barco, joy tamper or similar, walk behind roller, air track, wagon, joy and jib drills, all fork lifts	7.02	.50	.50	b+.50		
Grade, pipe, concrete clearing, black top, drill, paving, etc; blaster, form setter, burner (acetylene torch), Ingersoll-Rand, heavy duty crawler-master type BCM2 drill machines or equivalent; all wrecking work fifty (50) feet or more above grade	7.42	.50	.50	b+.50		

MODIFICATIONS P. 8

DECISION #AP-360 - Mod. #5
(37 FR 24606 - November 17, 1972)
Oklahoma City, Oklahoma

Change:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
Roofers	$6.50		.25		.04	
Sheet metal workers	7.40	.30	.25		.05	
Carpenters:						
Carpenters	6.90	.20			.02	
Millwrights	7.15	.20			.02	
Piledrivermen & power saw operator	7.15	.20			.02	

DECISION #AP-364 - Mod. #2
(37 FR 26249 - December 8, 1972)
Tulsa County, Oklahoma

Change:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
Roofers	6.50		.25		.04	
Glaziers	6.125	.25	.30		.01	
Painters:						
Brush	6.15					
High work & stage	6.55					
Spray & sandblasting	6.80					
Hot or bituminous	7.45					
Sheetrock handtools	6.15					
Sheetrock power tools	6.50					
Hazardous work	8.35					

DECISION #RM-1,866 - Mod. #6
(36 FR 16335 - August 20, 1971)
29 Eastern Counties, Pennsylvania

Change:
Laborers & Truck Drivers' Schedule
(See Modifications P. 9)

DECISION #AM-1,866 (Cont'd.)

PA-22-LAB-TD-2-3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Carpenters/Piledrivermen	$7.09	.20	.25			
Laborers:						
Asphalt Tampers and Asphalt Rakers, Concrete Pitmen, Puddlers & Rubbers, Highway Slab Reinforcement Placers, Laborers, Landscape, Planters, Seeders and Arborists, Magazine Tenders, Railroad Trackmen & Signalmen	5.23	.20	.20			
Pneumatic Tool Operators, Jackhammers, Paving Breakers, Concrete Saws, Wacker, Vibrators, Chain Saws, Steward	5.43	.20	.20			
Pipelayers	5.43	.20	.20			
Caisson-open air-below 8 feet, Cofferdam open air-below 8 feet, where excavations for circular caissons and cofferdams 8 feet and below level of natural grade adjacent to starting point, Form Setters (Road) Wagon Drill, Diamond Point Drill, Gunite nozzle Operators	5.78	.20	.20			
Blasters	6.01	.20	.20			
Reinforcing Steel Placers, Bonding, Aligning and Securing	6.07	.20	.20			
Concrete Surfacers	6.45	.20	.20			
Free Air Tunnels and Rocks Shafts						
Outside Laborers in conjunction with tunnels and rock shafts	5.87	.20	.20			
Chuck Tenders, Muckers, Nippers, Miners' and Drillers Helpers, Inside Laborers	6.16	.20	.20			
Miners, Drillers, Blasters, Pneumatic Shield Opers., Liming, Spotting and Timber Workmen	6.64	.20	.20			
Truck Drivers:						
Class I						
Helper, Stake Body Truck (Single axle), Dumpster	5.99					
Class II						
Dump Trucks, Tandem & Batch Trucks, Semi-Trailers, Agitator Mixer Trucks, Ready Mix and Dumpcrete Type Vehicles, Asphalt Distributors, Farm Tractor when used for transportation, Stake Body Truck (Tandem)	6.06					
Class III						
Euclid Type, Off-Highway Equipment - Back or Belly Dump Trucks and Double-Hitched Equipment, Straddle (Ross) Carrier, Low-Bed Trailers	6.55					

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-1,855 - Mod. #9 (36 FR 16281 - August 20, 1971) Lackawanna County, Pennsylvania						
Change:						
Heavy & Highway Construction:						
Laborers & Truck Drivers' Schedule (See Modifications P. 13)						
DECISION #AM-1,858 - Mod. #8 (36 FR 16294 - August 20, 1971) Luzerne County, Pennsylvania						
Change:						
Heavy & Highway Construction:						
Laborers & Truck Drivers' Schedule (See Modifications P. 13)						
DECISION #AM-1,861 - Mod. #6 (36 FR 16310 - August 20, 1971) Northampton County, Pennsylvania						
Change:						
Heavy & Highway Construction:						
Laborers & Truck Drivers' Schedule (See Modifications P. 13)						
DECISION #AM-9,323 - Mod. #4 (37 FR 12023 - June 16, 1972) Philadelphia County, Pennsylvania						
Change:						
Building Construction:						
Asbestos workers	$10.15	.40	.50			
Cement masons	7.73	.89	.27			
Electricians	9.00	.36	1% + .36		2%	
Ironworkers:						
Structural	9.00	.47	1.03		.04	
Ornamental	9.00	.47	1.03		.04	
Lathers	8.61	.225	.10			
Pointers, caulkers and cleaners	8.10	.35				
Plumbers	9.00	.57	.92		.05	

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-9,681 - Mod. #8 (37 FR 4030 - February 25, 1972) Montgomery County, Pennsylvania						
Change:						
Building Construction:						
Asbestos workers	$10.15	.40	.50			
Cement masons	7.73	.89	.27			
Glaziers	8.38	.35	.30		.01	
Ironworkers:						
Structural	9.00	.47	1.03		.04	
Ornamental	9.00	.47	1.03		.04	
Lathers	8.61	.225	.10			
Pointers, caulkers and cleaners	8.10	.35				
Plumbers	9.00	.57	.92		.05	
DECISION #AP-404 - Mod. #1 (37 FR 15229 - July 28, 1972) Philadelphia County, Pennsylvania						
Change:						
Asbestos workers	10.15	.40	.50			
Cement masons	7.73	.89	.27			
Electricians	9.00	.36	1% + .36		2%	
Ironworkers:						
Structural	9.00	.47	1.03		.04	
Ornamental	9.00	.47	1.03		.04	
Glaziers	8.38	.35	.30		.01	
Glaziers working 30' above ground	8.68	.35	.30		.01	
Lathers	8.61	.225	.10			
Plumbers	9.00	.57	.92		.05	
DECISION #AP-408 - Mod. #3 (37 FR 15275 - July 28, 1972) Delaware County, Pennsylvania						
Change:						
Asbestos workers	10.15	.40	.50			
Cement masons	7.73	.89	.27			
Ironworkers:						
Structural	9.00	.47	1.03		.04	
Ornamental	9.00	.47	1.03		.04	
Lathers	8.61	.225	.10			
Plumbers	9.00	.57	.92		.01	

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-423 - Mod. #3 (37 FR 20458 - September 29, 1972) Dauphin County, Pennsylvania						
Change:						
Heavy & Highway Construction:						
Laborers & Truck Drivers' Schedule						
(See Modifications P. 13)						
DECISION #AP-424 - Mod. #3 (37 FR 20460 - September 29, 1972) Cumberland County, Pennsylvania						
Change:						
Heavy & Highway Construction:						
Laborers & Truck Drivers' Schedule						
(See Modifications P. 13)						
DECISION #AP-429 - Mod. #2 (37 FR 21255 - October 6, 1972) Berks County, Pennsylvania						
Change:						
Heavy & Highway Construction:						
Laborers & Truck Drivers' Schedule						
(See Modifications P. 13)						
DECISION #AP-430 - Mod. #2 (37 FR 21259 - October 6, 1972) Lehigh County, Pennsylvania						
Change:						
Heavy & Highway Construction:						
Laborers & Truck Drivers' Schedule						
(See Modifications P. 13)						

DECISIONS #AM-1,855, #AM-1,858, #RM-1,861, #AP-423, #AP-424, #AP-429, #AP-430 (Cont'd.)

HEAVY & HIGHWAY

PA-22-LAB-TD-2-3 L

	Basic Hourly Rate	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.	Other
Carpenters/Piledrivermen	$7.09	.20	.25			
Laborers:						
Asphalt Tampers and Asphalt Rakers, Concrete Pitmen, Puddlers & Rubbers, Highway Slab Reinforcement Placers, Laborers, Landscape, Planters, Seeders and Arborists, Magazine Tenders, Railroad Trackmen & Signalmen	5.23	.20	.20			
Pneumatic Tool Operators, Jackhammers, Paving Breakers, Concrete Saws, Wacker, Vibrators, Chain Saws, Steward	5.43	.20	.20			
Pipelayers	5.43	.20	.20			
Caisson-open air-below 8 feet, Cofferdam open air-below 8 feet, where excavations for circular caissons and coffer dams 8 feet and below level of natural grade adjacent to starting point, Form Setters (Road) Wagon Drill, Diamond Point Drill, Gunite nozzle Operators	5.78	.20	.20			
Blasters	6.01	.20	.20			
Reinforcing Steel Placers, Bonding, Aligning and Securing	6.07	.20	.20			
Concrete Surfacers -	6.45	.20	.20			
Free Air Tunnels and Rocks Shafts						
Outside Laborers in conjunction with tunnels and rock shafts	5.87	.20	.20			
Chuck Tenders, Muckers, Nippers, Miners' and Drillers Helpers, Inside Laborers	6.16	.20	.20			
Miners, Drillers, Blasters, Pneumatic Shield Opers., Lining, Spotting and Timber Workmen	6.64	.20	.20			
Truck Drivers:						
Class I						
Helper, Stake Body Truck (Single axle), Dumpster	5.99					
Class II						
Dump Trucks, Tandem & Ratch Trucks, Semi-Trailers, Agitator Mixer Trucks, Ready Mix and Dumpcrete Type Vehicles, Asphalt Distributors, Farm Tractor when used for transportation, Stake Body Truck (Tandem)	6.06					
Class III						
Euclid Type, Off-Highway Equipment - Back or Belly Dump Trucks and Double-Hitched Equipment, Straddle (Ross) Carrier, Low-Bed Trailers	6.55					

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.	Others
DECISION #AM-8610 - Mod. #4						
(37 FR 10322 - May 19, 1972)						
Anderson and Roane Counties, Tennessee						
Change:						
Roofers:						
Composition	$5.55		.15			
Slate and tile	5.60		.15			
Helpers	4.17		.15			
Sheet metal workers	7.62	.30	.30		.02	
Sprinkler fitters	8.05	.30	.40		.05	
Truck drivers:						
Up to 3 tons and including 4 yds., dump	4.28		d		.01	
3 to 5 tons and including 6 yds., dump	4.48		d		.01	
5 tons and over including dump trucks over 6 yds., ready-mix concrete, tank trucks, floats and lowboys, winch truck and semi-trailer trucks	4.63		d		.01	
DECISION #AP-138 - Mod. #1						
(37 FR 25148 - November 25, 1972)						
Shelby County, Tennessee						
Omit:						
Supersedeas Decision Issued in 37 FR 28882 - December 29, 1972						
DECISION #AP-438 - Mod. #2						
(37 FR 21693 - October 13, 1972)						
Statewide, Vermont						
Add:						
Power equipment operators						
Footnote:						
c. 9 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Washington's Birthday; Columbus Day and Veterans' Day.						

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
DECISION #AP-441 - Mod. #4 (37 FR 23495 - November 3, 1972) Henrico County and the City of Richmond, Virginia						
Change:						
Ironworkers:						
Structural, ornamental & reinforcing:						
Zone I - up to 10 miles from Capital Square	$6.50	.25	.25		.05	
Zone II - 10 miles to 30 miles from Capital Square	6.75	.25	.25		.05	
Zone III - 30 miles and beyond Capital Square	7.00	.25	.25		.05	
Electricians, linemen and cable splicers:						
Zone 1 within the City of Richmond	7.03	5%	1%		1/2 of 1%	
Zone 2 within 15 miles of the City of Richmond	7.28	5%	1%		1/2 of 1%	
Zone 3 beyond 15 miles of the City of Richmond	7.53	5%	1%		1/2 of 1%	
DECISION #AM-6,706 - Mod. #2 (37 FR 5191 - March 10, 1972) Chelan, Douglas, Kittitas, Okanogan and Yakima Counties, Washington						
Change:						
Plumbers:						
Chelan County and Douglas and Okanogan Counties, West of the 119° 30 min. Meridian; North Tip of Kittitas County	$7.59	.47	.85	.60	.06	
Douglas and Okanogan Counties, East of the 119° 30 min. Meridian, Kittitas (remainder of County); Yakima County	7.52	.26	.55	.47	.06	

MODIFICATIONS P. 16

DECISION #AP-442 - Mod. #3
(37 FR 24512 - November 17, 1972)
Washington, D. C.

Change:

2-D.C.-FEO-1-2- N

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
Power Equipment Operators:					
35 ton cranes & above, tower & climbing cranes	$8.315	.35	.35		.10
Backhoes, boom cats, cableways, cranes or derricks, draglines, elevating graders, hoists, elevator (permanent) paving mixers, piledriving engines, power shovels, tunnel shovels, mucking machines, batch plants, concrete pumps, locomotives (standard narrow gauge), power driven wheel scoops & scrapers 50 cu. yds. struck capacity or above, multiple concrete conveyors	8.065	.35	.35		.10
Hydrocrane, and all other hydraulic cranes 12 tons or under	8.015	.35	.35		.10
Hydraulic backhoes, under ½ yd., mounted on tractors	7.915	.35	.35		.10
Front end loader (over 3½ cu. yds.)	8.065	.35	.35		.10
Front end loader (over 2-3/4 cu. yds. to and including 3-½ cu. yds.)	7.915	.35	.35		.10
Front end loaders (Hi-lift), fork lifts	7.665	.35	.35		.10
Air compressors (on steel)	7.735	.35	.35		.10
Air compressors (except on steel), concrete mixers, mechanics & maintenance men, pumps, tunnel mechanics, tunnel motormen, welding machines, well points	7.485	.35	.35		.10
Boilers (skeleton), trenching machines, tug boats, well drilling machines	7.655	.35	.35		.10
Power driven wheel scoops & scrapers under 50 cu. yds. struck capacity, blade graders, bulldozers, motor graders	7.465	.35	.35		.10
Rollers, asphalt spreaders, bull float finishing machines, concrete spreaders, concrete finishing machines, fine graders, form graders, concrete saws	7.265	.35	.35		.10
Apprentice engineers:					
Firemen	6.605	.35	.35		.10
Truck crane oilers	6.485	.35	.35		.10
Oilers	6.435	.35	.35		.10

DECISION #AP-443 - Mod. #3
(37 FR 24515 - November 17, 1972)
Montgomery and Prince Georges Counties, Maryland; City of Alexandria, Virginia; Arlington and Fairfax Counties, Virginia and Dulles International Airport

Change:

2-D.C.-PEO-1-2- M

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
Power Equipment Operators:					
35 ton cranes & above, tower & climbing cranes	$8.315	.35	.35		.10
Backhoes, boom cats, cableways, cranes or derricks, draglines, elevating graders, hoists, elevator (permanent) paving mixers, piledriving engines, power shovels, tunnel shovels, mucking machines, batch plants, concrete pumps, locomotives (standard narrow gauge), power driven wheel scoops & scrapers 50 cu. yds. struck capacity or above, multiple concrete conveyors	8.065	.35	.35		.10
Hydrocrane, and all other hydraulic cranes 12 tons or under	8.015	.35	.35		.10
Hydraulic backhoes, under ½ yd., mounted on tractors	7.915	.35	.35		.10
Front end loader (over 3½ cu. yds.)	8.065	.35	.35		.10
Front end loader (over 2-3/4 cu. yds. to and including 3-½ cu. yds.)	7.915	.35	.35		.10
Front end loaders (Hi-lift), fork lifts	7.665	.35	.35		.10
Air compressors (on steel)	7.735	.35	.35		.10
Air compressors (except on steel), concrete mixers, mechanics & maintenance men, pumps, tunnel mechanics, tunnel motormen, welding machines, well points	7.485	.35	.35		.10
Boilers (skeleton), trenching machines, tug boats, well drilling machines	7.655	.35	.35		.10
Power driven wheel scoops & scrapers under 50 cu. yds. struck capacity blade graders, bulldozers, motor graders	7.465	.35	.35		.10
Rollers, asphalt spreaders, bull float finishing machines, concrete spreaders, concrete finishing machines, fine graders, form graders, concrete saws	7.265	.35	.35		.10
Apprentice engineers:					
Firemen	6.605	.35	.35		.10
Truck crane oilers	6.485	.35	.35		.10
Oilers	6.435	.35	.35		.10

DECISION #AP-53 - Mod. #2
(37 FR 25643 - December 1, 1972)
Brown County, Wisconsin

Change:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Piledrivermen	$7.18	.25	.25		.02	
Laborers (Heavy & Highway Const.)						
Group A	6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E,	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	

DECISION #AP-54 - Mod. #2
(37 FR 25647 - December 1, 1972)
Dane County, Wisconsin

Change:

Cement masons	$7.60	.15	.20			
Plasterers	7.70	.15	.20			
Laborers (Heavy & Highway Const.)						
Group A	6.36	.25	.15		.02	
Group B	6.41	.25	.15		.02	
Group C	6.46	.25	.15		.02	
Group D	6.51	.25	.15		.02	
Group E	6.56	.25	.15		.02	
Group F						
Pipelayer	6.81	.25	.15		.02	
Bottom man	6.61	.25	.15		.02	
Topman	6.46	.25	.15		.02	

MODIFICATIONS P. 19

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-55 - Mod. #1 (37 FR 25650 - December 1, 1972) Eau Claire County, Wisconsin						
Change:						
Plumbers & Steamfitters	$7.26	.45	.35	.59		
Laborers (Heavy & Highway Const.)						
Group A	6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	
DECISION # AP-56 - Mod. #2 (37 FR 25654 - December 1, 1972) Juneau County, Wisconsin						
Change:						
Electricians	$8.10	.28	1%			
Laborers (Heavy & Highway Const.)						
Group A	6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	

MODIFICATIONS P. 20

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-57 - Mod. #2 (37 FR 25658 - December 1, 1972) Kenosha County, Wisconsin						
Change:						
Laborers (Heavy & Highway Const.)						
Group A	$6.61	.40	.40	.25	.02	
Group B	6.71	.40	.40	.25	.02	
Group C	6.76	.40	.40	.25	.02	
Group D	6.81	.40	.40	.25	.02	
Group E	6.86	.40	.40	.25	.02	
Group F	6.91	.40	.40	.25	.02	
Group G	7.26	.40	.40	.25	.02	
Group H						
Pipelayer	7.36	.40	.40	.25	.02	
Bottom man	6.96	.40	.40	.25	.02	
Topman	6.76	.40	.40	.25	.02	
DECISION #AP-58 - Mod. #2 (37 FR 25662 - December 1, 1972) La Crosse County, Wisconsin						
Change:						
Laborers (Heavy & Highway Const.)						
Group A	$6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	
Electricians	8.10	.28	1%			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-59 - Mod. #1 (37 FR 25666 - December 1, 1972) Marathon County, Wisconsin						
Change:						
Sheet metal workers	$6.85	.30	.15		.02	
Laborers (Heavy & Highway Const.)						
Group A	6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	
DECISION #AP-60 - Mod. #2 (37 FR 25669 - December 1, 1972) Milwaukee, Ozaukee, Washington, & Waukesha Counties, Wisconsin						
Change:						
Laborers (Heavy & Highway Const.)						
Group A	$6.61	.35	.50	.25	.02	
Group B	6.71	.35	.50	.25	.02	
Group C	6.76	.35	.50	.25	.02	
Group D	6.81	.35	.50	.25	.02	
Group E	6.86	.35	.50	.25	.02	
Group F	6.91	.35	.50	.25	.02	
Group G	7.26	.35	.50	.25	.02	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-61 - Mod. #1 (37 FR 25674 - December 1, 1972) Polk County, Wisconsin						
Change:						
Plumbers & Steamfitters	$7.26	.45	.35	.59		
Laborers (Heavy & Highway Const.)						
Group A	6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	
DECISION # AP-62 - Mod. #2 (37 FR 25678 - December 1, 1972) Racine County, Wisconsin						
Change:						
Plasterers	$6.65	.25	.40	.20		
Laborers (Heavy & Highway Const.)						
Group A	6.61	.40	.40	.20	.02	
Group B	6.71	.40	.40	.20	.02	
Group C	6.76	.40	.40	.20	.02	
Group D	6.81	.40	.40	.20	.02	
Group E	6.86	.40	.40	.20	.02	
Group F	6.91	.40	.40	.20	.02	
Group G	7.26	.40	.40	.20	.02	
Group H						
Pipelayer	7.36	.40	.40	.20	.02	
Bottom man	6.96	.40	.40	.20	.02	
Topman	6.76	.40	.40	.20	.02	

MODIFICATIONS P. 23

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-63 - Mod. #2 (37 FR 25682 - December 1, 1972) Rock County, Wisconsin						
Change:						
Cement masons	$7.60	.15	.20			
Plasterers	7.70	.15	.20			
Laborers (Heavy & Highway Const.)						
Group A	6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	
DECISION #AP-64 - Mod. #2 (37 FR 25686 - December 1, 1972) Winnebago County, Wisconsin						
Change:						
Laborers (Heavy & Highway Const.)						
Group A	6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	
DECISION #AP-65 - Mod. #2 (37 FR 25606 - December 1, 1972) Dane County, Wisconsin						
Change:						
Cement masons	$7.60	.15	.20			
Plasterers	7.70	.15	.20			

MODIFICATIONS P. 24

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-66 - Mod. #2 (37 FR 25609 - December 1, 1972) La Crosse County, Wisconsin						
Change:						
Electricians	$8.10	.28	11%			
DECISION #AP-70 - Mod. #1 (37 FR 26269 - December 8, 1972) Ashland, Bayfield, Burnett, Douglas, Forest, Iron, Lincoln, Oneida, Price, Rush, Sawyer, Taylor, Vilas, Washburn Counties, Wisconsin						
Change:						
Laborers						
Group A	$6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	
DECISION #AP-71 - Mod. #1 (37 FR 26271 - December 8, 1972) Barron, Buffalo, Chippewa, Clark, Dunn, Pepin, Pierce, St. Croix, and Trempealeau Counties, Wisconsin						
Change:						
Laborers						
Group A	$6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-72 - Mod. #1 (37 FR 26273 - December 8, 1972) Adams, Green Lake, Langlade, Marquette, Menominee, Portage, Shawano, Waupaca, Waushara and Wood Counties, Wisconsin						
Change:						
Laborers						
Group A	$6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	
DECISION #AP-73 - Mod. #1 (37 FR 26275 - December 8, 1972) Crawford, Columbia, Dodge, Grant, Green, Iowa, Jackson, Jefferson, Lafayette, Monroe, Richland, Sauk and Vernon Counties, Wisconsin						
Change:						
Laborers						
Group A	$6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-74 - Mod. #1 (37 FR 26277 - December 8, 1972) Calumet, Door, Florence, Kewaunee, Manitowoc, Marinette, Oconto, and Outagamie Counties, Wisconsin						
Change:						
Laborers						
Group A	$6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	
DECISION #AP-75 - Mod. #1 (37 FR 26279 - December 8, 1972) Fond du Lac, Sheboygan, and Walworth Counties, Wisconsin						
Change:						
Laborers						
Group A	$6.28	.25	.15		.02	
Group B	6.33	.25	.15		.02	
Group C	6.38	.25	.15		.02	
Group D	6.43	.25	.15		.02	
Group E	6.48	.25	.15		.02	
Group F						
Pipelayer	6.73	.25	.15		.02	
Bottom man	6.53	.25	.15		.02	
Topman	6.38	.25	.15		.02	
Cement masons:						
Fond du Lac County	6.23	.30	.15	.30		

DECISION #AM 2476 - Mod. #3
(36 FR 17159 - August 27, 1971)
Statewide, Wyoming

MODIFICATIONS P. 27

(1-2)

Change:
TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I DUMP (Water level capacity box) over 40 cu. yds. to & incl. 45 cu. yds.	$ 4.90					
GROUP II FIELD MECHANICS	4.88					
GROUP III DUMP (Water level capacity box) 35 cu. yds. to & incl. 40 cu. yds.	4.85					
GROUP IV DUMP (Water level capacity box) 30 cu. yds. to & incl. 35 cu. yds.	4.80					
GROUP V DUMP (Water level capacity box) 25 cu. yds. to & incl. 30 cu. yds.	4.75					
GROUP VI DUMP (Water level capacity box) 20 cu. yds. to & incl. 25 cu. yds.; Heavy duty (Euclids, electric or similar type)	4.65					
GROUP VII LOWBOY & Tandem Axle Float Drivers; Multiple Axle Type; Semi; Dump (Water level capacity box) 13 cu. yds. to & incl. 20 cu. yds.	4.65					
GROUP VIII HELPERS - FIELD (Welders, Mechanics, etc.)	4.41					
GROUP IX OVER 3600 gal. (semi-truck); Transit Mix or Wet Mix over 10 cu. yds.	4.35					
GROUP X OVER 3600 gal. (straight truck); Transit Mix or Wet Mix, over 5 cu. yds. to 10 cu. yds.; Tandem Axle	4.25					
GROUP XI OVER 2500 gals. to & incl. 3600 gals.; Dump (Water level capacity box) over 10 cu. yds. to & incl. 13 cu. yds.; Flat Rack, over 5 tons; Winch Trailer (cable & hoist); Utility Winch; "A" Frame Transit Mix or Wet Mix, less than 5 cu. yds.; Single Axle	4.15					
GROUP XII DUMP (Water level capacity box) over 7 cu. yds. to & incl. 10 cu. yds.; 2500 gals. or less (semi-truck); Flat Rack, 2 tons to 5 tons; Power Broom; Material Checkers	4.05					
GROUP XIII DUMP (Water level capacity box) 7 cu. yds. or less; Gravel Spreader; Flat Rack, less than 2 tons; Gang; Single Axle Type Truck; Warehousemen, Partsmen & Helpers; 2500 gals. or less (straight truck); Fuel Service; Greasemen, Tiremen, Servicemen & Helpers	3.95					
GROUP XIV PILOT CAR DRIVERS; Pick-up	3.85					

DECISION #AM-2476 - (Cont'd)

MODIFICATIONS P. 28

(2-2)

TRUCK DRIVERS (CONT'D)

DECISION #AP-250 - Mod. #2
(37 FR 24011 - November 10, 1972)
Laramie County, Wyoming

Change:
Heavy and Highway Construction
Truck Drivers

(1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I DUMP (Water level capacity box) over 40 cu. yds. to & incl. 45 cu. yds.	$ 4.90					
GROUP II FIELD MECHANICS	4.88					
GROUP III DUMP (Water level capacity box) 35 cu. yds. to & incl. 40 cu. yds.	4.85					
GROUP IV DUMP (Water level capacity box) 30 cu. yds. to & incl. 35 cu. yds.	4.80					
GROUP V DUMP (Water level capacity box) 25 cu. yds. to & incl. 30 cu. yds.	4.75					
GROUP VI DUMP (Water level capacity box) 20 cu. yds. to & incl. 25 cu. yds.; Heavy duty (Euclids, electric or similar type)	4.65					
GROUP VII LOWBOY & Tandem Axle Float Drivers; Multiple Axle Type; Semi; Dump (Water level capacity box) 13 cu. yds. to & incl. 20 cu. yds.	4.65					
GROUP VIII HELPERS - FIELD (Welders, Mechanics, etc.)	4.41					
GROUP IX OVER 3600 gal. (semi-truck); Transit Mix or Wet Mix over 10 cu. yds.	4.35					
GROUP X OVER 3600 gal. (straight truck); Transit Mix or Wet Mix, over 5 cu. yds. to 10 cu. yds.; Tandem Axle	4.25					
GROUP XI OVER 2500 gals. to & incl. 3600 gals.; Dump (Water level capacity box) over 10 cu. yds. to & incl. 13 cu. yds.; Flat Rack, over 5 tons; Winch Trailer						

DECISION #AP-250 - (Cont'd)

Truck Drivers (Cont'd)

(2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP XI (Cont'd) (cable & hoist); Utility Winch; "A" Frame Transit Mix or Wet Mix, less than 5 cu. yds.; Single Axle	4.15					
GROUP XII DUMP (Water level capacity box) over 7 cu. yds. to & incl. 10 cu. yds.; 2500 gals. or less (semi-truck); Flat Rack, 2 tons to 5 tons; Power Broom; Material Checkers	4.05					
GROUP XIII DUMP (Water level capacity box) 7 cu. yds. or less; Gravel Spreader; Flat Rack, less than 2 tons; Gang; Single Axle Type Truck; Warehousemen, Partsmen & Helpers; 2500 gals. or less (straight truck); Fuel Service; Greasemen, Tiremen, Servicemen & Helpers	3.95					
GROUP XIV PILOT CAR DRIVERS; Pick-up	3.85					

SUPERSEDEAS DECISION

STATE: Arizona COUNTY: Maricopa (Phoenix-Glendale-Mesa-Scottsdale-Tempe-Luke AFB and Williams AFB)

DECISION NO.: AP-259 DATE: Date of Publication

Supersedes Decision No. AM-6,116, dated November 12, 1971, in 36 FR 21721.

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
ASBESTOS WORKERS	$ 8.38	.35	.40			
BOILERMAKERS	7.45	.60	1.00	.50	.02	
BRICKLAYERS & STONEMASONS	8.85	.35	.30		.03	
CARPENTERS:						
Carpenters	7.75	.35	.60		.025	
Millwrights	8.125	.35	.60		.025	
Piledrivermen	8.00	.35	.60		.025	
CEMENT MASONS	7.585	.35	.65		.025	
DRYWALL TAPERS	6.00	.225				
DRYWALL TEXTURE SPRAYMEN	6.10	.225				
ELECTRICIANS (Including Luke AFB)	8.95	.30	1% + .60		1/2%	
ELECTRICIANS (Williams AFB)	10.60	.30	1% + .60		1/2%	
ELEVATOR CONSTRUCTORS	7.58	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
IRONWORKERS:						
Ornamental-Structural	8.58	.58	.625		.04	
Reinforcing	8.58	.58	.625		.04	
MARBLE & TILE SETTERS	7.39	.35	.30		.01	
PAINTERS:						
Brush	6.775	.275	.20	.50	.02	
Spray	7.025	.275	.20	.50	.02	
PLASTERERS	7.25	.30	.50		.035	
PLUMBERS; Pipefitters; Steamfitters (Zone Bases: Phoenix, Tucson, Douglas, Flagstaff, Yuma):						
Zone I - (0-15 miles)	7.74	.45	.70		.06	
Zone II - (15 - 30 miles)	8.04	.45	.70		.06	
Zone III - (30 - 45 miles)	8.39	.45	.70		.06	
Zone IV - (45 miles and beyond)	9.49	.45	.70		.06	
SHEET METAL WORKERS	7.59	.27	.32		.02	
SOFT FLOOR LAYERS	6.775	.275	.20	.50	.02	
SPRINKLER FITTERS	7.95	.25	.40		.05	
TERRAZZO & MOSAIC WORKERS	7.96					
LINE CONSTRUCTION:						
Cable Splicer	8.39	.23	1% + 4%		1/2%	
Linemen	8.10	.23	1% + 4%		1/2%	
Equipment Operator	7.62	.23	1% + 4%		1/2%	
Groundman	6.61	.23	1% + 4%		1/2%	

PAID HOLIDAYS:

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

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

b. Of gross labor payroll, employer contributes 1% to NEBF and 4% to Management Pension Fund.

1-ARIZ-LAB-1-2-3-m (1-3)

Central & Southern areas of Arizona

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
GROUP I						
ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool Diggers and Installers; Chat Box Man; Checker, Tool Dispatcher; Concrete Dump Man-belt, Pipe and/or Hoseman; Dumpman and/or Spotter; Fence Builder, Guard Rail Builder Hwy.; Form Strippers; Labor, General or Construction; Landscape Gardener & Nurseryman; Packing Rod Steel and Pans; Rip Rap Stoneman	$5.53	.35	.60		.05	
GROUP II						
CEMENT FINISHER TENDER; Concrete Curer (Impervious membrane); Cutting Torch Operator; Fine Grader (Highway, Engineering and Sewer Work only); Kettleman - Tarman; Power Type Concrete Buggy	5.64	.35	.60		.05	
GROUP III						
BANDER; CHUCKTENDER (except Tunnel); Creosote Tieman; Guinea Chaser; Powderman Helper; Rip-Rap Stone Paver; Sandblaster (Pot Tender); Spikers & Wrenchers	5.75	.35	.60		.05	
GROUP IV						
CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain Saw Machines (on clearing and grubbing); Concrete Vibrating Machines; Cribber and Shorer (except Tunnel); Floor Sanders - Concrete; Hydraulic Jacks, and similar mechanical tools not separately herein classified; Operators and Tenders of Pneumatic and electric tools; Pipe Caulker and/or Backup Man (pipeline); Pipe Wrapper; Pneumatic Gopher; Rigger/signalman (pipeline)	5.83	.35	.60		.05	

LABORERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
GROUP V						
AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt Rakers and Ironers; Driller; Grade Setter (pipeline); Hand Guided Trencher and Similar Operated Equipment; Jackhammer and/or Pavement Breakers; Pipe Layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock Slinger; Scaler (using Bos'ns Chair or Safety Belt); Tampers (mechanical - all types)	$5.97	.35	.60		.05	
GROUP VI						
CONCRETE CUTTING TORCH; CONCRETE SAW (Hand guided); Driller (Core, Diamond, Wagon or Air Track); Drill Doctor and/or Air Tool Repairman; Gunman and Mixerman (Gunite); Sandblaster (Nozzleman)	6.275	.35	.60		.05	
GROUP VII						
CONCRETE ROAD FORM SETTER; Gunite Nozzleman or Rodman; Drillers, Joy Mustang, FR 143, 2200 Gardner-Denver, Hydrasonic; Powder Man; Scaler (Drillers); Welders and/or Pipe Layers installing process piping	6.785	.35	.60		.05	
MASON TENDERS	6.135	.35	.60		.05	
PLASTERERS' TENDERS	6.45	.35	.60		.05	
Employees working underground shall receive twenty cents (20¢) per hour additional above the regular rate, except where herein specifically covered						

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Laborers employed where they may have a free fall over thirty (30) feet or on construction scaffolds above thirty (30) feet or Bos'n Chair above thirty (30) feet, or where gas masks are necessary, shall receive fifty cents (50¢) per hour in addition to their regular rate, except where inherent in classifications.						
TUNNEL AND SHAFT WORKERS						
GROUP I						
BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete Crew (includes Rodders and Spreaders); Grout Crew; Swamper (Brakeman and Switchmen on Tunnel Work)	$5.725	.35	.60		.05	
GROUP II						
NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic Tools (except Driller) -	5.86	.35	.60		.05	
GROUP III						
GROUT GUNMAN	5.96	.35	.60		.05	
GROUP IV						
TIMBERMAN, RETIMBERMAN - wood or steel Blaster, Driller Powderman; Cherry Pickerman; Powderman - Primer House; Steel Form Raiser and Setter; Kemper and other Pneumatic Concrete Placer Operator; Miner - Finisher	6.06	.35	.60		.05	
GROUP IV - A						
MINERS - Tunnel (Hand or Machine)	6.26	.35	.60		.05	
GROUP V						
DIAMOND DRILL	6.395	.35	.60		.05	
GROUP V-A						
SHAFT AND RAISE MINER WELDER	6.595	.35	.60		.05	

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	D-[illegible]
Group I Air Compressor Operator; Field Equip-Serviceman Helper; Heavy Duty Repair Helper; Heavy Duty Welder Helper; Oiler; Pump Operator	$6.42	.45	.50		.02	
Group II Conveyor Operator; Generator Operator-Portable; Power Grizzly Operator; Self-Propelled Chip Spreading Machine-Conveyor Operator; Watch Fireman; Welding Machine Operator - Gasoline and Diesel Power	6.73	.45	.50		.02	
Group III Concrete Mixer Operator-Skip Type; Dinky Operator - (under 20 tons wt.); Driver-moto Paver, Slurry Seal Machine, and similar type equipment; Motor Crane Driver; Power Sweeper Operator-Self-propelled; Ross Carrier or Fork Lift Operator; Ship Loader Operator - all types with rated capacity 1-1/2 cu. yds. or less; Wheel type tractor Operator (Ford, Ferguson, or similar type) with attachments-such as fresno, push blade, post hole auger, mower, etc., excluding compacting equipment	7.13	.45	.50		.02	
Group IV A-Frame Boom Truck or Winch Truck Operator; Asphalt Plant Firemen; Elevator Hoist Operator (including Tuskey Hoist or similar types); Grade Checker (excluding Civil Engineer); Multiple Power Concrete Saw Operator; Pavement Breaker, Mechanical Compactor Operator, power propelled; Roller Operator - all types except as otherwise classified; Screed Operator; Self-propelled Chip Spreading Machine Operator (including Slurry Seal Machine Operator) Stationary Pipewrapping and Cleaning Machine Operator; Tugger Operator	7.57	.45	.50		.02	

(2-4)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Group V Aggregate Plant Operator (including crushing screening and sand plants, etc.); Asphalt Laydown Machine Operator; Asphalt Plant Mixer Operator; Beltcrete Machine; Boring Machine Operator; Concrete Mechanical Tamping, spreading or finishing Machine (incl. Clary, Johnson or similar types); Concrete Pump Operator; Concrete Batch Plant Operator, all types & sizes; Conductor, Brakeman, or Handler; Elevating Grader Operator - all types and sizes (except as otherwise classified); Field Equipment Serviceman; Highline Cableway Signalman; Kolman Belt Loader op. or similar type, w/belt width 48" or over; Locomotive Engineer (including Dinky-20 tons weight and over); Moto-paver and similar type equipment Operator; Operating Engineer Rigger; Pneumatic-tired Scraper Op. (Turnapull, Euclid, Cat, D-W, Hancock & similar equipment) up to & incl. 12 cu. yds.; Power Jumbo Form Setter Operator; Pressure Grout Machine Op. (as used in heavy engineering construction); Road Oil Mixing Machine Operator; Roller Operator-on all types asphalt pavement; Self-Propelled Compactor, with blade; Skip Loader Operator-all types with rated capacity over 1-1/2 but less than 4 cu. yds.; Slip Form Operator (Power driven lifting device for concrete forms); Soil Cement Road Mixing Machine Operator - single pass type; Stationary Central Generating Plant Operator - rated 300 k.w. or more; surface Heater and Planer Operator; Traveling Pipewrapping Machine Operator	$8.01	.45	.50		.02	
Group V-A Heavy Duty Mechanic and/or Welder; Pneumatic tired scraper, all sizes & types over 12 cu. yds. up to & incl. 45 cu. yds. MRC (Turnapull, Euclid, Cat D-W Hancock, and similar equipment); Tractor Operator (Pusher, Bulldozer, Scraper) up to 400 net horsepower rating; Trenching Machine Op.	8.27	.45	.50		.02	

(3-4)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Group VI Auto-Grade Machine (CMI and similar equipment); Boring Machine Operator (including Mole, Badger and similar type); Concrete Mixer Operator-Paving type, and Mobile Mixer; Concrete Pump Operator with boom attachment (Truck Mounted); Crane Operator-Crawler and Pneumatic type, under 100 ton capacity MRC; Crawler type tractor Operator - with boom attachment; Derrick Operator; Forklift op. for hoisting personnel; Grade-all operator; Helicopter Hoist; Highline Cableway Op. (less than 20 tons rated capacity); Mass Excavator Op. (150 Bucyrus Erie & similar types); Mechanical Hoist Operator (two or more drums); Motor Grade Operator - any type power blade; Motor Grader Operator with elevating Grader Attachment; Mucking Machine Operator; Overhead Crane Operator; Piledriver Engineer (portable, stationary or skid rig); Pneumatic-tired Scraper Op. - all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment over 45 cu. yds. MRC); Power Driven Ditch Lining or Ditch Trimming Machine Operator; Skip Loader Operator - all types with rated capacity 4 cu. yds. but less than 8 cu. yds.; Slip Form Paving Machine Op. (including Gunnert, Zimmerman & similar types); Specialized Power Digger Op. - attached to wheel-type tractor; Tower Crane (or similar type) Op.; Tractor Op. (pusher, Bulldozer, Scraper) 400 net horsepower and over; Tugger Op. (two or more); Universal Equipment Op. - Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds.	$8.55	.45	.50		.02	
Group VII Crane Operator - Pneumatic or Crawler (100 ton hoisting capacity and over MRC rating); Helicopter Pilot - FAA qualified when used in construction work; Highline Cableway Op., over 20 ton rated capacity and using traveling						

(4-4)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Group VII (Cont'd) head and tail tower; Remote Control Earth Moving Equipment Operator; Skip Loader Operator - all types with rated capacity of 8 cu. yds. or more; Universal Equipment - Shovel, Backhoe, Dragline, Clamshell, etc., 8 cu. yds. and over	$9.05	.45	.50		.02	
MULTIPLE-UNIT EARTH MOVING EQUIPMENT: Tractor Operator-Pneumatic-tired or track type, two units - fifty cents (50c) per hour more than the base single-unit rate established in Group V, Group V-A, or Group VI, and one dollar ($1.00) per hour for each additional unit.						
All Operators, Oiler, & Motor Crane Drivers on equipment with booms of 80 & over, incl. jib shall receive .0075 (3/4 of a cent) per foot per hour premium pay additional to the regular rate of pay.						
Oiler shall be required on all track or crawler-type cranes, backhoes, shovels, clamshells, draglines, gradalls, etc.						
Oiler drivers shall be required on all truck mounted or self-propelled excavating and/or hoisting equipment having the configuration for two men.						

(1-2)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I					
PICKUP; STATION WAGON; TEAMSTERS	$ 5.67	.35	.60		.02
GROUP II					
BUGGYMOBILE, 1 C.Y. OR LESS; Bulk Cement Spreader (2 or 3 Axle); Bus Driver; Dump (2 or 3 Axle); Flatrack (2 or 3 Axle); Water (under 2500 gal.)	5.78	.35	.60		.02
GROUP III					
BULK CEMENT SPREADER (4 AXLE); Dump (4 Axle); Dumptor or Dumpster, less than 7 c.y.; Flatrack (4 Axle); Water (2500 gal. but less than 4000 gal.)	5.54	.35	.60		.02
GROUP IV					
BULK CEMENT SPREADER (5 AXLE); Dump (5 Axle); Dumptor or Dumpster, 7 c.y. but less than 16 c.y.; Flaherty Spreader or similar type equipment or Leverman; Flatrack (5 Axle); Slurry-Type Equipment or Leverman; Transit Mix, 8 c.y. or less mixer capacity	6.23	.35	.60		.02
GROUP V					
BULK CEMENT SPREADER (6 Axle); Dump (6 Axle); Flatrack (6 Axle); Rock Truck (Dart, Euclid and other similar type end dumps, single unit) less than 16 c.y.	6.36	.35	.60		.02
GROUP V - A					
OIL TANKER OR SPREADER TRUCK DRIVER and/or Bootman, Retortman or Leverman	6.50	.35	.60		.02
GROUP VI					
BULK CEMENT SPREADER (7 Axle); Concrete Pump Truck Driver, (when integral part of transit mix truck); Dump (7 Axle); Flatrack (7 Axle);					

(2-2)

TRUCK DRIVERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP VI (CONT'D)					
Hydro Lift, Swedish Crane, Iowa 300 and similar types; Ross Carrier Fork Lift or Lift Truck; Transit Mix, over 10.5 c.y. but less than 14 c.y. mixer capacity	$6.61	.35	.60		.02
GROUP VII					
BULK CEMENT SPREADER (8 AXLE); Dump (8 Axle); Flatrack (8 Axle)	6.95	.35	.60		.02
GROUP VIII					
OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat DW series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tanks, or other Teamsters classifications; Bulk Cement Spreader (9 Axle); Dump (9 Axle); Dumptor or Dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 Axle); Rock Truck (Dart, Euclid, or other similar end dump types) 16 c.y. and over	7.365	.35	.60		.02
HEAVY DUTY MECHANIC/WELDER	8.24	.35	.60		.02
HEAVY DUTY MECHANIC/WELDER HELPER	6.39	.35	.60		.02
FIELD EQUIPMENT SERVICEMAN or Fuel Truck Driver	7.98	.35	.60		.02
Combination Man - 30¢ over the highest rated work					
Multiple-unit equipment driver - two units 50¢ per hour more than the base single unit rate established in Group 8 above; and $1.00 per hour for each additional unit					

SUPERSEDEAS DECISION

STATE: Arizona
DECISION NO.: AP-260
COUNTY: Pima
DATE: Date of Publication

Supersedes Decision No. AM-6,710, dated March 24, 1972, in 37 FR 6124

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

10-ARIZ-PIM-1-2-3 (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	8.38	.35	.40			
BOILERMAKERS	7.45	.60	1.00	.50	.02	
BRICKLAYERS; Stonemasons:						
Zone A (Tucson City limits through 10 miles)	7.825	.40	.30	.25	.02	
Zone B (Tucson City limits 10-25 miles)	8.20	.40	.30	.25	.02	
Zone C (" " " 25-40 ")	8.575	.40	.30	.25	.02	
Zone D (" " " over 40 miles)	9.325	.40	.30	.25	.02	
CARPENTERS:						
Carpenters	7.75	.35	.60		.025	
Millwrights	8.125	.35	.60		.025	
Piledrivermen	8.00	.35	.60		.025	
CEMENT MASONS	7.585	.30	.45		.025	
ELECTRICIANS:						
Zone A (Within 16 miles of City Hall, Tucson)	6.60	.30	1%		1/2%	
Zone B (From 16-32 miles from City Hall)	7.10	.30	1%		1/2%	
Zone C (From 32-48 " " " Hall)	7.60	.30	1%		1/2%	
Zone D (48 miles & over)	8.10	.30	1%		1/2%	
ELEVATOR CONSTRUCTORS	7.58	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB. 6 mo.)	50%JR					
IRONWORKERS:						
Structural & Ornamental	8.58	.58	.625		.04	
Reinforcing	8.58	.58	.625		.04	
LATHERS:						
Zone A (Area to 30 miles from Tucson)	8.66	.20				
Zone B (" 30-40 " " ")	9.16	.20				
Zone C (" 40-50 " " ")	9.41	.20				
Zone D (" outside Zone C)	10.16	.20				
PAINTERS, brush:						
Zone A (1-30 miles from Tucson P.O.)	6.25	.29	.25		.02	
Zone B (31-40 " " " ")	7.00	.29	.25		.02	
Zone C (41-50 " " " ")	7.25	.29	.25		.02	
Zone D (51 miles & over)	7.50	.29	.25		.02	
PAINTERS, structural steel, brush:						
Zone A (1-30 miles from Tucson P.O.)	7.20	.29	.25		.02	
Zone B (31-40 " " " ")	7.95	.29	.25		.02	
Zone C (41-50 " " " ")	8.20	.29	.25		.02	
Zone D (51 miles & over)	8.45	.29	.25		.02	
PLASTERERS:						
Zone A (0-30 miles from Tucson P.O.)	8.12	.35	.60			
Zone B (30-40 " " " ")	8.62	.35	.60			
Zone C (40-50 " " " ")	8.87	.35	.60			
Zone D (Over 50 miles from Tucson P.O.)	9.62	.35	.60			

10-ARIZ-PIM-1-2-3-q (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Plumbers; Steamfitters						
Zone I (0-15 miles from Tucson)	$7.74	.45	.70		.06	
Zone II (15-30 miles from Tucson)	8.04	.45	.70		.06	
Zone III (30-45 miles from Tucson)	8.39	.45	.70		.06	
Zone IV (45 miles & beyond Tucson)	9.49	.45	.70		.06	
SHEET METAL WORKERS:						
Zone A (0-17 miles from Tucson)	6.83	.48	1.00		.01	
Zone B (18-23 miles from Tucson)	7.28	.48	1.00		.01	
Zone C (24-31 miles from Tucson)	7.73	.48	1.00		.01	
Zone D (32-43 miles from Tucson)	8.33	.48	1.00		.01	
Zone E (44 miles & over from Tucson)	8.78	.48	1.00		.01	
SPRINKLER FITTERS	7.95	.25	.40		.05	
LINE CONSTRUCTION:						
Zone 1 (Tucson and 30 miles radius):						
Linemen	8.10	.23	1% + 4%b		1/2%	
Cable Splicers	8.39	.23	1% + 4%b		1/2%	
Equipment Operators	7.62	.23	1% + 4%b		1/2%	
Groundman	6.61	.23	1% + 4%b		1/2%	
Zone 2 (Other Areas)						
Linemen	9.25	.23	1% + 4%b		1/2%	
Cable splicer	9.53	.23	1% + 4%b		1/2%	
Equipment Operators	8.78	.23	1% + 4%b		1/2%	
Groundman	7.80	.23	1% + 4%b		1/2%	

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

FOOTNOTES:

a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to Vacation Fund. 6 Paid Holidays; A through F.

b. Of gross labor payroll, employer contributes 1% to NEBF and 4% to Management Pension Fund.

AP-260 P. 3

1-ARIZ-LAB-1-2-3-m (1-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
GROUP I						
ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool Diggers and Installers; Chat Box Man; Checker, Tool Dispatcher; Concrete Dump Man-belt, Pipe and/or Hoseman; Dumpman and/or Spotter; Fence Builder, Guard Rail Builder Hwy.; Form Strippers; Labor, General or Construction; Landscape Gardener & Nurseryman; Packing Rod Steel and Pans; Rip Rap Stoneman	$5.53	.35	.60		.05	
GROUP II						
CEMENT FINISHER TENDER; Concrete Curer (Impervious membrane); Cutting Torch Operator; Fine Grader (Highway, Engineering and Sewer Work only); Kettleman - Tarman; Power Type Concrete Buggy	5.64	.35	.60		.05	
GROUP III						
BANDER; CHUCKTENDER (except Tunnel); Creosote Tieman; Guinea Chaser; Powderman Helper; Rip-Rap Stone Paver; Sandblaster (Pot Tender); Spikers & Wrenchers	5.75	.35	.60		.05	
GROUP IV						
CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain Saw Machines (on clearing and grubbing); Concrete Vibrating Machines; Cribber and Shorer (except Tunnel); Floor Sanders - Concrete; Hydraulic Jacks, and similar mechanical tools not separately herein classified; Operators and Tenders of Pneumatic and electric tools; Pipe Caulker and/or Backup Man (pipeline); Pipe Wrapper; Pneumatic Gopher; Rigger/signalman (pipeline)	5.83	.35	.60		.05	

AP-260 P. 4

1-ARIZ-LAB-1-2-3-m (2-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS: (Cont'd)						
GROUP V						
AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt Rakers and Ironers; Driller; Grade Setter (pipeline); Hand Guided Trencher and Similar Operated Equipment; Jackhammer and/or Pavement Breakers; Pipe Layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock Slinger; Scaler (using Bos'ns Chair or Safety Belt); Tampers (mechanical - all types)	$5.97	.35	.60		.05	
GROUP VI						
CONCRETE CUTTING TORCH; CONCRETE SAW (Hand guided); Driller (Core, Diamond, Wagon or Air Track); Drill Doctor and/or Air Tool Repairman; Gunman and Mixerman (Gunite); Sandblaster (Nozzleman)	6.275	.35	.60		.05	
GROUP VII						
CONCRETE ROAD FORM SETTER; Gunite Nozzleman or Rodman; Drillers, Joy Mustang, FR 143, 2200 Gardner-Denver, Hydrasonic; Powder Man; Scaler (Drillers); Welders and/or Pipe Layers installing process piping	6.785	.35	.60		.05	
MASON TENDERS	6.135	.35	.60		.05	
PLASTERERS' TENDERS	6.45	.35	.60		.05	
Employees working underground shall receive twenty cents (20¢) per hour additional above the regular rate. except where herein specifically covered						

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Laborers employed where they may have a free fall over thirty (30) feet or on construction scaffolds above thirty (30) feet or Bos'n Chair above thirty (30) feet, or where gas masks are necessary, shall receive fifty cents (50¢) per hour in addition to their regular rate, except where inherent in classifications.						
TUNNEL AND SHAFT WORKERS						
GROUP I						
BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete Crew (includes Rodders and Spreaders); Grout Crew; Swamper (Brakeman and Switchmen on Tunnel Work)	$5.725	.35	.60		.05	
GROUP II						
NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic Tools (except Driller)	5.86	.35	.60		.05	
GROUP III						
GROUT GUNMAN	5.96	.35	.60		.05	
GROUP IV						
TIMBERMAN, RETIMBERMAN - wood or steel Blaster, Driller Powderman; Cherry Pickerman; Powderman - Primer House; Steel Form Raiser and Setter; Kemper and other Pneumatic Concrete Placer Operator; Miner - Finisher	6.06	.35	.60		.05	
GROUP IV - A						
MINERS - Tunnel (Hand or Machine)	6.26	.35	.60		.05	
GROUP V						
DIAMOND DRILL	6.395	.35	.60		.05	
GROUP V-A						
SHAFT AND RAISE MINER WELDER	6.595	.35	.60		.05	

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Gri.
Group I Air Compressor Operator; Field Equip-Servicemen Helper; Heavy Duty Repair Helper; Heavy Duty Welder Helper; Oiler; Pump Operator	$6.42	.45	.50		.02	
Group II Conveyor Operator; Generator Operator-Portable; Power Grizzly Operator; Self-Propelled Chip Spreading Machine-Conveyor Operator; Watch Fireman; Welding Machine Operator - Gasoline and Diesel Power	6.73	.45	.50		.02	
Group III Concrete Mixer Operator-Skip Type; Dinky Operator - (under 20 tons wt.); Driver-moto Paver, Slurry Seal Machine, and similar type equipment; Motor Crane Driver; Power Sweeper Operator-Self-propelled; Ross Carrier or Fork Lift Operator; Skip Loader Operator - all types with rated capacity 1-1/2 cu. yds. or less; Wheel type tractor Operator (Ford, Ferguson, or similar type) with attachments such as fresno, push blade, post hole auger, mower, etc., excluding compacting equipment	7.13	.45	.50		.02	
Group IV A-Frame Boom Truck or Winch Truck Operator; Asphalt Plant Firemen; Elevator Hoist Operator (including Tuskey Hoist or similar types); Grade Checker (excluding Civil Engineer); Multiple Power Concrete Saw Operator; Pavement Breaker, Mechanical Compactor Operator, power propelled; Roller Operator - all types except as otherwise classified; Screed Operator; Self-propelled Chip Spreading Machine Operator (including Slurry Seal Machine Operator) Stationary Pipewrapping and Cleaning Machine Operator; Tugger Operator	7.57	.45	.50		.02	

1-ARIZ-PEO-1-2-3-r (2-4)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Group V						
Aggregate Plant Operator (including crushing screening and sand plants, etc.); Asphalt Laydown Machine Operator; Asphalt Plant Mixer Operator; Beltcrete Machine; Boring Machine Operator; Concrete Mechanical Tamping, spreading or finishing Machine (incl. Clary, Johnson or similar types); Concrete Pump Operator; Concrete Batch Plant Operator, all types & sizes; Conductor, Brakeman, or Handler; Elevating Grader Operator - all types and sizes (except as otherwise classified); Field Equipment Serviceman; Highline Cableway Signalman; Kolman Belt Loader op. or similar type, w/belt width 48" or over; Locomotive Engineer (including Dinky-20 tons weight and over); Moto-paver and similar type equipment Operator; Operating Engineer Rigger; Pneumatic-tired Scraper Op. (Turnapull, Euclid, Cat, D-W, Hancock & similar equipment) up to & incl. 12 cu. yds.; Power Jumbo Form Setter Operator; Pressure Grout Machine Op. (as used in heavy engineering construction); Road Oil Mixing Machine Operator; Roller Operator-on all types asphalt pavement; Self-Propelled Compactor, with blade; Skip Loader Operator-all types with rated capacity over 1-1/2 but less than 4 cu. yds.; Slip Form Operator (Power driven lifting device for concrete forms); Soil Cement Road Mixing Machine Operator - single pass type; Stationary Central Generating Plant Operator - rated 300 k.w. or more; surface Heater and Planer Operator; Traveling Pipewrapping Machine Operator	$8.01	.45	.50		.02	
Group V-A						
Heavy Duty Mechanic and/or Welder; Pneumatic tired scraper, all sizes & types over 12 cu. yds. up to & incl. 45 cu. yds. MRC (Turnapull, Euclid, Cat D-W Hancock, and similar equipment); Tractor Operator (Pusher, Bulldozer, Scraper) up to 400 net horsepower rating; Trenching Machine Op.	8.27	.45	.50		.02	

1-ARIZ-PEO-1-2-3-r (3-4)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Group VI						
Auto-Grade Machine (CMI and similar equipment); Boring Machine Operator (including Mole, Badger and similar type); Concrete Mixer Operator-Paving type, and Mobile Mixer; Concrete Pump Operator with boom attachment (Truck Mounted); Crane Operator-Crawler and Pneumatic type, under 100 ton capacity MRC; Crawler type tractor Operator - with boom attachment; Derrick Operator; Forklift op. for hoisting personnel; Grade-all operator; Helicopter Hoist; Highline Cableway Op. (less than 20 tons rated capacity); Mass Excavator Op. (150 Bucyrus Erie & similar types); Mechanical Hoist Operator (two or more drums); Motor Grade Operator - any type power blade; Motor Grader Operator with elevating Grader Attachment; Mucking Machine Operator; Overhead Crane Operator; Piledriver Engineer (portable, stationary or skid rig); Pneumatic-tired Scraper Op. - all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment over 45 cu. yds. MRC); Power Driven Ditch Lining or Ditch Trimming Machine Operator; Skip Loader Operator - all types with rated capacity 4 cu. yds. but less than 8 cu. yds.; Slip Form Paving Machine Op. (including Gunnert, Zimmerman & similar types); Specialized Power Digger Op. - attached to wheel-type tractor; Tower Crane (or similar type) Op.; Tractor Op. (pusher, Bulldozer, Scraper) 400 net horsepower and over; Tugger Op. (two or more); Universal Equipment Op. - Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds.	$8.55	.45	.50		.02	
Group VII						
Crane Operator - Pneumatic or Crawler (100 ton hoisting capacity and over MRC rating); Helicopter Pilot - FAA qualified when used in construction work; Highline Cableway Op., over 20 ton rated capacity and using traveling						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS: (Cont'd)						
Group VII (Cont'd) head and tail tower; Remote Control Earth Moving Equipment Operator; Skip Loader Operator - all types with rated capacity of 8 cu. yds. or more; Universal Equipment - Shovel, Backhoe, Dragline, Clamshell, etc., 8 cu. yds. and over	$9.05	.45	.50		.02	
MULTIPLE-UNIT EARTH MOVING EQUIPMENT: Tractor Operator-Pneumatic-tired or track type, two units - fifty cents (50¢) per hour more than the base single-unit rate established in Group V, Group V-A, or Group VI, and one dollar ($1.00) per hour for each additional unit.						
All Operators, Oiler, & Motor Crane Drivers on equipment with booms of 80 & over, incl. jib shall receive .0075 (3/4 of a cent) per foot per hour premium pay additional to the regular rate of pay.						
Oiler shall be required on all track or crawler-type cranes, backhoes, shovels, clamshells, draglines, gradalls, etc.						
Oiler drivers shall be required on all truck mounted or self-propelled excavating and/or hoisting equipment having the configuration for two men.						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
TRUCK DRIVERS:						
GROUP I						
PICKUP; STATION WAGON; TEAMSTERS	$ 5.67	.35	.60		.02	
GROUP II						
BUGGYMOBILE, 1 C.Y. OR LESS; Bulk Cement Spreader (2 or 3 Axle); Bus Driver; Dump (2 or 3 Axle); Flatrack (2 or 3 Axle); Water (under 2500 gal.)	5.78	.35	.60		.02	
GROUP III						
BULK CEMENT SPREADER (4 AXLE); Dump (4 Axle); Dumptor or Dumpster, less than 7 c.y.; Flatrack (4 Axle); Water (2500 gal. but less than 4000 gal.)	5.94	.35	.60		.02	
GROUP IV						
BULK CEMENT SPREADER (5 AXLE); Dump (5 Axle); Dumptor or Dumpster, 7 c.y. but less than 16 c.y.; Flaherty Spreader or similar type equipment or Leverman; Flatrack (5 Axle); Slurry-Type Equipment or Leverman; Transit Mix, 8 c.y. or less mixer capacity	6.23	.35	.60		.02	
GROUP V						
BULK CEMENT SPREADER (6 Axle); Dump (6 Axle); Flatrack (6 Axle); Rock Truck (Dart, Euclid and other similar type end dumps, single unit) less than 16 c.y.	6.36	.35	.60		.02	
GROUP V - A						
OIL TANKER OR SPREADER TRUCK DRIVER and/or Bootman, Retortman or Leverman	6.50	.35	.60		.02	
GROUP VI						
BULK CEMENT SPREADER (7 Axle); Concrete Pump Truck Driver, (when integral part of transit mix truck); Dump (7 Axle); Flatrack (7 Axle);						

(2-2)

TRUCK DRIVERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	O-
GROUP VI (CONT'D)						
Hydro Lift, Swedish Crane, Iowa 300 and similar types; Ross Carrier Fork Lift or Lift Truck; Transit Mix, over 10.5 c.y. but less than 14 c.y. mixer capacity	$6.61	.35	.60		.02	
GROUP VII						
BULK CEMENT SPREADER (8 AXLE); Dump (8 Axle); Flatrack (8 Axle)	6.95	.35	.60		.02	
GROUP VIII						
OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat DW series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tanks, or other Teamsters classifications; Bulk Cement Spreader (9 Axle); Dump (9 Axle); Dumptor or Dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 Axle); Rock Truck (Dart, Euclid, or other similar end dump types) 16 c.y. and over	7.365	.35	.60		.02	
HEAVY DUTY MECHANIC/WELDER	8.24	.35	.60		.02	
HEAVY DUTY MECHANIC/WELDER HELPER	6.39	.35	.60		.02	
FIELD EQUIPMENT SERVICEMAN or Fuel Truck Driver	7.98	.35	.60		.02	
Combination Man - 30¢ over the highest rated work						
Multiple-unit equipment driver - two units 50¢ per hour more than the base single unit rate established in Group 8 above; and $1.00 per hour for each additional unit						

STATE: Kentucky
DECISION NUMBER: AP-143
Supersedes Decision No. AP-109 dated August 18, 1972 in 37 FR 16766
DESCRIPTION OF WORK: Heavy and Highway Construction.

COUNTY: Area 2* See Below
DATE: Date of Publication

*Counties: Adair, Barren, Bell, Casey, Clay, Clinton, Cumberland, Estill, Garrard, Green, Harlan, Hart, Jackson, Knox, Laurel, Lee, Leslie, Lincoln, McCreary, Menifee, Metcalfe, Monroe, Owsley, Powell, Pulaski, Rockcastle, Russel, Taylor, Wayne, Whitley, & Wolfe

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
Heavy and Highway Construction						
Bricklayers	$6.93	.25	.25			
Carpenters	6.40	.20	.25			
Cement Masons	7.18	.20	.10			
Electricians	8.33	.30	2% + .27	.05		
Ironworkers, Structural, Ornamental, & Reinforcing	7.48	.33	.35		.03	
Millwrights	6.40	.20	.25			
Painters:						
Brush	6.55	.15	.15			
Roller	6.58	.15	.15			
Spray	7.00	.15	.15			
Piledrivermen	6.40	.20	.25			
Pipefitters	7.68	.28	.55			
Plumbers	7.98	.25	.48			
Sheet Metal Workers	9.06	.52	.42			

Kentucky 2-Lab-E Area-2 (1-1)

Heavy and Highway Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
Laborers:						
Aging and Curing of Concrete; Grade Checkers; Guardrail and Fence Installers; Laborers; Landscaping & Seeders Planters, Tree Trimmers; Mesh Handlers and Placers; Rip Rap and Grouters	$4.30	.20	.25			
Hand Blade Operator & Batch Truck Dumpers	4.40	.20	.25			
Operator & Deck Scow Men	4.43	.20	.25			
Power-Driven Tools, Wagon Drills, Jackhammers, Chain Saw, Concrete Saws, Sewer Pipe Layers (All Storm Sewers), Bottom Men, Dry Cement Handlers, Concrete Rubbers, Mason Tenders, Concrete Green Cutting, Sandblasting and Concrete Chippers, Vibrator Operators, Power Wheelbarrow or Buggies	4.60	.20	.25			
Asphalt Lute & Raker Men	4.72	.20	.25			
Air Tract Drillers (All percussion type drills which are both powered and propelled by an independent air supply); Powdermen and Blasters; Side Rail Setters	4.75	.20	.25			
Gunnite Nozzle Men; Gunnite Operators; Tunnel Laborers (Free Air)	4.85	.20	.25			
Tunnel Muckers (Free Air)	4.95	.20	.25			
Tunnel Miners & Blasters	5.28	.20	.25			
Caisson Workers	5.85	.20	.25			

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Heavy & Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
	Kentucky-2-TD-a, Area-2 (1-1)					
Truck Drivers: Truck Helper and Warehousemen	$4.66	.20	.25			
Driver, Fork Lift Truck when used to transport building materials; Driver, Winch Truck and A-Frame Truck when used in transporting materials; Greaser, Tire Changer and Mechanic Helper; Driver, 3 Tons and Under	4.78	.20	.25			
Driver, Over 3 tons; Driver of Distributors; Driver, Dump Truck Tandem Axle; Driver, Semi-Trailer or Pole Trailer when used to pull building material or equipment	4.89	.20	.25			
Driver on Mixer Trucks (all types)	4.93	.20	.25			
Truck Mechanic	4.96	.20	.25			
Driver, Euclid and Other Heavy Earthmoving Equipment and Low Boy; Driver on Pavement Breakers	5.06	.20	.25			

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Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
	Kentucky 2-PEO-a, Area-2 (1-2					
Power Equipment Operators: Class A: Auto Patrol, Batcher Plant, Bituminous Paver, Cableway, Clamshell, Concrete Pump, Concrete Mixer (21 cu. ft. or over), Crane, Crusher Plant, Derrick, Derrick Boat, Ditching and Trenching Machine, Dragline, Dredge Engineer, Elevator (Regardless of ownership when used for hoisting any building material), Elevating Grader and all types of Loaders, Hoe-Type Machine, Hoisting Engine, Locomotive, LaTourneau or Carry-All Scoop, Bulldozer, Mechanic, Orangepeel, Bucket, Pile-driver, Power Blade, Roller (Bituminous), Scarifier, Shovel, Tractor Shovel, Truck Crane, Well Points, Winch Truck, Push Dozer, Grout Pump, High Lift, Fork Lift (Regardless of Lift Height), All Types of Boom Cats, Multiple Operator, Core Drill, Tow or Push Boat, A-Frame Winch Truck, Concrete Paver, Gradeall, Hoist, Hyster, Material Pump, Pumpcrete, Ross Carrier, Sheep Foot, Side Boom Throttle- Valve Man, Rotary Drill, Power Generator, Mucking Machine, Rock Spreader Attached to Equipment, Scoopmobile, KeCal Loader, Tower Cranes (French, German and other types), Hydrocrane, Tugger, Backfiller Gurries, Subgrader, Electric Vibrator Compactor, Welderburner	$6.73	.20	.25			
Class B: All Air Compressors (200 cu. ft. per min or greater capacity), Bituminous Mixer, Concrete Mixer (Under 21 cu. ft.), Welding Machine, Form Grader, Roller (Rock), Tractor (50 H.P. and over), Bull Float, Finish Machine, Outboard Motor Boat, Flexplane, Boom Type Tamping Machine, Truck Crane Oiler, Switchman or Brakeman, Mechanic Helper, Whirley Oiler, Self-propelled Compactor, Tractair and Road Widening Trencher, Greaser on Grease Facilities Servicing Heavy Equipment, Joint Sealing Machine, and Rotary Drill (Under 5"), Firemen	5.38	.20	.25			

Kentucky 2-PDO-a Area-2 (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd):						
Class C						
Bituminous Distributor, Cement Gun, Conveyor, Mud Jack, Paving Joint Machine, Pump, Roller (Earth, Tamping Machine, Tractors (under 50 H. P.), Vibrator, Oiler, Air Compressors (under 200 cu. ft. per min. capacity), Concrete Saw, Burlap and Curing Machine, Hydro Seeder, Power Form Handling Equipment, Deckhand Oiler, Hydraulic Post Driver	$4.83	.20	.25			

Heavy Construction

KENTUCKY 1-PDO-2 A

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Class A Operators: Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge engineer, elevator, (regardless of ownership when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist (two or more drums), hyster, pumpcrete, ross carrier, side boom, tail boom, rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal Loader, tower cranes (French, German & other types), hydrocrane, backfiller, quarries, subgrader.	$7.05	.25	.25			
Class B Operators: All air compressors (600 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair and road widening trencher, grout pump, electric vibrator compactor/self-propelled compactor, throttle valve elevator (one drum or buck hoist).	5.86	.25	.25			

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KENTUCKY 1-PEO-2 A

Heavy Construction

	Basic Hourly Rates	Fringe Benefits Payments				
POWER EQUIPMENT OPERATORS (Cont'd)		H & W	Pensions	Vacation	App. Tr.	Other
Class C Operators: Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, hydraulic post driver.	$5.42	.25	.25			

STATE: Kentucky
DECISION NUMBER: AP-144
Supersedes Decision No. AP-113 dated August 18, 1972 in 37 FR 16712
DESCRIPTION OF WORK: Heavy and Highway Construction.

COUNTY: Area 6* (See below)
DATE: Date of Publication

*Counties: Breathitt, Floyd, Knott, Letcher, Magoffin, Martin, Perry and Pike

Area 6 (1-1)

Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Bricklayers	$6.93	.25	.25			
Carpenters	6.40	.20	.25			
Cement Masons	7.18	.20	.10			
Electricians	8.33	.30	1%.+ .27	.05		
Ironworkers, Structural, Ornamental, & Reinforcing	7.48	.33	.35		.03	
Millwrights	6.40	.20	.25			
Painters:						
Brush	6.55	.15	.15			
Roller	6.50	.15	.15			
Spray	7.00	.15	.15			
Piledrivermen	6.40	.20	.25			
Pipefitters	7.68	.28	.55			
Plumbers	7.98	.25	.48			
Sheet Metal Workers	9.06	.52	.42			

Kentucky 2-1A3-R (1-1)

Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Laborers: Aging and Curing of Concrete; Grade Checkers; Guardrail and Fence Installers; Laborers; Landscaping & Seeders Planters, Tree Trimmers; Mesh Handlers and Placers; Rip Rap and Grouters	$4.30	.20	.25			
Hand Blade Operator & Batch Truck Dumpers	4.40	.20	.25			
Operator & Deck Scow Men	4.43	.20	.25			
Power-Driven Tools, Wagon Drills, Jackhammers, Chain Saw, Concrete Saws, Sewer Pipe Layers (All Storm Sewers), Bottom Men, Dry Cement Handlers, Concrete Rubbers, Mason Tenders, Concrete Green Cutting, Sandblasting and Concrete Chippers, Vibrator Operators, Power Wheelbarrow or Buggies	4.60	.20	.25			
Asphalt Lute & Raker Men	4.72	.20	.25			
Air Tract Drillers (All percussion type drills which are both powered and propelled by an independent air supply); Powdermen and Blasters; Side Rail Setters	4.75	.20	.25			
Gunnite Nozzle Men; Gunnite Operators; Tunnel Laborers (Free Air)	4.85	.20	.25			
Tunnel Muckers (Free Air)	4.95	.20	.25			
Tunnel Miners & Blasters	5.28	.20	.25			
Caisson Workers	5.85	.20	.25			

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Kentucky-2-TD- B (1-1)

Highway Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Truck Drivers:						
Truck Helper	$4.66	.20	.25			
Driver, Fork Lift Truck when used to transport building materials; Driver, Winch Truck and A-Frame Truck when used in transporting materials; Greaser, Tire Changer and Mechanic Helper; Driver, 3 Tons and Under	4.78	.20	.25			
Driver, Over 3 tons; Driver of Distributors; Driver, Dump Truck Tandem Axle; Driver, Semi-Trailer or Pole Trailer when used to pull building material or equipment	4.89	.20	.25			
Driver on Mixer Trucks (all types)	4.93	.20	.25			
Truck Mechanic	4.96	.20	.25			
Driver, Euclid and Other Heavy Earthmoving Equipment and Low Boy; Driver on Pavement Breakers	5.06	.20	.25			

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Kentucky 2-PEO-L (1-2)

Highway Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators:						
Class A						
Auto Patrol, Batcher Plant, Bituminous Paver, Cableway, Clamshell, Concrete Pump, Concrete Mixer (21 cu. ft. or over), Crane, Crusher Plant, Derrick, Derrick Boat, Ditching and Trenching Machine, Dragline, Dredge Engineer, Elevator (Regardless of ownership when used for hoisting any building material), Elevating Grader and all types of Loaders, Hoe-Type Machine, Hoisting Engine, Locomotive, LaTourneau or Carry-All Scoop, Bulldozer, Mechanic, Orangepeel, Bucket, Pile-driver, Power Blade, Roller (Bituminous), Scarifier, Shovel, Tractor Shovel, Truck Crane, Well Points, Winch Truck, Push Dozer, Grout Pump, High Lift, Fork Lift (Regardless of Lift Height), All Types of Boom Cats, Multiple Operator, Core Drill, Tow or Push Boat, A-Frame Winch Truck, Concrete Paver, Gradeall, Hoist, Hyster, Material Pump, Pumpcrete, Ross Carrier, Sheep Foot, Side Boom Throttle- Valve Man, Rotary Drill, Power Generator, Mucking Machine, Rock Spreader Attached to Equipment, Scoopmobile, KeCal Loader, Tower Cranes (French, German and other types), Hydrocrane, Tugger, Backfiller Gurries, Subgrader, Electric Vibrator Compactor, Welderburner	$6.73	.20	.25			
Class B						
All Air Compressors (200 cu. ft. per min or greater capacity), Bituminous Mixer, Concrete Mixer (Under 21 cu. ft.), Welding Machine, Form Grader, Roller (Rock), Tractor (50 H.P. and over), Bull Float, Finish Machine, Outboard Motor Boat, Flexplane, Boom Type Tamping Machine, Truck Crane Oiler, Switchman or Brakeman, Mechanic Helper, Whirley Oiler, Self-propelled Compactor, Tractair and Road Widening Trencher, Greaser on Grease Facilities Servicing Heavy Equipment, Joint Sealing Machine, and Rotary Drill (Under 5"), Firemen	5.38	.20	.25			

Kentucky 2-PEO-L (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd):						
Class C						
Bituminous Distributor, Cement Gun, Conveyor, Mud Jack, Paving Joint Machine, Pump, Roller (Earth, Tamping Machine, Tractors (under 50 H. P.), Vibrator, Oiler, Air Compressors (under 200 cu. ft. per min. capacity), Concrete Saw, Burlap and Curing Machine, Hydro Seeder, Power Form Handling Equipment, Deckhand Oiler, Hydraulic Post Driver	$4.83	.20	.25			

(1-1)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Heavy Construction						
Carpenters	$3.40					
Cement Masons	3.25					
Electricians	4.35					
Ironworkers						
Structural & ornamental	3.75					
Reinforcing	3.75					
Laborers:						
Unskilled	2.00					
Air Tool Op. (Jackhammer, Vibrator)	2.25					
Painters, brush	3.00					
Truck Drivers:						
3-ton & under	2.25					
Over 3-ton	3.50					
Power Equipment Operators:						
Air Compressors	2.75					
Bulldozers	3.50					
Cranes, derricks, draglines	3.50					
Motor graders	3.50					
Blade graders	3.50					
Oilers	2.75					
Pumps	2.75					
Rollers	3.50					
Backhoe	3.75					
Scrapers	3.50					
Shovels	3.75					
Tractors	2.75					
Trenching Machines	3.50					

SUPERSEDEAS DECISION

STATE: Kentucky
DECISION NUMBER: AP-145
Supersedes Decision No. AP-108 dated August 18, 1972 in 37 FR 16763.
DESCRIPTION OF WORK: Heavy and Highway Construction.

COUNTY: Area 1* (See below)
DATE: Date of Publication

*Counties: Allen, Ballard, Butler, Caldwell, Galloway, Carliste, Christian, Crittenden, Daviess, Edmonson, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, McCracken, McLean, Marshall, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, Warren and Webster

Heavy & Highway Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Bricklayers	$6.47					
Carpenters	6.15	.30	.30			
Cement Masons	5.77	.30	.165			
Electricians	7.09	.19	11%			
Ironworkers, Structural & Reinforcing	7.90	.31	.34		.03	
Millwrights	6.40	.30	.30			
Painters, Brush & Roller	6.56	.20	.15			
Painters, Spray	7.21	.20	.15			
Piledrivermen	6.40	.30	.30			
Pipefitters	8.26	.30	.275			
Plumbers	8.37	.28	.31			
Sheet Metal Workers	8.63	.425	.60			

AP-145 P. 2

Kentucky 3-TH-8 (1-1)

Heavy and Highway Construction:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Truck Drivers:						
Truck Helper	$5.69		a			
Driver, 3 tons and Under; Greaser, Tire Changer and Mechanic Helper	5.74		a			
Truck Mechanic	5.97		a			
Driver, Over 3 Tons; Driver of Distributors; Driver, Dump Truck Tandem Axle; Driver on Mixer Trucks (All Types); Driver, Semi-Trailer or Pole Trailer when used to pull Building Material or Equipment	6.04		a			
Driver, Euclid and Other Heavy Earth-Moving Equipment and Low Boy; Driver, Fork Lift Truck when used to Transport Building Materials; Driver on Pavement Breakers; Driver, Winch Truck and A-Frame Truck when used in Transporting Materials	6.05		a			

FOOTNOTE:

a. $12.00 per week for each employee who has been employed a minimum of twenty (20) workdays within any ninety (90) consecutive day period for that employer.

AF-145 P. 3

Kentucky 3-LAB-8 (1-1)

Heavy and Highway Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Laborers: Aging and Curing of Concrete; Grade Checkers; Guardrail and Fence Installers; Hand Blade Operator & Batch Truck Dumpers; Laborers; Landscaping & Seeders, Planters, Tree Trimmers; Mesh Handlers and Placers; Rip-Rap and Grouters	$5.34	.25	.15			
Air Tract Drillers (All percussion type drills which are both powered and propelled by an independent air supply); Operator & Deck Hand Scow Men; Power-Driven Tools, Wagon Drills, Jackhammers, Chain Saws, Concrete Saws, Sewer Pipe Layers (all storm sewers), Bottom Men, Dry Cement Handlers, Concrete Rubbers, Mason Tenders, Concrete Green Cutting, Sand Blasting and Concrete Chippers, Vibrator Operators, Power Wheelbarrow or Buggies	5.59	.25	.15			
Asphalt Lute & Raker Men; Gunnite Nozzle Men; Gunnite Operators; Powdermen and Blasters; Side Rail Setters; Tunnel Laborers (Free Air)	5.64	.25	.15			
Caisson Workers; Tunnel Miners & Blasters (Free Air) and Drillers; Tunnel Muckers (Free Air)	6.24	.25	.15			

AF-145 P. 4

Kentucky 5-PEO-A (1-2)

Highway Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators Class A Auto Patrol, Batcher Plant, Bituminous Paver, Cableway, Central Compressor Plant Operator, Clamshell, Concrete Mixer (21 cu. ft. or over), Concrete Pump, Crane, Crusher Plant, Derrick, Derrick Boat, Ditching and Trenching Machine, Dragline, Elevator (regardless of ownership when used for hoisting any building material), Elevating Grader and all types of Loaders, Hoe-Type Machine, Hoisting Engine (two or more drums), Locomotive, Motor Scraper, Bulldozer, Mechanic, Orangepeel Bucket, Piledriver, Power Blade, Roller (bituminous), Scarifier, Shovel, Tractor Shovel, Truck Crane, Winch Truck, Push Dozer, High Lift, Fork Lift (regardless of lift height), all types of Boom Cats, Core Drill, Tow or Push Boat, A-Frame Winch Truck, Concrete Paver, Grade-All, Hoist (two or more drums), Hyster, Pumpcrete, Ross Carrier, Side Boom, Rotary Drill (5" and over), Mucking Machine, Rock Spreader attached to equipment, Scoopmobile, KoCal Loader, Tower Cranes (French, German, and other types), Hydrocrane, Backfiller, Gurries, Subgrader, Tailboom and Dredge Engineer.	$6.78	.25	.25			
Class B All Air Compressors (600 cu. ft. per min. or greater capacity), Bituminous Mixer, Concrete Mixer (under 21 cu. ft.), Elevator (one drum or buck hoist), Welding Machine, Form Grader, Grout Pump, Roller (rock), Tractor (50 h.p. and over), Bull Float, Finish Machine, Outboard Motor Boat, Electric Vibrator Compactor/Self-Propelled Compactor Boom Type Tamping Machine, Truck Crane Oiler, Greaser on Grease Facilities Servicing Heavy Equipment, Switchman or Brakeman, Mechanic Helper, Whirley Oiler, Tractair and Road Widening Trencher, Joint Sealing Machine, Rotary Drill (under 5"), Throttle Valve Man, Tugger, Well Points, Flexplane, Firemen, and Hoist (one drum)	5.61	.25	.25			

Kentucky 5-PEO-A (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd):						
Class C						
Bituminous Distributor, Cement Gun, Conveyor, Mud Jack, Paving Joint Machine, Pump, Roller (earth), Tamping Machine, Tractors (under 50 h.p.), Vibrator, Oiler, Concrete Saw, Burlap and Curing Machine, Hydro Seeder, Power Form Handling Equipment, Deckhand Oiler, and Hydraulic Post Driver	$5.17	.25	.25			

KENTUCKY 1-PEO-2 A

Heavy Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS					
Class A Operators: Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge engineer, elevator, (regardless of ownership when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist (two or more drums), hyster, pumpcrete, ross carrier, side boom, tail boom, rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal Loader, tower cranes (French, German & other types), hydrocrane, backfiller, quarries, subgrader.	$7.05	.25	.25		
Class B Operators: All air compressors (600 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair and road widening trencher, grout pump, electric vibrator compactor/self-propelled compactor, throttle valve, elevator (one drum or buck hoist).	5.86	.25	.25		

Heavy Construction

KENTUCKY 1-FED-2 A

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
Class C Operators: Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, hydraulic post driver.	$5.42	.25	.25		

SUPERSEDEAS DECISION

STATE: Kentucky
DECISION NUMBER: AP-146
Supersedes Decision No. AP-110 dated August 18, 1972 in 37 FR 16770
DESCRIPTION OF WORK: Heavy and Highway Construction.

COUNTY: Area 3* (See below)
DATE: Date of Publication

*Counties: Anderson, Bath, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Carroll, Carter, Clark, Elliott, Fayette, Fleming, Franklin, Gallatin, Grayson, Grant, Greenup, Hardin, Harrison, Henry, Jefferson, Jessamine, Larue, Lewis, Madison, Marion, Mason, Meade, Mercer, Montgomery, Morgan, Nelson, Nicholas, Oldham, Owen, Robertson, Rowan, Scott, Shelby, Spencer, Trimble, Washington and Woodford

Heavy and Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Bricklayers	$7.96	.35	.375			
Carpenter	6.26	.30	.30			
Cement Masons	7.64	.25	.10			
Electricians	8.57	.51	1½+ .185			
Ironworkers:						
Structural and Ornamental	8.91	.15	.62		.03	
Reinforcing	8.86	.15	.62		.03	
Millwrights	6.51	.30	.30			
Painters:						
Brush	7.15	.25	.15			
Roller	7.17	.25	.15			
Spray	7.66	.25	.15			
Piledrivermen	6.51	.30	.30			
Pipefitters	8.60	.51	.49			
Plumbers	8.84	.30	.49			
Sheet Metal Workers	8.89	.52	.42			

4 Kentucky 3-LAB-B (1-1)

Heavy and Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Laborers: Aging and Curing of Concrete; Grade Checkers; Guardrail and Fence Installers; Hand Blade Operator & Batch Truck Dumpers; Laborers; Landscaping & Seeders, Planters, Tree Trimmers; Mesh Handlers and Placers; Rip-Rap and Grouters	$5.34	.25	.15			
Air Tract Drillers (All percussion type drills which are both powered and propelled by an independent air supply); Operator & Deck Hand Scow Men; Power-Driven Tools, Wagon Drills, Jackhammers, Chain Saws, Concrete Saws, Sewer Pipe Layers (all storm sewers), Bottom Men, Dry Cement Handlers, Concrete Rubbers, Mason Tenders, Concrete Green Cutting, Sand Blasting and Concrete Chippers, Vibrator Operators, Power Wheelbarrow or Buggies	5.59	.25	.15			
Asphalt Lute & Raker Men; Gunnite Nozzle Men; Gunnite Operators; Powdermen and Blasters; Side Rail Setters; Tunnel Laborers (Free Air)	5.64	.25	.15			
Caisson Workers; Tunnel Miners & Blasters (Free Air) and Drillers; Tunnel Muckers (Free Air)	6.24	.25	.15			

Kentucky 1-TD-8 (1-1)

Heavy & Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Truck Drivers: Truck Helper and Warehouseman	$5.44	a	b			
Driver, 3 Tons and Under; Greaser, Tire Changer and Mechanic Helper	5.55	a	b			
Driver, Over 3 Tons; Driver of Distributors; Driver, Dump Truck Tandem Axle; Driver, Semi-Trailer or Pole Trailer when used to pull Building Material or Equipment; Truck Mechanic	5.73	a	b			
Driver on Mixer Trucks (All types)	5.76	a	b			
Driver, Euclid and Other Heavy Earth-Moving Equipment and Low Boy; Driver, Fork Lift Truck when used to transport building materials; Driver on Pavement Breakers; Driver, Winch Truck and A-Frame Truck when used in transporting materials	5.83	a	b			

FOOTNOTES:

a. $9.50 per week for each employee.

b. $12.00 per week for each employee who has been employed a minimum of twenty (20) workdays within any ninety (90) consecutive day period for that employer.

Kentucky 6-PEO-8 (1-2)

Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth.
Power Equipment Operators:						
Class A						
Auto Patrol, Batcher Plant, Bituminous Paver, Cableway, Clamshell, Concrete Mixer (21 cu. ft. or over), Concrete Pump, Crane, Crusher Plant, Derrick, Derrick Boat, Ditching and Trenching Machine, Dragline, Dredge Engineer, Elevator (regardless of ownership when used for hoisting any building materials), Elevating Grader and all types of Loaders, Hoe-Type Machine, Hoisting Engine, Locomotive, Motor Scraper, Bulldozer, Mechanic, Orange-peel Bucket, Pile Driver, Power Blade, Roller (Bituminous), Scarifier, Shovel, Tractor Shovel, Truck Crane, Well Points, Winch Truck, Push Dozer, Grout Pump, High Lift, Fork Lift (regardless of lift height), all types of Boom Cats, Multiple Operator, Core Drill, Tow or Push Boat, A-Frame Winch Truck, Concrete Paver, Gradeall, Hoist, Hyster, Material Pump, Pumpcrete, Ross Carrier, Side Boom, Tail Boom, Throttle-Valve Man, Rotary Drill (5" and over), Power Generator, Mucking Machine, Rock Spreader attached to Equipment, Scoopmobile, KeCal Loader, Tower Cranes (French German, and other types), Hydrocrane, Tugger, Backfiller, Gurries, Subgrader, Electric Vibrator Compactor	$6.78	.25	.25			
Class B						
All Air Compressors (200 cu. ft. per min. or greater capacity), Concrete Mixer (under 21 cu. ft.), Welding Machine, Form Grader, Roller (Rock), Tractor (50 h. p. and over), Bull Float, Finish Machine, Outboard Motor Boat, Flexplane, Firemen, Boom Type Tamping Machine, Truck Crane Oiler, Greaser on Grease Facilities Servicing Heavy Equipment, Switchman or Brakeman, Mechanic Helper, Whirley Oiler, Self-Propelled Compactor, Tractair and Road Widening Trencher, Joint Sealing Machine, and Rotary Drill (under 5"); Bituminous Mixer	5.61	.25	.25			

AP-146 P. 5

Kentucky 6-PBD-R (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (cont'd)						
Class C						
Bituminous Distributor, Cement Gun, Conveyor, Mud Jack, Paving Joint Machine, Pump, Roller (earth), Tamping Machine, Tractors (under 50 h.p.), Vibrator, Oiler, Air Compressor (under 200 cu. ft. per min. capacity), Concrete Saw, Burlap and Curing Machine, Hydro Seeder, Power Form Handling Equipment, Deckhand Oiler and Hydraulic Post Driver	$5.17	.25	.25			

AP-146 P. 6

KENTUCKY 1-PBD-2 A (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Heavy Construction:						
Power Equipment Operators:						
Class A Operators:						
Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge engineer, elevator, (regardless of ownership when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist (two or more drums), hyster, pumpcrete, ross carrier, side boom, tail boom, rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal Loader, tower cranes (French, German & other types), hydrocrane, backfiller, quarries, subgrader	$7.05	.25	.25		
Class B Operators:						
All air compressors (600 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair and road widening trencher, grout pump, electric vibrator compactor/self-propelled compactor, throttle valve, elevator (one drum or buck hoist)	5.86	.25	.25		

KENTUCKY 1-FED-2 A (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Heavy Construction:						
Power Equipment Operators:						
Class C Operators:						
Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, hydraulic post driver	$5.42	.25	.25			

SUPERSEDEAS DECISION

STATE: Kentucky
DECISION NUMBER: AP-147
Supersedes Decision No. AP-112 dated August 18, 1972 in 37 FR 16709
DESCRIPTION OF WORK: Heavy and Highway Construction.

COUNTY: Johnson and Lawrence - Area 5
DATE: Date of Publication

Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Bricklayers	$7.96	.35	.375			
Carpenter	6.26	.30	.30			
Cement Masons	7.64	.25	.10			
Electricians	8.57	.51	1% + .185	.05	½ of 1%	
Ironworkers:						
Structural and Ornamental	8.91	.15	.62		.03	
Reinforcing	8.86	.15	.62		.03	
Millwrights	6.51	.30	.30			
Painters:						
Brush	7.15	.25	.15			
Roller	7.17	.25	.15			
Spray	7.66	.25	.15			
Piledrivermen	6.51	.30	.30			
Pipefitters	8.60	.51	.49			
Plumbers	8.84	.30	.49			
Sheet Metal Workers	8.89	.52	.42			

AP-147 P. 2

Kentucky 3-LAB-8 (1-1)

Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Laborers: Aging and Curing of Concrete; Grade Checkers; Guardrail and Fence Installers; Hand Blade Operator & Batch Truck Dumpers; Laborers; Landscaping & Seeders, Planters, Tree Trimmers; Mesh Handlers and Placers; Rip-Rap and Grouters	$5.34	.25	.15			
Air Tract Drillers (All percussion type drills which are both powered and propelled by an independent air supply); Operator & Deck Hand Scow Men; Power-Driven Tools, Wagon Drills, Jackhammers, Chain Saws, Concrete Saws, Sewer Pipe Layers (all storm sewers), Bottom Men, Dry Cement Handlers, Concrete Rubbers, Mason Tenders, Concrete Green Cutting, Sand Blasting and Concrete Chippers, Vibrator Operators, Power Wheelbarrow or Buggies	5.59	.25	.15			
Asphalt Lute & Raker Men; Gunnite Nozzle Men; Gunnite Operators; Powdermen and Blasters; Side Rail Setters; Tunnel Laborers (Free Air)	5.64	.25	.15			
Caisson Workers; Tunnel Miners & Blasters (Free Air) and Drillers; Tunnel Muckers (Free Air)	6.24	.25	.15			

Kentucky 1-TD-8 (1-1)

Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
Truck Drivers:						
Truck Helper	$5.44	a	b			
Driver, 3 Tons and Under; Greaser, Tire Changer and Mechanic Helper	5.55	a	b			
Driver, Over 3 Tons; Driver of Distributors; Driver, Dump Truck Tandem Axle; Driver, Semi-Trailer or Pole Trailer when used to pull Building Material or Equipment; Truck Mechanic	5.73	a	b			
Driver on Mixer Trucks (All types)	5.76	a	b			
Driver, Euclid and Other Heavy Earth-Moving Equipment and Low Boy; Driver, Fork Lift Truck when used to transport building materials; Driver on Pavement Breakers; Driver, Winch Truck and A-Frame Truck when used in transporting materials	5.83	a	b			

FOOTNOTES:

a. $9.50 per week for each employee.

b. $12.00 per week for each employee who has been employed a minimum of twenty (20) workdays within any ninety (90) consecutive day period for that employer.

Kentucky 6-PEO-A (1-2)

Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
Power Equipment Operators:						
Class A						
Auto Patrol, Batcher Plant, Bituminous Paver, Cableway, Clamshell, Concrete Mixer (21 cu. ft. or over), Concrete Pump, Crane, Crusher Plant, Derrick, Derrick Boat, Ditching and Trenching Machine, Dragline, Dredge Engineer, Elevator (regardless of ownership when used for hoisting any building materials), Elevating Grader and all types of Loaders, Hoe-Type Machine, Hoisting Engine, Locomotive, Motor Scraper, Bulldozer, Mechanic, Orange-peel Bucket, Pile Driver, Power Blade, Roller (Bituminous), Scarifier, Shovel, Tractor Shovel, Truck Crane, Well Points, Winch Truck, Push Dozer, Grout Pump, High Lift, Fork Lift (regardless of lift height), all types of Boom Cats, Multiple Operator, Core Drill, Tow or Push Boat, A-Frame Winch Truck, Concrete Paver, Gradeall, Hoist, Hyster, Material Pump, Pumpcrete, Ross Carrier, Side Boom, Tail Boom, Throttle-Valve Man, Rotary Drill (5" and over), Power Generator, Mucking Machine, Rock Spreader attached to Equipment, Scoopmobile, KeCal Loader, Tower Cranes (French German, and other types), Hydrocrane, Tugger, Backfiller, Gurries, Subgrader, Electric Vibrator Compactor	$6.78	.25	.25			
Class B						
All Air Compressors (200 cu. ft. per min. or greater capacity), Concrete Mixer (under 21 cu. ft.), Welding Machine, Form Grader, Roller (Rock), Tractor (50 h. p. and over), Bull Float, Finish Machine, Outboard Motor Boat, Flexplane, Firemen, Boom Type Tamping Machine, Truck Crane Oiler, Greaser on Grease Facilities Servicing Heavy Equipment, Switchman or Brakeman, Mechanic Helper, Whirley Oiler, Self-Propelled Compactor, Tractair and Road Widening Trencher, Joint Sealing Machine, and Rotary Drill (under 5"), Bituminous Mixer	5.61	.25	.25			

AP-147 P. 5

Kentucky 6-PPD-A (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (cont'd)						
Class C						
Bituminous Distributor, Cement Gun, Conveyor, Mud Jack, Paving Joint Machine, Pump, Roller (earth), Tamping Machine, Tractors (under 50 h.p.), Vibrator, Oiler, Air Compressor (under 200 cu. ft. per min. capacity), Concrete Saw, Burlap and Curing Machine, Hydro Seeder, Power Form Handling Equipment, Deckhand Oiler and Hydraulic Post Driver	$5.17	.25	.25			

AP-147 P. 6

(1 - 1)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Heavy Construction						
Carpenters	$3.40					
Cement Masons	3.25					
Electricians	4.35					
Ironworkers						
Structural & ornamental	3.75					
Reinforcing	3.75					
Laborers						
Unskilled	2.00					
Air tool op. (jack-hammer, vibrator	2.25					
Painters, brush	3.00					
Truck Drivers						
3-tons & under	2.25					
Over 3-tons	3.50					
Power Equipment Operators						
Air Compressors	2.75					
Bulldozers	3.50					
Cranes, derricks, draglines	3.50					
Motor graders	3.50					
Blade graders	3.50					
Oilers	2.75					
Pumps	2.75					
Rollers	3.50					
Backhoe	3.75					
Scrapers	3.50					
Shovels	3.75					
Tractors	2.75					
Trenching machines	3.50					

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Barnstable

DECISION NO.: AP-456 DATE: Date of Publication

Supersedes Decision No. AP-413 dated September 1, 1972 in 37 FR 17912.

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden-type apartments up to and including 4 stories), heavy and highway construction. & marine construction.

1-MASS-1-2-3-X (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS:						
Barnstable, Bourne, Falmouth, Mashpee, & Sandwich	$8.20	.39	.35		.005	
Remainder of County	8.505	.50	.40		.01	
BOILERMAKERS	8.705	.50	10%		.01	
BRICKLAYERS; CEMENT MASONS; Cement finishers; Plasterers; Stonemasons	8.25	.60	.60		.02	
CARPENTERS; Soft floor layers	7.80	.35	.50			
ELECTRICIANS:						
Electrical contracts under $12,000.00	6.85	.25	1%		a	
Electrical contracts over $12,000.00	8.15	.25	1%		a	
ELEVATOR CONSTRUCTORS	9.125	.345	.23	2%+b+c	.015	
ELEVATOR CONSTRUCTORS' HELPERS	70% JR	.345	.23	2%+b+c	.015	
ELEVATOR CONSTRUCTORS' HELPERS (PROB)	50% JR					
GLAZIERS	5.42	.24	.15			
IRONWORKERS:						
Ornamental; Reinforcing; & Structural	7.70	.45	.80+f		.02	
LABORERS:						
Building:						
Common laborers	6.10	.20	.25		.05	
Asphalt rakers; Jackhammer operators; Tampers; Pipelayers (concrete clay); Stone spreader & raker pneumatic gas & electric tool operators; Wreckers	6.35	.20	.25		.05	
Blasters & Powdermen	6.60	.20	.25		.05	
Open air caisson, Cylindrical work & boring crew:						
Driller	7.17	.40	.40		.05	
Bottom man	7.05	.40	.40		.05	
Helper	6.42	.40	.40		.05	
Laborer; Top man	6.30	.40	.40		.05	
Heavy & Highway:						
Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers	5.80	.40	.40		.05	
Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators	6.05	.40	.40		.05	
Air track operators; Block pavers; Curb setters; Rammers	6.30	.40	.40		.05	
Blasters; Powdermen	6.55	.40	.40		.05	
LATHERS	7.50	.45	.50		.01	
LEADBURNERS	8.25	.30		d	.01	
LINE CONSTRUCTION:						
Linemen	7.14	.25	1%	e		
Truck driver - groundman	5.58	.25	1%	e		
Groundmen	5.07	.25	1%	e		
Equipment operators	6.31	.25	1%	e		
MARBLE SETTERS; Terrazzo workers	7.65	.50	.50			
MARBLE SETTERS' HELPERS	6.50	.20	.10			
MILLWRIGHTS	8.60	.30	.30			

1-MASS-1-2-3-X (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS:						
Brush	$6.25	.30	.20			
Structural steel - 1' to 50'	6.75	.30	.20			
Spray	7.25	.30	.20			
PILEDRIVERMEN	8.30	.30	.30			
PLUMBERS; Steamfitters	7.95	.36	.51		.15	
ROOFERS:						
Roofers, kettlemen & waterproofers	7.35	.25	.05			
Roofers' helpers, Class A	6.70	.25	.05			
SHEET METAL WORKERS	8.50	.30	.25			
SPRINKLER FITTERS	8.00	.25	.40		.05	
TERRAZZO WORKERS' HELPERS	7.40	.20	.10			
TILE SETTERS	8.20	.20	.25			
TILE SETTERS' HELPERS	6.50	.20	.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. Employer contributes $1.00 per journeyman Electrician per week.

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years' service as Vacation pay credit.

c. 6 paid holidays: A through F.

d. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days during the 120 calendar days prior to the holiday & the regular scheduled work days immediately preceding the following holiday.

e. 7 paid holidays: A through F, & Bunker Hill Day, provided the employee has been employed 10 working days prior to the holiday.

f. Employer contribution of $.50 to Annuity Fund.

AP-456 P. 3
MASS.-1-PEO-1-2-3-B (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators:						
Shovels, cranes, truck cranes, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers & front end loaders (except when pushing), fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole diggers, pumpcrete machines, post hole hammers, pavement breakers, cement concrete pavers, trenching machines, hoisting engines, uke loaders, mucking machines (when used as in shafts and tunnels), shaft hoist steam engineers, cableways	$8.16	.40	.40	a	.02	
Boom over 150' including jib - additional $.35 per hour						
Boom over 185' including jib - additional $.70 per hour						
Boom over 210' including jib - additional $1.00 per hour						
Boom over 250' including jib - additional $1.50 per hour						
Boom over 295' including jib - additional $2.00 per hour						
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, grout pumps, locomotive or machines used in place thereof	8.04	.40	.40	a	.02	
Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), siphonspulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors Jackson type tamper single diaphragm pump	6.725	.40	.40	a	.02	
Assistant engineers (firemen)	7.41	.40	.40	a	.02	

AP-456 P. 4
MASS.-1-PEO-1-2-3-B (2-2)

Power Equipment Operators (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Oilers and apprentices (other than truck cranes and gradalls)	$5.85	.40	.40	a	.02	
Oilers and apprentices on truck cranes and gradalls	6.23	.40	.40	a	.02	

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

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

MASS-1-TD-1 -A 1 of 1

TRUCK DRIVERS-BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHER
Two axle equipment	$3.97	.24	.35	a+b		
Three axle equipment	4.02	.24	.35	a+b		
Four and five axle equipment	4.12	.24	.35	a+b		
Low bed trailer	4.22	.24	.35	a+b		
Specialized earth moving equipment other than conventional	4.22	.24	.35	a+b		
Helpers on low beds	3.97	.24	.35	a+b		

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

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day after 30 days employment, provided an employee works two days of the calendar week in which the holiday falls.

MASS - 1 - TD - 2-3 C

TRUCK DRIVERS:
HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Station wagons, panel trucks and pick-up trucks	$5.41	.35	.50	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	5.51	.35	.50	a+b		
Three axle equipment and tiremen	5.56	.35	.50	a+b		
Four and five axle equipment	5.66	.35	.50	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	5.76	.35	.50	a+b		
Specialized earth moving equipment over 35 tons	6.01	.35	.50	a+b		
Trailers for earth moving equipment, (double bookup)	6.26	.35	.50	a+b		

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

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veteran's Day after 30 days employment provided an employee works two days of the calendar week in which the holiday falls.

37-MASS-4 G

MARINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators: Power shovel, crane, truck crane, derrick, cherry picker, pile driver, 2 or more drum machine, lighter, derrick boat, trenching machine, mechanical hoist pavement breaker, cement concrete paver, dragline, hoisting engine, pumpcrete machine, elevating grader, shovel dozer (except when pushing) front end loader (except when pushing), backhoe, gradall, cableway, boring machine, rotary drill, post hole hammer, post hole digger, fork lift	$8.16	.40	.40	a	.02	
Booms over 150' including jib - additional $.35 per hour						
Booms over 185' including jib - additional $.70 per hour						
Booms over 210' including jib - additional $1.00 per hour						
Booms over 250' including jib - additional $1.50 per hour						
Booms over 295' including jib - additional $2.00 per hour						
Swinger engine	8.11	.40	.40	a	.02	
Sonic or vibratory hammer, york rakes, mulching machines, grader, scrapers, bulldozer tractors, concrete pump, tandem scraper	8.04	.40	.40	a	.02	
Portable steam boiler, portable steam generator, roller, spreader, mechanic (maintenance), concrete mixer with side loader	8.04	.40	.40	a	.02	
Assistant engineer (fireman)	7.41	.40	.40	a	.02	
Pump, compressor, welding machine, heater (power driven), valve controlling permanent plant (air or steam), wellpoint system, auger (powered by independent engine and attached to pile driver), hydraulic saw, generator, lighting plant, syphon pulsometer, concrete mixer, conveyor	6.725	.40	.40	a	.02	
Oiler (other than truck crane and gradall)	5.85	.40	.40	a	.02	
Oiler on scow	6.625	.40	.40	a	.02	
Oiler on truck crane and gradall	6.23	.40	.40	a	.02	

PAID HOLIDAYS:

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

FOOTNOTES:

a. Holidays: A through F: Washington's Birthday, Patriots' Day; Columbus Day, and Veterans' Day provided the employee has worked 3 days during the week in which the holiday falls, and is available for work the days preceding the holiday.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Essex
DECISION NO.: AP-457 DATE: Date of Publication
Supersedes Decision No. AP-414 dated September 1, 1972 in 37 FR 17915.
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction, & marine construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION 5-MASS-1-2-3-a (1-4)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$8.505	.50	.40		.01	
BOILERMAKERS	8.705	.50	10%		.01	
BRICKLAYERS; Stonemasons:						
Andover, Boxford, Danvers, Lawrence, Lynn, Lynnfield, Marblehead, Methuen, Middleton, Nahant, North Andover, Peabody, Salem, Saugus, Swampscott, & Topsfield	8.35	.235	.15			
Remainder of County	8.53	.42	.50		.01	
CARPENTERS; Soft floor layers:						
Gloucester, & Rockport	7.20	.20	.20			
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Lynn, Lynnfield, Merrimac, Nahant, Newbury, Newburyport, Rowley, Salisbury, Saugus, Swampscott, & West Newbury	8.20	.30	.30		.01	
Andover, Ballardvale, Lawrence, Methuen, North Andover, & West Andover	8.33	.30	.30		.02	
Remainder of County	7.45	.30	.30			
CEMENT MASONS; Plasterers:						
Amesbury, Andover, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, North Andover, Salisbury, & West Newbury	7.80	.385	.30			
Danvers, Lynn, Lynnfield, Marblehead, Middleton, Nahant, Peabody, Salem, Saugus, Swampscott, & Topsfield	8.35	.235	.15			
Remainder of County	8.53	.42	.50		.01	
ELECTRICIANS:						
Andover, Lawrence, Methuen, & North Andover	8.45	.25	1%+.10		.02	
Lynn, Lynnfield, Nahant, Saugus, & Swampscott	9.15	.35	1%+.95		.015	
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Merrimac, Newbury, Newburyport, Rowley, Salisbury, & West Newbury	8.35	.25	1%+.20		.02	
Remainder of County	8.45	.30	1%+.10		.02	
ELEVATOR CONSTRUCTORS	9.125	.345	.23	2%+a+b	.015	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2%+a+b	.015	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	7.15	.17	.16			
IRONWORKERS	8.29	.45	.80+f		.03	

5-MASS-1-2-1-a (2-4)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
LABORERS (Building):						
Gloucester, & Rockport						
Laborers	$6.10	.20	.25	c	.05	
Pneumatic or electric tools	6.35	.20	.25	c	.05	
Blasters	6.60	.20	.25	c	.05	
Lynn, Lynnfield, Nahant, Saugus, & Swampscott						
Laborers	6.10	.20	.25		.05	
Jackhammer & pavement breakers, Asphalt rakers, Stone spreaders, Diamond head core drill	6.35	.20	.25		.05	
Blasters & Powdermen	6.60	.20	.25		.05	
Open air caisson, cylindrical work & boring crew:						
Driller	7.17	.40	.40		.05	
Bottom man	7.05	.40	.40		.05	
Helper	6.42	.40	.40		.05	
Laborer; Topman	6.30	.40	.40		.05	
Beverly, Danvers, Essex, Hamilton, Ipswich, Manchester, Marblehead, Middleton, Peabody, Salem, Topsfield, & Wenham						
Laborers	6.10	.20	.25		.05	
Air tool & Jackhammer operators, Vibrator, Asphalt rakers, Stone spreaders, Tampers	6.35	.20	.25		.05	
Blasters & Powdermen	6.60	.20	.25		.05	
Plasterers' tenders	6.70	.40	.40		.05	
Remainder of County						
Building & Demolition Laborers	6.10	.20	.25		.05	
LATHERS:						
Beverly, Danvers, Gloucester, Hamilton, Ipswich, Lynn, Lynnfield, Salem, Saugus, Swampscott, Topsfield, & Wenham	7.15	.45	.50		.01	
Remainder of County	7.15	.45	.50		.01	
LEADBURNERS	8.25	.30		d	.01	
LINE CONSTRUCTION:						
Linemen	8.08	.25	1%	e		
	-		1%	e		
Equipment operators	7.17	.25	1%	e		
Driver groundman	5.41	.25	1%	e		
Groundman	5.16	.25	1%	e		
			1%	e		
			1%	e		
MARBLE SETTERS; Terrazzo workers	7.65	.50	.50			
MARBLE SETTERS' HELPERS	6.50	.20	.10			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS:						
Essex, Gloucester, Manchester, & Rockport						
Brush	$5.45	.20				
Spray	5.55	.20				
Roller	5.75	.20				
Andover, Boxford, Lawrence, Methuen, & North Andover						
Brush	4.10	.15				
Structural steel	4.60	.15				
Spray	5.10	.15				
Georgetown, Groveland, Haverhill, Merrimac, Newbury, Newburyport, Rowley, Salisbury, & West Newbury						
Brush (Under $3,500.00)	3.00					
Brush (Over $3,500.00)	3.75					
Steel	4.05					
Remainder of County						
Brush	6.55	.20	.15			
Steel	6.80	.20	.15			
Spray	6.925	.20	.15			
PILEDRIVERMEN	8.30	.30	.30			
PLUMBERS; Steamfitters:						
Amesbury, Haverhill, Merrimac, Salisbury, & West Newbury	6.50	.30	.30		.02	
Andover, Georgetown, Groveland, Lawrence, Methuen, & North Andover	8.49	.30	.25		.05	
Lynn, Lynnfield, Nahant, Saugus, & Swampscott						
Plumbers	9.35	.50	.60		.03	
Steamfitters	9.26	.36	.30		.03	
South Hamilton	8.50	.35	.35		.02	
Remainder of County	8.50	.40	.40		.05	
ROOFERS	8.00	.30	.20			
SHEET METAL WORKERS	8.73	.46	.45		.02	
SPRINKLER FITTERS	8.00	.25	.40		.05	
TERRAZZO WORKERS' HELPERS	7.40	.20	.10			
TILE SETTERS	8.20	.20	.25			
TILE SETTERS' HELPERS	6.50	.20	.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. 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.
b. 6 Paid Holidays: A through F
c. 1 Paid Holiday: Labor Day
d. 9 Paid Holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve provided the employee has worked 45 full days during the 120 calendar days prior to the holiday & the regular scheduled work days immediately preceding the following holiday.
e. 7 Paid Holidays: A through F, & Bunker Hill Day provided the employee has been employed 10 working days prior to any 1 of the listed holidays.
f. Employer contribution of $.25 to Annuity Fund.

TRUCK DRIVERS:
HEAVY AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 2-3 C

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Station wagons, panel trucks and pick-up trucks	$5.41	.35	.50	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	5.51	.35	.50	a+b		
Three axle equipment and tiremen	5.56	.35	.50	a+b		
Four and five axle equipment	5.66	.35	.50	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	5.76	.35	.50	a+b		
Specialized earth moving equipment over 35 tons	6.01	.35	.50	a+b		
Trailers for earth moving equipment, (double hookup)	6.26	.35	.50	a+b		

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

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veteran's Day after 30 days employment provided an employee works two days of the calendar week in which the holiday falls.

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MASS-1-TD-1 -A 1 of 1

TRUCK DRIVERS-BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Two axle equipment	$3.97	.24	.35	a+b		
Three axle equipment	4.02	.24	.35	a+b		
Four and five axle equipment	4.12	.24	.35	a+b		
Low bed trailer	4.22	.24	.35	a+b		
Specialized earth moving equipment other than conventional	4.22	.24	.35	a+b		
Helpers on low beds	3.97	.24	.35	a+b		

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

FOOTNOTES:

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

b. Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day after 30 days employment, provided an employee works two days of the calendar week in which the holiday falls.

MASS-1-LAB-2-3-h

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS: Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers	$6.05	.40	.40		.05	
Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators	6.30	.40	.40		.05	
Air track operators; Block pavers; Rammers; Curb setters	6.55	.40	.40		.05	
Blasters; Powdermen	6.80	.40	.40		.05	

AP-457 P. 6

MASS.-1-PED-1-2-3-B (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators:						
Shovels, cranes, truck cranes, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers & front end loaders (except when pushing), fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole diggers, pumpcrete machines, post hole hammers, pavement breakers, cement concrete pavers, trenching machines, hoisting engines, uke loaders, mucking machines (when used as in shafts and tunnels), shaft hoist steam engineers, cableways	$8.16	.40	.40	a	.02	
Boom over 150' including jib - additional $.35 per hour						
Boom over 185' including jib - additional $.70 per hour						
Boom over 210' including jib - additional $1.00 per hour						
Boom over 250' including jib - additional $1.50 per hour						
Boom over 295' including jib - additional $2.00 per hour						
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, grout pumps, locomotive or machines used in place thereof	8.04	.40	.40	a	.02	
Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), siphonspulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors Jackson type tamper single diaphragm pump	6.725	.40	.40	a	.02	
Assistant engineers (firemen)	7.41	.40	.40	a	.02	

Power Equipment Operators (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Oilers and apprentices (other than truck cranes and gradalls)	$5.85	.40	.40	a	.02	
Oilers and apprentices on truck cranes and gradalls	6.23	.40	.40	a	.02	

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

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

37-MASS-4 D

MARINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators:						
Power shovel, crane, truck crane, derrick, cherry picker, pile driver, 2 or more drum machine, lighter, derrick boat, trenching machine, mechanical hoist pavement breaker, cement concrete paver, dragline, hoisting engine, pumpcrete machine, elevating grader, shovel dozer (except when pushing) front end loader (except when pushing), backhoe, gradall, cableway, boring machine, rotary drill, post hole hammer, post hole digger, fork lift	$8.16	.40	.40	a	.02	
Booms over 150' including jib - additional $.35 per hour						
Booms over 185' including jib - additional $.70 per hour						
Booms over 210' including jib - additional $1.00 per hour						
Booms over 250' including jib - additional $1.50 per hour						
Booms over 295' including jib - additional $2.00 per hour						
Swinger engine	8.11	.40	.40	a	.02	
Sonic or vibratory hammer, york rakes, mulching machines, grader, scrapers, bulldozer tractors, concrete pump, tandem scraper	8.04	.40	.40	a	.02	
Portable steam boiler, portable steam generator, roller, spreader, mechanic (maintenance), concrete mixer with side loader	8.04	.40	.40	a	.02	
Assistant engineer (fireman)	7.41	.40	.40	a	.02	
Pump, compressor, welding machine, heater (power driven), valve controlling permanent plant (air or steam), wellpoint system, auger (powered by independent engine and attached to pile driver), hydraulic saw, generator, lighting plant, syphon pulsometer, concrete mixer, conveyor	6.725	.40	.40	a	.02	
Oiler (other than truck crane and gradall)	5.85	.40	.40	a	.02	
Oiler on scow	6.625	.40	.40	a	.02	
Oiler on truck crane and gradall	6.23	.40	.40	a	.02	

PAID HOLIDAYS:

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

FOOTNOTES:

a. Holidays: A through F: Washington's Birthday, Patriots' Day; Columbus Day, and Veterans' Day provided the employee has worked 3 days during the week in which the holiday falls, and is available for work the days preceding the holiday.

SUPERSEDEAS DECISION

STATE: Massachusetts
COUNTY: Hampden
DECISION NO.: AP-458
DATE: Date of Publication

Supersedes Decision No. AP-415 dated September 1, 1972 in 37 FR 17919.

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

7-MASS-1-2-3-v (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
ASBESTOS WORKERS	$7.60	.34	.15		.01	
BOILERMAKERS	8.705	.50	10%		.01	
BRICKLAYERS; Cement masons; Marble masons; Plasterers; Stone masons; Terrazzo workers; & Tile setters	8.60	.45	.40		.02	
CARPENTERS; Soft floor layers:						
Holyoke	8.33	.35	.30	a	.02	
Remainder of County	8.28	.35	.35	a	.02	
ELECTRICIANS:						
Holyoke	8.35	.35	1%+.20		.01	
Chester	8.35	.35	1%+.20		.01	
Remainder of County	6.80	.20	1%+.15		b	
ELEVATOR CONSTRUCTORS	8.09	.345	.23	½%+c+d	.015	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	½%+c+d	.015	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	7.01	.37	.40		.005	
IRONWORKERS:						
Ornamental; Reinforcing; & Structural	7.81	.45	1.30		.09	
LABORERS (Building):						
Holyoke & Williamsett						
Laborers & Wreckers	6.20	.30	.30		.05	
Mason tenders	6.45	.30	.30		.05	
Pneumatic, electric & gasoline tool operator; Diamond head & carbide core drilling machine; Mechanical tamper; Concrete saw; Paving breaker; Chipping hammer; Jackhammer	6.45	.30	.30		.05	
Blasters	7.20	.30	.30		.05	
Open air caisson, Cylindrical work & test boring crew:						
Bottom man; Top man	7.00	.30	.30		.05	
Leader	7.50	.30	.30		.05	
Remainder of County						
Laborers, wrecking laborers & pipelayers	6.20	.30	.25		.05	
Mason tenders; Mortar mixers; Plasterers' tenders; Cement finishers' tenders; Scaffold builders	6.45	.30	.25		.05	
Pneumatic, electric or gasoline powered tools	6.45	.30	.25		.05	
Blasters	7.20	.30	.25		.05	
Open air caisson, Cylindrical work & boring crew						
Bottom man; Top man	7.00	.30	.25		.05	
LATHERS	7.60	.45	.25			
LEADBURNERS	8.25	.30		e	.01	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION:						
Linemen	5.28		1%	f		
Groundmen, truck driver	3.95		1%	f		
Groundmen, experienced	3.51		1%	f		
Groundmen, inexperienced	3.09		1%	f		
Digger operator; Tractor operator	4.47		1%	f		
Blaster; Dynamite man	5.28		1%	f		
MILLWRIGHTS:						
Holyoke	7.95	.25	.30			
Remainder of County	8.00	.30	.30		.02	
PAINTERS:						
Brush	5.525	.30	.25			
Spray	7.366	.40	.3334			
Swing stage under 40' & steel	5.712	.30	.25			
Swing stage over 40' & steel	6.025	.30	.25			
PILEDRIVERMEN, WHARF & DOCK BUILDERS	8.30	.30	.30			
PLUMBERS	8.47	.45	.50		.01	
ROOFERS:						
Composition, damp & waterproofing	7.875	.51	.31			
Slate, Tile, Precast concrete	8.53	.51	.31			
SHEET METAL WORKERS	8.38	.40	.65		.02	
SPRINKLER FITTERS	8.00	.25	.40		.05	
STEAMFITTERS	7.55	.45	.45	g		

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

FOOTNOTES:
a. Paid Holiday: Labor Day
b. $.15 per man per week
c. 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.
d. Paid Holidays: A through F.
e. Paid Holidays: A through F, Washington's Birthday & 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.
f. Paid holidays: A through F, provided the employee has been employed for at least 30 days prior to the holiday and is available for work the day before and after the holiday.
g. Paid holiday: Fourth of July

TRUCK DRIVERS-BUILDING CONSTRUCTION

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Two axle equipment	$3.97	.24	.35	a+b		
Three axle equipment	4.02	.24	.35	a+b		
Four and five axle equipment	4.12	.24	.35	a+b		
Low bed trailer	4.22	.24	.35	a+b		
Specialized earth moving equipment other than conventional	4.22	.24	.35	a+b		
Helpers on low beds	3.97	.24	.35	a+b		

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

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day after 30 days employment, provided an employee works two days of the calendar week in which the holiday falls.

MASS-8-LAB-2-3-s

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS: Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers	$5.80	.40	.40		.05	
Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators	6.05	.40	.40		.05	
Air track operators; Block pavers; Curb setters; Rammers	6.30	.40	.40		.05	
Blasters; Powdermen	6.55	.40	.40		.05	

HEAVY & HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Grader-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine.	$7.70	.35	.50	a	.05	
Rotary Drill (with mounted Compressor), Compressor House (3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (struck load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console.	7.50	.35	.50	a	.05	
Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Fireman, Pumps-16 inches or over total discharge, Compressors (1 or 2) 900 cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck, Self-Propelled Hydraulic Cranes-up to 10 ton.	7.30	.35	.50	a	.05	
Asphalt Roller-up to 10 ton.	7.00	.35	.50	a	.05	

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MASS-2-PEO-2-3-H 2-2

HEAVY & HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant.	$6.60	.35	.50	a	.05	
Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot roller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil.	6.23	.35	.50	a	.05	
Compressor (up to 315 cu. Ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines						
A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat.	5.65	.35	.50	a	.05	

Footnotes:

a. Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving and Christmas Day.

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BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loaders-5½ yards or over, Dual Drum Paver, Automatic Grader (i. e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over.	$7.75	.35	.50	a	.05	
Rotary Drill (with mounted compressor), Compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console.	7.50	.35	.50	a	.05	
Combination Backhoe-Loader-up to 3/4 yard hoe, Bulldozers, Push Cats, Scrapers-up to 21 yards (struck Load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps, and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton.	7.30	.35	.50	a	.05	
Asphalt Roller-under 10 ton.	7.08	.35	.50	a	.05	

BUILDING CONSTRUCTION
POWER EQUIPMENT OPERATORS (cont'd.)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts-up to 15 feet.	$6.68	.35	.50	a	.05	
Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding.	6.35	.35	.50	a	.05	
Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck and Grease Trucks with hand greasing equipment.	5.75	.35	.50	a	.05	

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, Veterans' Day and Columbus Day.

TRUCK DRIVERS:
HEAVY AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 2-3 C

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Station wagons, panel trucks and pick-up trucks	$5.41	.35	.50	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	5.51	.35	.50	a+b		
Three axle equipment and tiremen	5.56	.35	.50	a+b		
Four and five axle equipment	5.66	.35	.50	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	5.76	.35	.50	a+b		
Specialized earth moving equipment over 35 tons	6.01	.35	.50	a+b		
Trailers for earth moving equipment, (double hookup)	6.26	.35	.50	a+b		

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

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veteran's Day after 30 days employment provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts
COUNTY: Middlesex
DECISION NO.: AP-459
DATE: Date of Publication

Supersedes Decision No. AP-416 dated September 1, 1972 in 37 FR 17922.

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction, & marine construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION TOWNSHIPS OF: Arlington, Bedford, Cambridge, Concord, Everett, Lexington, Lincoln, Malden, Medford, Melrose, Waltham, Weston, & Woburn

9-MASS-1-a (1-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$8.505	.50	.40		.01	
BOILERMAKERS	8.705	.50	10%		.01	
BRICKLAYERS; Stonemasons:						
Arlington, Cambridge, Everett, Malden, Medford, & Melrose	8.45	.50	.50		.04	
Bedford	8.45	.50	.50			
Concord, Lexington, Lincoln, Waltham, Weston, & Woburn	8.40	.20	.15		.04	
CARPENTERS; Soft floor layers	8.20	.30	.30		.01	
CEMENT MASONS:						
Arlington, Cambridge, Everett, Malden, Medford, Melrose, & Woburn	8.90	.35	.20		.04	
Bedford	6.25	.25				
Concord, Lexington, Lincoln, Waltham, & Weston	8.40	.20	.15		.04	
ELECTRICIANS:						
Arlington, Cambridge, Concord, Everett, Lexington, Lincoln, Malden, Medford, Melrose, Waltham, Weston, & Woburn	9.15	.35	1%+.95		.015	
Bedford	7.85	.25	1%+.20		.02	
ELEVATOR CONSTRUCTORS	9.125	.345	.23	2%+a+b	.015	
ELEVATOR CONSTRUCTORS' HELPERS	70% JR	.345	.23	2%+a+b	.015	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50% JR				.02	
GLAZIERS	8.35	.25	.16		.03	
IRONWORKERS	8.29	.45	1.05			
LABORERS (Building):						
Arlington, Cambridge, Concord, Everett, Lexington, Lincoln, Malden, Medford, Melrose, Waltham, Weston, & Woburn						
Laborers	6.10	.20	.25		.05	
Jackhammer; Pavement breaker; Wagon drill operators; Asphalt raker; Stone spreader & raker; Diamond head & carbide core drilling machines; Barco tamper operator	6.35	.20	.25		.05	
Blasters; Powdermen	6.60	.20	.25		.05	
Plasterers' tenders	6.70	.40	.40		.05	
Building wrecking:						
Laborers	6.43	.40	.40		.05	
Adzemen	6.60	.40	.40		.05	
Burners; Jackhammers	6.85	.40	.40		.05	
Open air caisson; Cylindrical work & boring crew:						
Driller	7.17	.40	.40		.05	
Bottom men	7.05	.40	.40		.05	
Helper	6.42	.40	.40		.05	
Laborer; Top man	6.30	.40	.40		.05	

9-MASS-1-a (2-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS (Building):						
Bedford						
Laborers, common	$6.10	.20	.25		.05	
Jackhammers; Pavement breakers; Wagon drill; Asphalt rakers; Stone spreaders, Diamond head & carbide core drilling machines; Mechanical tampers	6.35	.20	.25		.05	
Blaster & Powdermen	6.60	.20	.25		.05	
LATHERS:						
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Woburn	7.15	.45	.55		.01	
Bedford, Concord, Lexington, Lincoln, Waltham, Weston	7.15	.45	.50		.01	
LEADBURNERS	8.25	.30		c	.01	
LINE CONSTRUCTION:						
Linemen	8.08	.25	1%	d		
Equipment operators	7.17	.25	1%	d		
Groundmen	5.16	.25	1%	d		
MARBLE SETTERS; Terrazzo workers	7.65	.50	.50			
MARBLE SETTERS' HELPERS	6.50	.20	.10			
MILLWRIGHTS	8.50	.30	.30		.01	
PAINTERS:						
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Woburn						
Brush; Tapers	7.61	.32	.30		.04	
Spray; Sandblasting	8.61	.32	.30		.04	
Steel	7.61+c	.32	.30		.04	
Bedford						
Brush	7.27	.33	.20			
Spray	8.02	.33	.20			
Concord, Lexington, Lincoln, Waltham, Weston						
Brush	7.00	.35	.25			
Spray; Sandblasting	7.95	.35	.25			
Steel	7.25	.35	.25			
PILEDRIVERMEN	8.30	.30	.30			
PLASTERERS:						
Arlington, Cambridge, Everett, Malden, Medford, Woburn	7.75	.45	1.00		.02	
Bedford	6.25	.25				
Concord, Lexington, Lincoln, Waltham, Weston	8.40	.20	.15		.04	
PLUMBERS:						
Arlington, Cambridge, Everett, Malden, Medford, Melrose, & Woburn	9.35	.50	.60		.03	
Bedford	8.59	.40	.40		.02	
Concord, Lexington, Lincoln, Waltham, & Weston	8.675	.35	.40		.025	
ROOFERS	8.00	.30	.20			
SHEET METAL WORKERS	8.73	.46	.45		.02	

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S-MASS-1-a (3-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
SPRINKLER FITTERS	$8.00	.25	.40		.05	
STEAMFITTERS:						
Arlington, Cambridge, Everett, Malden, Medford, Melrose, & Woburn	9.26	.36	.30		.05	
Bedford	8.59	.40	.40		.02	
Concord, Lexington, Lincoln, Waltham, & Weston	8.675	.35	.40		.025	
TERRAZZO WORKERS' HELPERS	7.40	.20	.10			
TILE SETTERS	8.20	.20	.25			
TILE SETTERS' HELPERS	6.50	.20	.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. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.
b. 6 paid holidays: A through F
c. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding the following holiday.
d. 6 paid holidays: A through F, & Bunker Hill Day, provided the employee has been employed 10 working days prior to anyone of the listed holidays
e. Employer pays $5.00 per day extra above the trush rate.

MASS-1-LAB-2-3-h

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers	$6.05	.40	.40		.05	
Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators	6.30	.40	.40		.05	
Air track operators; Block pavers; Rammers; Curb setters	6.55	.40	.40		.05	
Blasters; Powdermen	6.80	.40	.40		.05	

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TRUCK DRIVERS-BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Two axle equipment	$3.97	.24	.35	a+b		
Three axle equipment	4.02	.24	.35	a+b		
Four and five axle equipment	4.12	.24	.35	a+b		
Low bed trailer	4.22	.24	.35	a+b		
Specialized earth moving equipment other than conventional	4.22	.24	.35	a+b		
Helpers on low beds	3.97	.24	.35	a+b		

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

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day after 30 days employment, provided an employee works two days of the calendar week in which the holiday falls.

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MASS - 1 - TD - 2-3 C

TRUCK DRIVERS:
HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Station wagons, panel trucks and pick-up trucks	$5.41	.35	.50	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	5.51	.35	.50	a+b		
Three axle equipment and tiremen	5.56	.35	.50	a+b		
Four and five axle equipment	5.66	.35	.50	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, wachaul, mechanics, paving restoration equipment, Mechanics	5.76	.35	.50	a+b		
Specialized earth moving equipment over 35 tons	6.01	.35	.50	a+b		
Trailers for earth moving equipment, (double hookup)	6.26	.35	.50	a+b		

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

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veteran's Day after 30 days employment provided an employee works two days of the calendar week in which the holiday falls.

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MASS.-1-PEO-1-2-3-B (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Power Equipment Operators:						
Shovels, cranes, truck cranes, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers & front end loaders (except when pushing), fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole diggers, pumpcrete machines, post hole hammers, pavement breakers, cement concrete pavers, trenching machines, hoisting engines, uke loaders, mucking machines (when used as in shafts and tunnels), shaft hoist steam engineers, cableways	$8.16	.40	.40	a	.02	
Boom over 150' including jib - additional $.35 per hour						
Boom over 185' including jib - additional $.70 per hour						
Boom over 210' including jib - additional $1.00 per hour						
Boom over 250' including jib - additional $1.50 per hour						
Boom over 295' including jib - additional $2.00 per hour						
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, grout pumps, locomotive or machines used in place thereof	8.04	.40	.40	a	.02	
Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), siphonspulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors Jackson type tamper single diaphragm pump	6.725	.40	.40	a	.02	
Assistant engineers (firemen)	7.41	.40	.40	a	.02	

Power Equipment Operators (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth.
Oilers and apprentices (other than truck cranes and gradalls)	$5.85	.40	.40	a	.02	
Oilers and apprentices on truck cranes and gradalls	6.23	.40	.40	a	.02	

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

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

MARINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators:						
Power shovel, crane, truck crane, derrick, cherry picker, pile driver, 2 or more drum machine, lighter, derrick boat, trenching machine, mechanical hoist pavement breaker, cement concrete paver, dragline, hoisting engine, pumpcrete machine, elevating grader, shovel dozer (except when pushing) front end loader (except when pushing), backhoe, gradall, cableway, boring machine, rotary drill, post hole hammer, post hole digger, fork lift	$8.16	.40	.40	a	.02	
Booms over 150' including jib - additional $.35 per hour						
Booms over 185' including jib - additional $.70 per hour						
Booms over 210' including jib - additional $1.00 per hour						
Booms over 250' including jib - additional $1.50 per hour						
Booms over 295' including jib - additional $2.00 per hour						
Swinger engine	8.11	.40	.40	a	.02	
Sonic or vibratory hammer, york rakes, mulching machines, grader, scrapers, bulldozer tractors, concrete pump, tandem scraper	8.04	.40	.40	a	.02	
Portable steam boiler, portable steam generator, roller, spreader, mechanic (maintenance), concrete mixer with side loader	8.04	.40	.40	a	.02	
Assistant engineer (fireman)	7.41	.40	.40	a	.02	
Pump, compressor, welding machine, heater (power driven), valve controlling permanent plant (air or steam), wellpoint system, auger (powered by independent engine and attached to pile driver), hydraulic saw, generator, lighting plant, syphon pulsometer, concrete mixer, conveyor	6.725	.40	.40	a	.02	
Oiler (other than truck crane and gradall)	5.85	.40	.40	a	.02	
Oiler on scow	6.625	.40	.40	a	.02	
Oiler on truck crane and gradall	6.23	.40	.40	a	.02	

PAID HOLIDAYS:

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

FOOTNOTES:

a. Holidays: A through F: Washington's Birthday, Patriots' Day; Columbus Day, and Veterans' Day provided the employee has worked 3 days during the week in which the holiday falls, and is available for work the days preceding the holiday.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Suffolk
DECISION NO.: AP-460 DATE: Date of Publication
Supersedes Decision No. AP-417 dated September 1, 1972 in 37 FR 17926.
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction, marine construction & dredging.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION 13-MASS-1-2-3-e (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
ASBESTOS WORKERS	$8.505	.50	.40		.01	
BOILERMAKERS	8.705	.50	10%		.01	
BRICKLAYERS; Stonemasons	8.45	.50	.50		.04	
CARPENTERS; Soft floor layers	8.20	.30	.30		.01	
CEMENT MASONS	8.90	.35	.20		.04	
ELECTRICIANS	9.15	.35	2%+.95		.015	
ELEVATOR CONSTRUCTORS	9.125	.345	.23	2%+a+b	.015	
ELEVATOR CONSTRUCTORS' HELPERS	70% JR	.345	.23	2%+a+b	.015	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50% JR					
GLAZIERS	8.35	.25	.16		.02	
IRONWORKERS:						
Ornamental; Reinforcing; Structural	8.29	.45	1.05		.03	
LABORERS:						
Building:						
Laborers; Mason tenders	6.10	.20	.25		.05	
Asphalt rakers; Pneumatic, gas, electric tool operators; Diamond head & carbide core drilling machines; Stone rakers & spreaders; Wagon drill	6.35	.20	.25		.05	
Blasters & powdermen	6.60	.20	.25		.05	
Plasterers' tenders	6.70	.40	.40		.05	
Wreckers:						
Adamen	6.60	.40	.40		.05	
Burners; Jackhammers	6.85	.40	.40		.05	
Laborers	6.43	.40	.40		.05	
Open air caisson, Cylindrical work & boring crew:						
Driller	7.17	.40	.40		.05	
Bottom men	7.05	.40	.40		.05	
Helper	6.42	.40	.40		.05	
Laborer; Top man	6.30	.40	.40		.05	
LATHERS	7.15	.45	.35		.01	
LEADBURNERS	8.25	.30		c	.01	
LINE CONSTRUCTION:						
Linemen	8.08	.25	1%	d		
Equipment operators	7.17	.25	1%	d		
Groundman-truck driver	5.41	.25	1%	d		
MARBLE SETTERS; Terrazzo workers	7.65	.50	.50			
MARBLE SETTERS' HELPERS	6.50	.20	.10			
MILLWRIGHTS	8.50	.30	.30		.01	
PAINTERS:						
Brush	7.61	.32	.30		.04	
Structural steel	7.61+e	.32	.30		.04	
Spray	8.61	.32	.30		.04	
PILEDRIVERMEN	8.30	.30	.30			
PLASTERERS	7.75	.45	1.00		.02	

13-MASS-1-2-3-e (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
PLUMBERS	9.35	.50	.60		.03	
ROOFERS; Waterproofers	8.00	.30	.20			
SHEET METAL WORKERS	8.73	.46	.45		.02	
SPRINKLER FITTERS	8.38	.20	.30		.02	
STEAMFITTERS	9.26	.36	.30		.05	
TERRAZZO WORKERS' HELPERS	7.40	.20	.10			
TILE SETTERS	8.20	.20	.25			
TILE SETTERS' HELPERS	6.50	.20	.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. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.
b. Paid Holidays: A through F.
c. Paid Holidays: A through F, Washington's Birthday & Good Friday providing the employee has worked at least 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. Paid Holidays: A through F, and Bunker Hill Day, provided the employee has been employed 10 working days prior to any one of the listed holidays.
e. Employer pays $5.00 per day extra above the brush rate.

MASS-1-LAB-2-3-h

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers	$6.05	.40	.40		.05	
Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators	6.30	.40	.40		.05	
Air track operators; Block pavers; Rammers; Curb setters	6.55	.40	.40		.05	
Blasters; Powdermen	6.80	.40	.40		.05	

TRUCK DRIVERS-BUILDING CONSTRUCTION

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Two axle equipment	$3.97	.24	.35	a+b		
Three axle equipment	4.02	.24	.35	a+b		
Four and five axle equipment	4.12	.24	.35	a+b		
Low bed trailer	4.22	.24	.35	a+b		
Specialized earth moving equipment other than conventional	4.22	.24	.35	a+b		
Helpers on low beds	3.97	.24	.35	a+b		

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

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day after 30 days employment, provided an employee works two days of the calendar week in which the holiday falls.

TRUCK DRIVERS:
HEAVY AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 2-3 C

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Station wagons, panel trucks and pick-up trucks	$5.41	.35	.50	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	5.51	.35	.50	a+b		
Three axle equipment and tiremen	5.56	.35	.50	a+b		
Four and five axle equipment	5.66	.35	.50	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	5.76	.35	.50	a+b		
Specialized earth moving equipment over 35 tons	6.01	.35	.50	a+b		
Trailers for earth moving equipment, (double hookup)	6.26	.35	.50	a+b		

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

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veteran's Day after 30 days employment provided an employee works two days of the calendar week in which the holiday falls.

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MASS.-1-PEO-1-2-3-B (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
Power Equipment Operators:						
Shovels, cranes, truck cranes, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers & front end loaders (except when pushing), fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole diggers, pumpcrete machines, post hole hammers, pavement breakers, cement concrete pavers, trenching machines, hoisting engines, uke loaders, mucking machines (when used as in shafts and tunnels), shaft hoist steam engineers, cableways	$8.16	.40	.40	a	.02	
Boom over 150' including jib - additional $.35 per hour						
Boom over 185' including jib - additional $.70 per hour						
Boom over 210' including jib - additional $1.00 per hour						
Boom over 250' including jib - additional $1.50 per hour						
Boom over 295' including jib - additional $2.00 per hour						
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, grout pumps, locomotive or machines used in place thereof	8.04	.40	.40	a	.02	
Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), siphonspulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors Jackson type tamper single diaphragm pump	6.725	.40	.40	a	.02	
Assistant engineers (firemen)	7.41	.40	.40	a	.02	

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MASS.-1-PEO-1-2-3-B (2-2)

Power Equipment Operators (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
Oilers and apprentices (other than truck cranes and gradalls)	$5.85	.40	.40	a	.02	
Oilers and apprentices on truck cranes and gradalls	6.23	.40	.40	a	.02	

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

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

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37-MASS-4 ô

MARINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators: Power shovel, crane, truck crane, derrick, cherry picker, pile driver, 2 or more drum machine, lighter, derrick boat, trenching machine, mechanical hoist pavement breaker, cement concrete paver, dragline, hoisting engine, pumpcrete machine, elevating grader, shovel dozer (except when pushing) front end loader (except when pushing), backhoe, gradall, cableway, boring machine, rotary drill, post hole hammer, post hole digger, fork lift	$8.16	.40	.40	a	.02	
Booms over 150' including jib - additional $.35 per hour						
Booms over 185' including jib - additional $.70 per hour						
Booms over 210' including jib - additional $1.00 per hour						
Booms over 250' including jib - additional $1.50 per hour						
Booms over 295' including jib - additional $2.00 per hour						
Swinger engine	8.11	.40	.40	a	.02	
Sonic or vibratory hammer, york rakes, mulching machines, grader, scrapers, bulldozer tractors, concrete pump, tandem scraper	8.04	.40	.40	a	.02	
Portable steam boiler, portable steam generator, roller, spreader, mechanic (maintenance), concrete mixer with side loader	8.04	.40	.40	a	.02	
Assistant engineer (fireman)	7.41	.40	.40	a	.02	
Pump, compressor, welding machine, heater (power driven), valve controlling permanent plant (air or steam), wellpoint system, auger (powered by independent engine and attached to pile driver), hydraulic saw, generator, lighting plant, syphon pulsometer, concrete mixer, conveyor	6.725	.40	.40	a	.02	
Oiler (other than truck crane and gradall)	5.85	.40	.40	a	.02	
Oiler on scow	6.625	.40	.40	a	.02	
Oiler on truck crane and gradall	6.23	.40	.40	a	.02	

PAID HOLIDAYS:

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

FOOTNOTES:

a. Holidays: A through F: Washington's Birthday, Patriots' Day; Columbus Day, and Veterans' Day provided the employee has worked 3 days during the week in which the holiday falls, and is available for work the days preceding the holiday.

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MR-DREDGE-1-ATL-C

DREDGING

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
Dredge operator	$5.935	.225	.25	c+d		
Mates	4.05	.742	.197	c+d		
Scowmen	3.31	.742	.161	c+d		
Deckhand	3.36	.742	.163	c+d		
Tug engineer	4.10	.742	.197	c+d		
Hydraulic Dredges						
Leverman	5.47	.25	.15	a+5%		
Engineer and derrick operators	5.40	.25	.15	a+5%		
Maintenance engineer	5.29	.25	.15	a+5%		
Dredge carpenter, electricians, blacksmith, welders & boilerman	5.17	.25	.15	a+5%		
Mates	4.80	.25	.15	a+5%		
Oiler, Fireman, carpenter's helper, welder's helper & blacksmith helper	4.24	.25	.15	a+5%		
Deckhands and shoreman	4.00	.25	.15	a+5%		
Tug engineer	4.86	.25	.15	a+5%		
Tug deckhand	4.06	.25	.15	a+5%		
Drill Boats						
Engineer	6.3475	.25	.15	b		
Blaster	6.4375	.25	.15	b		
Driller; Welder Machinist	6.3487	.25	.15	b		
Firemen	6.0975	.25	.15	b		
Oiler; Drill helper	5.97	.25	.15	b		

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; Washington's Birthday and Veterans Day.

b. Holidays: A through F; Washington's Birthday and Veterans Day (6½) days of vacation with pay for 104 days of service one additional day of vacation with pay for each additional 21-2/3 days of service, all in one calendar year. Employees not qualifying for vacation to receive 1 day's vacation with pay for each full 24 days of service in one calendar year.

c. Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Veterans Day; Thanksgiving Day; Christmas Day.

d. One week's vacation after one year of employment.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Worcester
DECISION NO.: AP-461 DATE: Date of Publication
Supersedes Decision No. AP-418 dated September 1, 1972 in 37 FR 17930.
DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION 14-MASS-1-2-3-x (1-3)

TOWNSHIPS OF: Fitchburg, Grafton, Harvard, Holden, Lancaster, Leicester, Leominster, Millbury, N. Grafton, Shrewsbury, Southbridge, Westboro, Whitinsville, & Worcester	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
ASBESTOS WORKERS	$8.62	.47	.20		.01	
BOILERMAKERS	8.705	.50	10%		.01	
BRICKLAYERS; Cement finishers; Plasterers; Stonemasons; & Tile setters: Harvard, Lancaster, Fitchburg, & Leominster	8.20	.30	.20			
BRICKLAYERS; Cement masons; Marble setters; Plasterers; Stonemasons; Terrazzo workers; & Tile setters: Grafton, Holden, Leicester, Millbury, North Grafton, Shrewsbury, Southbridge, Westboro, Whitinsville, & Worcester	8.30	.45	.40		.02	
CARPENTERS; Soft floor layers: Fitchburg, Harvard, & Leominster	8.20	.30	.30		.01	
Grafton, Holden, Lancaster, Leicester, Millbury, North Grafton, Shrewsbury, Southbridge, Whitinsville, Worcester	8.10	.40	.30		.01	
Westboro	7.95	.50	.30		.07	
ELECTRICIANS: Fitchburg, Harvard, Lancaster, & Leominster	8.05	.40	1%+.25		.02	
Grafton, Holden, Leicester, Millbury, North Grafton, Shrewsbury, Southbridge, Westboro, Whitinsville, & Worcester	8.85	5%	1%+.24		.01	
ELEVATOR CONSTRUCTORS	8.13	.345	.23	2%+a+b	.015	
ELEVATOR CONSTRUCTORS' HELPERS	70% JR	.345	.23	2%+a+b	.015	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50% JR					
GLAZIERS	7.15	.17	.16			
IRONWORKERS: Ornamental; Reinforcing; & Structural	8.04	.45	.80 + c		.03	
LABORERS (Building): Laborers	6.10	.20	.25		.05	
Jackhammer operators; Pavement breakers; Wagon drills; Asphalt rakers; Stone spreaders; Mechanical tampers; Diamond head; & Carbide core drills	6.35	.20	.25		.05	
Blasters and powdermen	6.60	.20	.25		.05	
Open air caisson, Cylindrical work & boring crew:						
Driller	7.17	.40	.40		.05	
Bottom man	7.05	.40	.40		.05	
Helper	6.42	.40	.40		.05	
Laborer; Top man	6.30	.40	.40		.05	

14-MASS-1-2-3-x (2-3)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS (Building) Cont'd: Building wreckers:						
Laborers	$6.43	.40	.40		.05	
Airmen	6.60	.40	.40		.05	
Burners; Jackhammers	6.85	.40	.40		.05	
LATHERS	7.82	.40	.10		.01	
LEADBURNERS	7.80	.30		c	.01	
LINE CONSTRUCTION: Lineman	8.08	.25	1%	d		
Equipment operator	7.17	.25	1%	d		
Driver groundman	5.41	.25	1%	d		
Groundman	5.16	.25	1%	d		
MARBLE SETTERS; Terrazzo workers: Fitchburg, Harvard, Lancaster, & Leominster	7.65	.50	.50			
MARBLE SETTERS' HELPERS	6.50	.20	.10			
MILLWRIGHTS: Fitchburg, Harvard, & Leominster	8.50	.30	.30		.01	
Grafton, Holden, Lancaster, Leicester, Millbury, North Grafton, Shrewsbury, Southbridge, Whitinsville, & Worcester	8.30	.40	.30		.01	
Westboro	8.25	.50	.30		.07	
PAINTERS: Fitchburg, Harvard, Lancaster, & Leominster						
Brush; Taping	6.80					
Boatswain chairs; Structural steel	7.05					
Spray	7.00					
Grafton, Holden, Leicester, Millbury, North Grafton, Shrewsbury, Southbridge, Whitinsville, & Worcester						
Brush	7.48	.50	.25			
Spray	8.48	.50	.25			
Steel	8.105	.50	.25			
Westboro						
Brush	7.00	.35	.25			
Steel	7.25	.35	.25			
Spray	7.95	.35	.25			
PILEDRIVERMEN	8.30	.30	.30			
PIPEFITTERS	9.25	.35	.25		.025	
PLUMBERS; Steamfitters: Grafton, Holden, Leicester, Millbury, North Grafton, Shrewsbury, Southbridge, Westboro, Whitinsville, & Worcester	8.725	.55	.30			
Fitchburg, Harvard, Lancaster, & Leominster	8.50	.30	.20	4%	.02	

14-MASS-1-2-3- x (3-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
ROOFERS; Damp-proofers	$8.50					
SHEET METAL WORKERS	7.65	.35	.25		.05	
SPRINKLER FITTERS	8.00	.25	.40		.05	
TERRAZZO WORKERS' HELPERS	7.40	.20	.10			
TILE SETTERS' HELPERS	6.50	.20	.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. Employer contributes 4% of basic hourly rate for 5 years or more service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.
b. Paid Holidays: A through F
c. Paid Holidays: A through F, Washington's Birthday, & Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday & the regular scheduled work days immediately preceding & following the holiday.
d. Paid Holidays: A through F, & Bunker Hill Day, provided the employee has worked 10 days prior to the listed holiday.
e. Employer contribution of $.25 to Annuity Fund.

MASS-1-LAB-2-3-h

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers	$6.05	.40	.40		.05	
Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators	6.30	.40	.40		.05	
Air track operators; Block pavers; Rammers; Curb setters	6.55	.40	.40		.05	
Blasters; Powdermen	6.80	.40	.40		.05	

MASS-1-TD-1 -A 1 of 1

TRUCK DRIVERS-BUILDING CONSTRUCTION

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Two axle equipment	$3.97	.24	.35	a+b		
Three axle equipment	4.02	.24	.35	a+b		
Four and five axle equipment	4.12	.24	.35	a+b		
Low bed trailer	4.22	.24	.35	a+b		
Specialized earth moving equipment other than conventional	4.22	.24	.35	a+b		
Helpers on low beds	3.97	.24	.35	a+b		

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

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day after 30 days employment, provided an employee works two days of the calendar week in which the holiday falls.

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TRUCK DRIVERS:
HEAVY AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 2-3 C

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Station wagons, panel trucks and pick-up trucks	$5.41	.35	.50	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	5.51	.35	.50	a+b		
Three axle equipment and tiremen	5.56	.35	.50	a+b		
Four and five axle equipment	5.66	.35	.50	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	5.76	.35	.50	a+b		
Specialized earth moving equipment over 35 tons	6.01	.35	.50	a+b		
Trailers for earth moving equipment, (double hookup)	6.26	.35	.50	a+b		

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

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veteran's Day after 30 days employment provided an employee works two days of the calendar week in which the holiday falls.

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MASS.-1-PED-1-2-3-8 (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Power Equipment Operators:						
Shovels, cranes, truck cranes, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers & front end loaders (except when pushing), fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole diggers, pumpcrete machines, post hole hammers, pavement breakers, cement concrete pavers, trenching machines, hoisting engines, uke loaders, mucking machines (when used as in shafts and tunnels), shaft hoist steam engineers, cableways	$8.16	.40	.40	a	.02	
Boom over 150' including jib - additional $.35 per hour						
Boom over 185' including jib - additional $.70 per hour						
Boom over 210' including jib - additional $1.00 per hour						
Boom over 250' including jib - additional $1.50 per hour						
Boom over 295' including jib - additional $2.00 per hour						
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, grout pumps, locomotive or machines used in place thereof	8.04	.40	.40	a	.02	
Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), siphonspulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors Jackson type tamper single diaphragm pump	6.725	.40	.40	a	.02	
Assistant engineers (firemen)	7.41	.40	.40	a	.02	

Power Equipment Operators (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Oilers and apprentices (other than truck cranes and gradalls)	$5.85	.40	.40	a	.02	
Oilers and apprentices on truck cranes and gradalls	6.23	.40	.40	a	.02	

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

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

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: AP-606
COUNTIES: Carver, Hennepin, & Scott
DATE: Date of Publication
Supersedes Decision No. AM-2377 dated August 13, 1971 in 36 FR 15392
DESCRIPTION OF WORK: Building Construction (Excluding single family homes and garden type apartments up to and including 4 stories)

27-MINN-1 T (1-2)

Building Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
ASBESTOS WORKERS	$8.17	.30	.35		.02	
BOILERMAKERS	7.80	.30	.85		.02	
BOILERMAKERS' HELPERS	7.55	.30	.85		.02	
BRICKLAYERS; Stonemasons	7.61	.455	.23	.56		
CARPENTERS; MILLWRIGHTS, PILEDRIVERMEN						
Scott Co. S/W of Belle Plaine						
Carpenters only	7.65	.20			.02	
Carpenters remainder of area	7.36	.40	.20	.50	.02	
Millwrights & Piledrivermen All Cos	7.36	.40	.20	.50	.02	
CEMENT MASONS	7.88	.30	.25			
ELECTRICIANS; Line Construction:						
Electricians; Linemen	8.00	4%	4%	7½%		
Equipment operators	8.00	4%	4%	7½%		
Groundmen	6.60	4%	4%	7½%		
ELEVATOR CONSTRUCTORS	7.23	.17	.185	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.17	.185	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	7.70	.15	.10	.13		
IRONWORKERS:						
Ornamental; Reinforcing; Structural	7.60	.40	.45		.02	
LABORERS:						
Carpenter tender; Common laborers; Earth dump men; Power buggy op.; Steel joist handlers (erection)	5.90	.35	.35	.40		
Reinforcing steel handlers	5.95	.35	.35	.40		
Concrete joint saw op.; laborer, demolition & wrecking (not incl. remodeling); Men handling cement 2 hours per day (bulk or sack, excl. mortar mixer)	6.00	.35	.35	.40		
Automatic tamper op.; Chipping hammer op.; Concrete vibrator op.; Gunite machine op.; Hot tar caulkers & cookers; Jackhammermen; Laborers on swing stage single line scaffolds (not incl. "Patent" scaffolding); Mixers of mortar, cement or any other substitute material or composition; Paving buster	6.05	.35	.35	.40		
Drivers on heavy building excav.; Sheeting setters; Underground work	6.15	.35	.35	.40		
Pipelayers	6.20	.35	.35	.40		
Caisson work; Underpinning	6.25	.35	.35	.40		
Nozzlemen	6.30	.35	.35	.40		
Dynamite men; Power drillers for blasting purposes	6.605	.35	.35	.40		
LATHERS	7.60	.20			.01	

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27-MINN-1 (2-2)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
MARBLE SETTERS	$7.385	.305	.23	.53		
PAINTERS:						
Brush	7.60	.35	.25		.04	
Spray; Structural steel; Swing stage	8.10	.35	.25		.04	
PIPEFITTERS; Steamfitters	7.28	.38	.35	1.25	.02	
PLASTERERS	7.39	.31	.20		.01	
PLUMBERS	7.28	.38	.35	1.25	.02	
ROOFERS	7.49	.39	.25			
SHEET METAL WORKERS	8.83	.32	.30			
SOFT FLOOR LAYERS	7.65b	c		d		
SPRINKLER FITTERS	8.75	.30	.50		.02	
TILE SETTERS	7.59	.22	.50			
TRUCK DRIVERS	6.30	.25	.25			
WELDERS- Receive rate prescribed for craft performing operation to which welding is incidental.						

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

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for over 5 years' service, 2% basic hourly rate for over 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

b. Out-of-town contractors will pay the rate of $8.40 per hour with no fringe benefits payments.

c. Employer shall contribute $25.00 per month for each employee into the H & W Fund.

d. Employee with at least 1,700 hours' service during the current year and 1 year's service - 1 week's vacation with pay; 3 years' service - 2 weeks' vacation with pay; 15 years' service - 3 weeks' vacation with pay.

27-MINN-2-3 T

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth.
CARPENTERS	$7.36	.40	.20	.50	.02	
PILEDRIVERMEN	7.36	.40	.20	.50	.02	
CEMENT MASONS	7.65	.30	.25			

MINN-1-PSO-1-F (1-1)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
HELICOPTER OPERATORS (Hoisting material)	$11.40	.25	.25			
TRUCK & CRAWLER CRANES with 200' of boom & over inc. JIB	9.00	.25	.25			
TRUCK & CRAWLER CRANES with 150' of boom incl. JIB up to 200' of boom	8.65	.25	.25			
TRAVELING TOWER CRANE	8.55	.25	.25			
MASTER MECHANIC	8.45	.25	.25			
DERRICK (GUY & STIFF LEG); Hoist engineer (3 drums or more); Locomotive op., master mechanic; Overhead crane op. (inside building perimeter); Truck & crawler cranes up to 150" of boom incl. JIB	8.20	.25	.25			
AIR COMPRESSOR OPERATOR, Pump op. &/or Conveyor, 2 or more machines: Hoist engineer (2 drums); Mechanic or welder; Pumpcrete or Complaco type machine op.	8.08	.25	.25			
FORK LIFT OPERATOR	8.08	.25	.25			
BOOM TRUCK OPERATOR; Concrete mixer op.; Drill rigs (heavy duty rotary or churn drill when used for caisson drilling or when drilling for elevator cylinder on building construction); Front end loader op.; Hoist engineer (1 drum); Power plant engineer (100 KWH & over); Straddle carrier op.; Tractor op. (over D-2); Well point pump op.	8.00	.25	.25			
CONCRETE BATCH PLANT OPERATOR; Gunite op.; Tractor op (D-2 or similar size & front end loader operator up to ½ cu. yd.)	7.73	.25	.25			
AIR COMPRESSOR OPERATOR, Pump &/or Conveyor op.; Fireman, Temporary heat; Brakeman; Pick up sweeper (combustion engine operated); Truck crane oiler	7.45	.25	.25			
MECHANIC SPACE HEATER (Temporary heat); Oiler or greaser	7.00	.25	.25			

MINN-9-LAB-2-3- (1-2)

Site preparation, excavation and incidental paving

LABORERS:

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHER
UNSKILLED LABORERS; Drill runner helper; Landscape gardener; Sod layer & nurseryman; Powder monkey; Reinforced steel laborer; Reinforced steel setter (pavement); Salamander heater & blower tender; Carpenter tender; Winch handler (manual)	$5.85	.35	.35	.40		
LABORER, WRECKING & DEMOLITION; Bituminous batcherman (stationary plant); Bituminous shoveler; Blacksmith helper; Bottom man (sewer, water or gas trench); Bricklayer tender; Cement handler (bulk or bag); Cement coverman (batch trucks); Compaction equipment (hand operated); Concrete shoveler, tamper & puddler (paving); Concrete vibrator; Concrete batcherman (proportioning plant); Concrete longitudinal floatmen (manual bull float on paving); Conduit layers (w/o wiring); Chipping hammer; Curb setter (stone or precast concrete); Dumper (wagon, truck, etc.); Dump man; Dump man (paver-batch truck, etc.); Form setter (municipal type curb & sidewalk); Formsetter (pavement); Hydrant & valve setter; Joint filler (concrete pavement); Kettleman (bituminous or lead); Service connection maker (water or gas); Power buggy; Joint sawer; Squeegeeman (bituminous brick or block); Stabilizing batcherman (stationary plant); Stonemason tender; Drill runner (heavy, incl. churn drill)	5.95	.35	.35	.40		
CHAINSAW MAN; Concrete mixer (1 bag); Jackhammer man & paving buster; Mortar mixer; Pipe handler (water, gas, cast iron); Pipe derrickman (triped, manual)	6.00	.35	.35	.40		

MINN-9-LAB-2-3-d (2-2)

LABORERS CONTINUED:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
BOTTOM MAN (sewer, water or gas trench, more than 8 ft. below starting level of manual work); Tunnel laborer (atmospheric pressure); Underground laborers; cofferdam work; Tunnel work; Underpinning work; Caisson work; Other work more than 8 ft. below starting level of manual work; Open ditch work	6.10	.35	.35	.40		
BITUMINOUS TAMPER; Pipelayer (sewer, water, gas); Sand cushion & bed maker	6.15	.35	.35	.40		
CEMENT GUN (1½ in. & over); Leadman	6.20	.35	.35	.40		
NOZZLEMEN (gunite)	6.25	.35	.35	.40		
BRICK OR BLOCK PAVING SETTER	6.28	.35	.35	.40		
BITUMINOUS RAKER, FLOATER & UTILITY MAN	6.30	.35	.35	.40		
POWDERMAN; Tunnel man (air pressure); Tunnel miner	6.53	.35	.35	.40		

MINN-6-PED-2-3-E (1-3)

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS						
DREDGE DECK HAND; Gravel screening plant (portable, not crushing or washing); Greaser truck & tractor; Leverman; Mechanic helper; Mechanic space-heater (temporary heat); Oilers (power shovel, crane, dragline)	$ 6.45	.25	.25			
TRACTOR, 50 H.P. OR LESS WITHOUT POWER TAKE-OFF	6.48	.25	.25			
BATCH PLANT (Concrete); Brakeman or switchman; Conveyor; Fireman; Tank car heater; Self-propelled vibrating packer (pad type) (35 H.P. & over); Truck crane oiler	6.55	.25	.25			
AIR COMPRESSOR; Lead greaser on grease truck or grease rack (where no mechanic is employed)	6.70	.25	.25			
CONCRETE DISTRIBUTOR & SPREADER; Finishing machine; Longitudinal float; Joint machine; Spray op.; Concrete saw (multiple blade) (power operated); Fine grade op.; Form trench digger (power); Power actuated jacks; Pumps; Shouldering machine (power) (Apsco or similar type incl. self-propelled sand & chip spreader); Stump chipper; Self-propelled chip spreader (Flaherty or similar); Curb machine	6.72	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING MACHINE (Helper) (Power)	6.80	.25	.25			
CONCRETE MIXER ON JOB SITE 14s & UNDER: Front end loader, up to & incl. 1 cu. yd.; Gunite op. gunall; Loader (Barber Greene or similar type); Power acutate augers; Boring machine; Rollers up to 8 tons; Tractor, D2, TD6 or similar H.P. w/power take-off	6.83	.25	.25			
GRADER OPERATOR (Motor Patrol)	6.90	.25	.25			
ASPHALT BITUMINOUS STABILIZER PLANT: Automotaic road machine (CMI or similar) Backfiller; Bituminous spreader &						

MINN-6-PEO-2-3-E (2-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (cont'd):						
finishing machine (power); Boom truck (power operated boom); Concrete mixer, on job site over 14S; Crushing plant (gravel & stone); Gravel washing, crushing & screening plant; Dope machine (pipeline); Drill rigs; Heavy duty rotary churn or cable drills; Engineer in charge of plant requiring first class license; Fork lift; Straddle carrier; Fork lift or lumber stacker (for construction job site); Front end loader, over 1 cu. yd. up to 5 cu. yds.; Launcherman (tankerman or pilot license); Locomotives, all types; Mechanic or welder; Hoist engineer (power); Paving breaker or tamping machine (power driven) (Mighty Mite or similar type); Power actuated horizontal boring machines over 6" operator; Pick-up sweeper, 1 cu. yd. & over hopper cap.; Pipeline wrapping cleaning or bending machine; Power plant engineer 100 K.W.H. & over; Pugmill; Rollers 8 tons & over; Rubber tired tractor backhoe attachs.; Sheep foot roller (self-propelled) (3 drum & over); Slip form (power driven)(paving); Tie tamper & ballast machine; Tractor, over D2, TD6 or similar H.P. with power take-off; Tractor, over 50 H.P. without power take-off; Trenching machine (sewer, water, gas); Turnapull (or similar type), Well point installation, dismantling or repair mechanics; Two or more pumps; Compressors; Welding machines	$ 7.48	.25	.25			
SELF-PROPELLED TRAVELING SOIL STABILIZER	7.55	.25	.25			
DUAL TRACTOR; Elevating grader; Pumpcrete; Scraper struck cap. 32 cu. yd. & over	7.58	.25	.25			
CABLEWAY; Concrete Mixer, stationary plant over 43E; Derrick (Guy & stiff leg) (power) (skids or stationary); Dredge op. or engineer; Dredge op. (power) & engineer; Front end loader 5 cu. yds. & over; Grader or motor patrol, finishing, earth work & bituminous; Locomotive crane; Master						

MINN-6-PEO-2-3-E (3-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (cont'd):						
mechanic; Mixer (paving) concrete paving, road; Mole op. incl. power supply; Mucking machine (incl. mucking operations) (Conway or similar); Power shovel and/or other equip. with shovel type controls, up to 3 cu. yds.; Refrigeration plant engineer; Tandem scrapper; Tractor, boom type; Truck crane; Tugboat, 100 H.P. & over	$ 7.70	.25	.25			
CRANE WITH OVER 135 BOOM, EXCL. JIB; Power shovel and/or other equip. with shovel type controls, 3 cu. yds. & over	7.96	.25	.25			

Site preparation, excavation and incidential paving

MINN-3-TD-2-3- d

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
GROUP I						
DRIVER (hauling machinery for employer's own use, incl. operation of hand & power ooperated winches); Truck train Mechanic; Welder;.Tractor-trailer; Off-road truck	$6.80	.25	.25			
GROUP II						
TRI-AXLE (incl. four axles); Dump; Dry batch hauler; Tank truck (gas oil raod oil & water); Boom & A" frame; Ready mix concrete; Slurry driver	6.50	.25	.25			
GROUP III						
BITUMINOUS DISTRIBUTOR DRIVER; Bituminous distributor (one man operation); Tandem axle.	6.40	.25	.25			
GROUP IV						
BITUMINOUS DISTRIBUTOR SPRAY (rear-end oiler); Dumpman; Grease & truck service man; Tank truck helper (gas, oil road oil & water); Teamster & stableman; Tractor op. (wheel type used for any purpose)l Pilot car; Self-porpelled packer; Slurry op.; Single axle	6.20	.25	.25			

SUPERSEDEAS DECISION

STATE: Minnesota COUNTIES: Dakota, Ramsey & Washington
DECISION NUMBER: AP-607 DATE: Date of Publication
Supersedes Decision No. AM-2378 dated August 13, 1971 in 36 FR 15397
DESCRIPTION OF WORK: Building Construction (Excluding single family homes and garden type apartments up to and including 4 stories)

62-MINN- 1-V (1of2)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$8.17	.30	.35		.02	
BOILERMAKERS	7.80	.30	.85		.02	
BOILERMAKERS' HELPERS	7.55	.30	.85		.02	
BRICKLAYERS; STONEMASONS	7.61	.455	.23	.56		
CARPENTERS:						
Carpenters; Millwrights; Piledrivermen	7.36	.40	.20	.50	.02	
When working with material treated with toxic carbolieum or toxic creosote	7.61	.40	.20	.50	.02	
CEMENT MASONS	7.88	.30	.25			
ELECTRICIANS & LINE CONSTRUCTION:						
Cable Splicer; Technician	8.40	5%	2.5%	11.5%	1.5%	
Electricians; Linemen; Line equipment operator	8.00	5%	2.5%	11.5%	1.5%	
Groundmen	5.25	5%	2.5%	11.5%	1.5%	
ELEVATOR CONSTRUCTORS	7.23	.17	.185	2%a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.17	.185	2%a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	7.70	.15	1.0	.13		
IRONWORKERS:						
Ornamental; Reinforcing; Structural	7.60	.40	.45		.02	
LABORERS:						
Carpenters tenders; Common laborers; Earth dump men; Power buggy op.; Steel joint handlers (erection)	5.90	.35	.35	.40		
Reinforcing steel handlers	5.95	.35	.35	.40		
Concrete joint saw op.; Laborers, demolition & wrecking (not incl. remodeling); Men handling cement 2 hours per day bulk or sack, excl. mortar mixer)	6.00	.35	.35	.40		
Automactic tamper op.; Chipping hammer op.; Concrete vibrator op.; Gunite machine op.; Hot tar caulkers & colors; Jackhammermen; Laborers on swing stage single line scaffolds (not incl. "Patent" scaffolding); Mixers of mortar, cement or any other substitute material or composition; Paving buster	6.05	.35	.35	.40		
Drivers on heavy building excav.; Sheeting setters; Underground work	6.15	.35	.35	.40		
Pipelayers	6.20	.35	.35	.40		
Caisson work; Underpinning	6.25	.35	.35	.40		
Nozzlemen	6.30	.35	.35	.40		
Dynamitemen; Power drillers for blasting purposes	6.605	.35	.35	.40		

AP-607 P. 2

62-Minn- 1-V 2 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LATHERS	$7.66	.25	.25	.50	.01	
MARBLE SETTERS	7.385	.305	.23	.53		
PAINTERS:						
Brush; Paperhangers	7.68	.35	.15		.06	
Spray; Structrual steel; Swing stage	8.18	.35	.15		.06	
PLUMBERS; Steamfitters	7.42	.38	.35	1.14	.05	
ROOFERS	7.49	.39	.25			
SHEET METAL WORKERS	8.73	.32	.40		.04	
SOFT FLOOR LAYERS	7.65b	c		d		
SPRINKLER FITTERS	8.75	.30	.50		.02	
TILE SETTERS	7.59	.22	.50			
TRUCK DRIVERS	6.30	.25	.25			
RIGGERS-WELDERS: receive rate prescribed for craft performing operation to which rigging or welding is incidental.						

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

FOOT NOTES:

a. Employer contributes 4% basic hourly rate for over 5 years' service, 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit
Six Paid Holidays: A through F.

b. Out-of town contractor will pay the rate of $8.40 per hour with no fringe benefits payments.

c. Employer shall contribute $25.00 per month for each employee into the H & W Fund.

d. Employees with at least 1,700 hours' service curning the current year & 1 year's service- 1 week vacation with pay; 3 years' service - 2 weeks' vacation with pay; 15 years' service - 3 weeks vacation with pay.

62-MINN-2-3 V

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CARPENTERS	$7.36	.40	.20	.50	.02	
PILEDRIVERMEN	7.36	.40	.20	.50	.02	
CEMENT MASONS	7.65	.30	.25			

MINN-1-FEO-1-F (1-1)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
HELICOPTER OPERATORS (Hoisting material)	$11.40	.25	.25			
TRUCK & CRAWLER CRANES with 200' of boom & over inc. JIB	9.00	.25	.25			
TRUCK & CRAWLER CRANES with 150' of boom incl. JIB up to 200' of boom	8.65	.25	.25			
TRAVELING TOWER CRANE	8.55	.25	.25			
MASTER MECHANIC	8.45	.25	.25			
DERRICK (GUY & STIFF LEG); Hoist engineer (3 drums or more); Locomotive op., master mechanic; Overhead crane op. (inside building perimeter); Truck & crawler cranes up to 150' of boom incl. JIB	8.20	.25	.25			
AIR COMPRESSOR OPERATOR, Pump op. &/or Conveyor, 2 or more machines: Hoist engineer (2 drums); Mechanic or welder; Pumpcrete or Complaco type machine op.	8.08	.25	.25			
FORK LIFT OPERATOR	8.08	.25	.25			
BOOM TRUCK OPERATOR; Concrete mixer op.; Drill rigs (heavy duty rotary or churn drill when used for caisson drilling or when drilling for elevator cylinder on building construction); Fron end loader op.; Hoist engineer (1 drum); Power plant engineer (100 KWH & over); Straddle carrier op.; Tractor op. (over D-2); Well point pump op.	8.00	.25	.25			
CONCRETE BATCH PLANT OPERATOR; Gunite op.; Tractor op (D-2 or similar size & front end loader operator up to ½ cu. yd.)	7.73	.25	.25			
AIR COMPRESSOR OPERATOR, Pump &/or Conveyor op.; Fireman, Temporary heat; Brakeman; Pick up sweeper (combustion engine operated); Truck crane oiler	7.45	.25	.25			
MECHANIC SPACE HEATER (Temporary heat); Oiler or greaser	7.00	.25	.25			

MINN-9-LAB-2-3- (1-2)

Site preparation, excavation and incidential paving LABORERS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
UNSKILLED LABORERS; Drill runner helper; Landscape gardener; Sod layer & nurseryman; Powder monkey; Reinforced steel laborer; Reinforced steel setter (pavement); Salamander heater & blower tender; Carpenter tender; Winch handler (manual)	$5.85	.35	.35	.40		
LABORER, WRECKING & DEMOLITION; Bituminous batcherman (stationary plant); Bituminous shoveler; Blacksmith helper; Bottom man (sewer, water or gas trench); Bricklayer tender; Cement handler (bulk or bag); Cement coverman (batch trucks); Compaction equipment (hand operated); Concrete shoveler, tamper & puddler (paving); Concrete vibrator; Concrete batcherman (proportioning plant); Concrete longitudinal floatmen (manual bull float on paving); Conduit layers (w/o wiring); Chipping hammer; Curb setter (stone or precast concrete); Dumper (wagon, truck, etc.); Dump man; Dump man (paver-batch truck, etc.); Form setter (municipal type curb & sidewalk); Formsetter (pavement); Hydrant & valve setter; Joint filler (concrete pavement); Kettleman (bituminous or lead); Service connection maker (water or gas); Power buggy; Joint sawer; Squeegeeman (bituminous brick or block); Stabilizing batcherman (stationary plant); Stonemason tender; Drill runner (heavy, incl. churn drill)	5.95	.35	.35	.40		
CHAINSAW MAN; Concrete mixer (1 bag); Jackhammer man & paving buster; Mortar mixer; Pipe handler (water, gas, cast iron); Pipe derrickman (triped, manual)	6.00	.35	.35	.40		

MINN-9-LAB-2-3-d (2-2)

LABORERS CONTINUED:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
BOTTOM MAN (sewer, water or gas trench, more than 8 ft. below starting level of manual work); Tunnel laborer (atmospheric pressure); Underground laborers; cofferdam work; Tunnel work; Underpinning work; Caisson work; Other work more than 8 ft. below starting level of manual work; Open ditch work	6.10	.35	.35	.40		
BITUMINOUS TAMPER; Pipelayer (sewer, water, gas); Sand cushion & bed maker	6.15	.35	.35	.40		
CEMENT GUN (1½ in. & over); Leadman	6.20	.35	.35	.40		
NOZZLEMEN (gunite)	6.25	.35	.35	.40		
BRICK OR BLOCK PAVING SETTER	6.28	.35	.35	.40		
BITUMINOUS RAKER, FLOATER & UTILITY MAN	6.30	.35	.35	.40		
POWDERMAN; Tunnel man (air pressure); Tunnel miner	6.53	.35	.35	.40		

MINN-6-PEO-2-3-E (1-3)

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	O+
POWER EQUIPMENT OPERATORS						
BRIDGE DECK HAND; Gravel screening plant (portable, not crushing or washing); Greaser truck & tractor; Leverman; Mechanic helper; Mechanic space heater (temporary heat); Oilers (power shovel, crane, dragline)	$ 6.45	.25	.25			
TRACTOR, 50 H.P. OR LESS WITHOUT POWER TAKE-OFF	6.48	.25	.25			
BATCH PLANT (Concrete); Brakeman or switchman; Conveyor; Fireman; Tank car heater; Self-propelled vibrating packer (pad type) (35 H.P. & over); Truck crane oiler	6.55	.25	.25			
AIR COMPRESSOR; Lead greaser on grease truck or grease rack (where no mechanic is employed)	6.70	.25	.25			
CONCRETE DISTRIBUTOR & SPREADER; Finishing machine; Longitudinal float; Joint machine; Spray op.; Concrete saw (multiple blade) (power operated); Fine grade op.; Form trench digger (power); Power actuated jacks; Pumps; Shouldering machine (power) (Apsco or similar type incl. self-propelled sand & chip spreader); Stump chipper; Self-propelled chip spreader (Flaherty or similar); Curb machine	6.72	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING MACHINE (Helper) (Power)	6.80	.25	.25			
CONCRETE MIXER ON JOB SITE 14s & UNDER: Front end loader, up to & incl. 1 cu. yd.; Gunite op. gunall; Loader (Barber Greene or similar type); Power scutate augers; Boring machine; Rollers up to 8 tons; Tractor, D2, TD6 or similar H.P. w/power take-off	6.83	.25	.25			
GRADER OPERATOR (Motor Patrol)	6.90	.25	.25			
ASPHALT BITUMINOUS STABILIZER PLANT: Automotaic road machine (CMI or similar Backfiller; Bituminous spreader &						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (cont'd):						
finishing machine (power); Boom truck (power operated boom); Concrete mixer, on job site over 14S; Crushing plant (gravel & stone); Gravel washing, crushing & screening plant; Dope machine (pipeline); Drill rigs; Heavy duty rotary churn or cable drills; Engineer in charge of plant requiring first class license; Fork lift; Straddle carrier; Fork lift or lumber stacker (for construction job site); Front end loader, over 1 cu. yd. up to 5 cu. yds.; Launcherman (tankerman or pilot license); Locomotives, all types; Mechanic or welder; Hoist engineer (power); Paving breaker or tamping machine (power driven) (Mighty Mite or similar type); Power actuated horizontal boring machines over 6" operator; Pick-up sweeper, 1 cu. yd. & over hopper cap.; Pipeline wrapping cleaning or bending machine; Power plant engineer 100 K.W.H. & over; Pugmill; Rollers 8 tons & over; Rubber tired tractor backhoe attachs.; Sheep foot roller (self-propelled) (3 drum & over); Slip form (power driven)(paving); Tie tamper & ballast machine; Tractor, over D2, TD6 or similar H.P. with power take-off; Tractor, over 50 H.P. without power take-off; Trenching machine (sewer, water, gas); Turnapull (or similar type), Well point installation, dismantling or repair mechanics; Two or more pumps; Compressors; Welding machines	$ 7.48	.25	.25			
SELF-PROPELLED TRAVELING SOIL STABILIZER	7.55	.25	.25			
DUAL TRACTOR; Elevating grader; Pumpcrete; Scraper struck cap. 32 cu. yd. & over	7.58	.25	.25			
CABLEWAY; Concrete Mixer, stationary plant over 43E; Derrick (Guy & stiff leg) (power) (skids or stationary); Dredge op. or engineer; Dredge op. (power) & engineer; Front end loader 5 cu. yds. & over; Grader or motor patrol, finishing, earth work & bituminous; Locomotive crane; Master						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (cont'd):						
mechanic; Mixer (paving) concrete paving, road; Mole op. incl. power supply; Mucking machine (incl. mucking operations) (Conway or similar); Power shovel and/or other equip. with shovel type controls, up to 3 cu. yds.; Refrigeration plant engineer; Tandem scrapper; Tractor, boom type; Truck crane; Tugboat, 100 H.P. & over	$ 7.70	.25	.25			
CRANE WITH OVER 135 BOOM, EXCL. JIB; Power shovel and/or other equip. with shovel type controls, 3 cu. yds. & over	7.96	.25	.25			

Site preparation, excavation and incidental paving

MINN-3-TD-2-3- d

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
TRUCK DRIVERS						
GROUP 1						
DRIVER (hauling machinery for employer's own use, incl. operation of hand & power operated winches); Truck train Mechanic; Welder; Tractor-trailer; Off-road truck	$6.80	.25	.25			
GROUP II						
TRI-AXLE (incl. four axles); Dump; Dry batch hauler; Tank truck (gas oil road oil & water); Boom & A" frame; Ready mix concrete; Slurry driver	6.50	.25	.25			
GROUP III						
BITUMINOUS DISTRIBUTOR DRIVER: Bituminous distributor (one man operation); Tandem axle.	6.40	.25	.25			
GROUP IV						
BITUMINOUS DISTRIBUTOR SPRAY (rear-end oiler); Dumpman; Grease & truck service man; Tank truck helper (gas, oil road oil & water); Teamster & stableman; Tractor op. (wheel type used for any purpose)1 Pilot car; Self-porpelled packer; Slurry op.; Single axle	6.20	.25	.25			

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: AP-608
COUNTY: St. Louis (Duluth only)
DATE: Date of Publication
Supersedes Decision No. AM-2379 dated August 13, 1971 in 36 FR 15402
DESCRIPTION OF WORK: Building Construction (Excluding single family homes and garden type apartments up to and including 4 stories)

69-MINN- 1 W 1 of 1

Building Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$7.80	.15		.40		
Boilermakers	7.80	.30	.85		.02	
Boilermakers' helpers	7.55	.30	.85		.02	
Bricklayers; Stonemasons	7.67	.25	.25	.50		
Carpenters:						
Carpenters; Piledrivermen	7.35	.25		.30		
Millwrights	7.57	.25		.30		
Cement Masons	7.595	.25				
Electricians:						
Electrical contracts under $5,000.00	7.50	4%	4%	11%	1.5%	
Electrical contracts $5,000.00 & over	8.00	4%	4%	11%	1.5%	
Elevator constructors	6.84	.185	.20	2%a		
Elevator constructors' helpers	70%JE	.185	.20	2%a		
Elevator constructors' Helpers (Prob.)	50%JE					
Ironworkers	7.65	.25	.45	.10		
Laborers:						
Common Laborers	6.25	.15	.15	.25		
Carpenter tenders; Cement handlers; Concrete vibrator operators; Jackhammer operators; Mason tenders; Mortar mixers; Pipelayers (Concrete & Clay); Underground workmen	6.35	.15	.15	.25		
Lathers	7.75	.15				
Marble Setters	7.385	.305	.23	.53		
Painters:						
Brush	7.60	.25			.05	
Paperhangers; Sandblasting; Spray; Structural steel & bridges; Swing stage	7.85	.25			.05	
Plasterers	7.55	.15		.30		
Plumbers; Pipefitters	6.86	.25	.45	1.00	.05	
Roofers:						
Roofers	7.33	.15	.10	.40		
2nd Roofers	7.08	.15	.10	.40		
Kettlemen	6.88	.15	.10	.40		
Helpers	6.15	.15	.10	.40		
Sheet metal Workers	7.92	.15				
Soft Floor Layers	7.35	.25		.30		
Sprinkler fitters	8.75	.30	.50		.02	

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

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for over 5 years' service, 2% basic hourly rate for 6 months to 5 years; service as Vacation Pay Credit. Six paid holidays: A through F.

AP-608 P. 2

MINN-1-PSO-1-F (1-1)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
HELICOPTER OPERATORS (Hoisting material)	$11.40	.25	.25			
TRUCK & CRAWLER CRANES with 200' of boom & over inc. JIB	9.00	.25	.25			
TRUCK & CRAWLER CRANES with 150' of boom incl. JIB up to 200' of boom	8.65	.25	.25			
TRAVELING TOWER CRANE	8.55	.25	.25			
MASTER MECHANIC	8.45	.25	.25			
DERRICK (GUY & STIFF LEG); Hoist engineer (3 drums or more); Locomotive op., master mechanic; Overhead crane op. (inside building perimeter); Truck & crawler cranes up to 150' of boom incl. JIB	8.20	.25	.25			
AIR COMPRESSOR OPERATOR, Pump op. &/or Conveyor, 2 or more machines: Hoist engineer (2 drums); Mechanic or welder; Pumpcrete or Complaco type machine op.	8.08	.25	.25			
FORK LIFT OPERATOR	8.08	.25	.25			
BOOM TRUCK OPERATOR; Concrete mixer op.; Drill rigs (heavy duty rotary or churn drill when used for caisson drilling or when drilling for elevator cylinder on building construction); Fron end loader op.; Hoist engineer (1 drum); Power plant engineer (100 KWH & over); Straddle carrier op.; Tractor op. (over D-2); Well point pump op.	8.00	.25	.25			
CONCRETE BATCH PLANT OPERATOR; Gunite op.; Tractor op (D-2 or similar size & front end loader operator up to ¾ cu. yd.)	7.73	.25	.25			
AIR COMPRESSOR OPERATOR, Pump &/or Conveyor op.; Fireman, Temporary heat; Brakeman; Pick up sweeper (combustion engine operated); Truck crane oiler	7.45	.25	.25			
MECHANIC SPACE HEATER (Temporary heat); Oiler or greaser	7.00	.25	.25			

69-MINN-2-3 W

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CARPENTERS	$7.43	.25		.30		
PILEDRIVERMEN	7.43	.25		.30		
CEMENT MASONS	7.85	.15				

MINN-10-LAB-2-3-c (1-1)

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS						
UNSKILLED LABORERS; Laborers, wrecking and demolition; Bricklayer tender; Drill runner helper; Landscape gardener; Sod layer & nurseryman; Pipe handler (water, gas, cast iron); Salamander heater & blower tender; Carpenter tender; Stone mason tender	$6.08	.15	.15	.25		
BITUMINOUS SHOVELER; Bottom man sewer water or gas trench); Cement handler (bulk or bag); Cement coverman (batch trucks); Chain saw man; Compaction equipment (hand operated); Concrete mixer op. (1 bag); Concrete shoveler, tamper & puddler (paving); Concrete vibrator; Conduit layers (w/o wiring); Dumper (wagon, Truck, etc.); Formsetter (municipal type curb & sidewalk) Formsetter (pavement); Jackhammer man & paving buster; Kettleman (bituminous or lead); Mortar mixer; Power buggy; Joint sawer; Tunnel laborer (atmospheric pressure	6.18	.15	.15	.25		
BITUMINOUS TAMPER; Cofferdam work; Caisson work	6.33	.15	.15	.25		
DRILL RUNNER (heavy, including churn drill)	6.38	.15	.15	.25		
BITUMINOUS RAKER, FLOATER & UTILITY MAN; Pipelayer (sewer, water, gas); Leadman	6.43	.15	.15	.25		
NOZZLEMAN (gunite)	6.48	.15	.15	.25		
POWDERMAN	6.58	.15	.15	.25		
TUNNEL MINER	6.68	.15	.15	.25		

MINN-6-PEO-2-3-E (1-3)

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
POWER EQUIPMENT OPERATORS						
DREDGE DECK HAND; Gravel screening plant (portable, not crushing or washing); Greaser truck & tractor; Leverman; Mechanic helper; Mechanic space heater (temporary heat); Oilers (power shovel, crane, dragline)	$ 6.45	.25	.25			
TRACTOR, 50 H.P. OR LESS WITHOUT POWER TAKE-OFF	6.48	.25	.25			
BATCH PLANT (Concrete); Brakeman or switchman; Conveyor; Fireman; Tank car heater; Self-propelled vibrating packer (pad type) (35 H.P. & over); Truck crane oiler	6.55	.25	.25			
AIR COMPRESSOR; Lead greaser on grease truck or grease rack (where no mechanic is employed)	6.70	.25	.25			
CONCRETE DISTRIBUTOR & SPREADER; Finishing machine; Longitudinal float; Joint machine; Spray op.; Concrete saw (multiple blade) (power operated); Fine grade op.; Form trench digger (power); Power actuated jacks; Pumps; Shouldering machine (power) (Apsco or similar type incl. self-propelled sand & chip spreader); Stump chipper; Self-propelled chip spreader (Flaherty or similar); Curb machine	6.72	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING MACHINE (Helper) (Power)	6.80	.25	.25			
CONCRETE MIXER ON JOB SITE 14s & UNDER; Front end loader, up to & incl. 1 cu. yd.; Gunite op. gunall; Loader (Barber Greene or similar type); Power acutate augers; Boring machine; Rollers up to 8 tons; Tractor, D2, TD6 or similar H.P. w/power take-off	6.83	.25	.25			
GRADER OPERATOR (Motor Patrol)	6.90	.25	.25			
ASPHALT BITUMINOUS STABILIZER PLANT; Automotaic road machine (CMI or similar Backfiller; Bituminous spreader &						

MINN-6-PED-2-3-E (2-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (cont'd):						
finishing machine (power); Boom truck (power operated boom); Concrete mixer, on job site over 14S; Crushing plant (gravel & stone); Gravel washing, crushing & screening plant; Dope machine (pipeline); Drill rigs; Heavy duty rotary churn or cable drills; Engineer in charge of plant requiring first class license; Fork lift; Straddle carrier; Fork lift or lumber stacker (for construction job site); Front end loader, over 1 cu. yd. up to 5 cu. yds.; Launcherman (tankerman or pilot license); Locomotives, all types; Mechanic or welder; Hoist engineer (power); Paving breaker or tamping machine (power driven) (Highy Hite or similar type); Power actuated horizontal boring machines over 6" operator; Pick-up sweeper, 1 cu. yd. & over hopper cap.; Pipeline wrapping cleaning or bending machine; Power plant engineer 100 K.W.H. & over; Pugmill; Rollers 8 tons & over; Rubber tired tractor backhoe attachs.; Sheep foot roller (self-propelled) (3 drum & over); Slip form (power driven)(paving); Tie tamper & ballast machine; Tractor, over D2, TD6 or similar H.P. with power take-off; Tractor, over 50 H.P. without power take-off; Trenching machine (sewer, water, gas); Turnapull (or similar type), Well point installation, dismantling or repair mechanics; Two or more pumps; Compressors; Welding machines	$ 7.48	.25	.25			
SELF-PROPELLED TRAVELING SOIL STABILIZER	7.55	.25	.25			
DUAL TRACTOR; Elevating grader; Pumpcrete; Scraper struck cap. 32 cu. yd. & over	7.58	.25	.25			
CABLEWAY; Concrete Mixer, stationary plant over 43E; Derrick (Guy & stiff leg) (power) (skids or stationary); Dredge op. or engineer; Dredge op. (power) & engineer; Front end loader 5 cu. yds. & over; Grader or motor patrol, finishing, earth work & bituminous; Locomotive crane; Master						

MINN-6-PED-2-3-E (3-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (cont'd):						
mechanic; Mixer (paving) concrete paving, road; Mole op. incl. power supply; Mucking machine (incl. mucking operations) (Conway or similar); Power shovel and/or other equip. with shovel type controls, up to 3 cu. yds.; Refrigeration plant engineer; Tandem scrapper; Tractor, boom type; Truck crane; Tugboat, 100 H.P. & over	$ 7.70	.25	.25			
CRANE WITH OVER 135 BOOM, EXCL. JIB; Power shovel and/or other equip. with shovel type controls, 3 cu. yds. & over	7.96	.25	.25			

Site preparation, excavation and incidential paving

MINN-3-TD-2-3- d

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
TRUCK DRIVERS						
GROUP I						
DRIVER (hauling machinery for employer's own use, incl. operation of hand & power operated winches); Truck train Mechanic; Welder; Tractor-trailer; Off-road truck	$6.80	.25	.25			
GROUP II						
TRI-AXLE (incl. four axles); Dump; Dry batch hauler; Tank truck (gas oil road oil & water); Boom & A" frame; Ready mix concrete; Slurry driver	6.50	.25	.25			
GROUP III						
BITUMINOUS DISTRIBUTOR DRIVER: Bituminous distributor (one man operation); Tandem axle.	6.40	.25	.25			
GROUP IV						
BITUMINOUS DISTRIBUTOR SPRAY (rear-end oiler); Dumpman; Grease & truck service man; Tank truck helper (gas, oil road oil & water); Teamster & stableman; Tractor op. (wheel type used for any purpose)1 Pilot car; Self-porpelled packer; Slurry op.; Single axle	6.20	.25	.25			

SUPERSEDEAS DECISION

STATE: Minnesota

COUNTIES: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, & Washington

DECISION NUMBER: AP-609

DATE: Date of Publication

Supersedes Decision No. AM-2380 dated August 13, 1971 in 36 FR 15406

DESCRIPTION OF WORK: Heavy and Highway Construction

2-10-19-27-62-70-82-MINN-2-3 K

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CARPENTERS & PILEDRIVERMEN	$7.36	.40	.20	.50	.02	
CEMENT MASONS	7.65	.30	.25			
ELECTRICIANS: (Carver, Hennepin, Scott & Twps. of Anoka & Fridley in Anoka County)						
Electrician, Lineman, Equip. Op.	8.00	4%	4%	7.5%		
Groundman 1st 6 months	6.48	4%	4%	7.5%		
Groundman thereafter	6.60	4%	4%	7.5%		
ELECTRICIANS: (Remainder of area)						
Electrician, Lineman, Equip. Op.	8.00	5%	2.5%	11.5%	1.5%	
Cable splicers, Technicians	8.40	5%	2.5%	11.5%	1.5%	
Groundman	5.25	5%	2.5%	11.5%	1.5%	
IRONWORKERS	7.60	.40	.45		.02	
PAINTERS: (Anoka, Carver, Hennepin and Scott Counties)						
Brush	7.60	.35	.25		.04	
Structural Steel	8.10	.35	.25		.04	
PAINTERS: (Dakota, Ramsey and Washington Counties)						
Brush	7.68	.35	.15		.06	
Structural Steel	8.18	.35	.15		.06	

MINN-9-LAB-2-3- (1-2)

LABORERS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
UNSKILLED LABORERS; Drill runner helper; Landscape gardener; Sod layer & nurseryman; Powder monkey; Reinforced steel laborer; Reinforced steel setter (pavement); Salamander heater & blower tender; Carpenter tender; Winch handler (manual)	$5.85	.35	.35	.40		
LABORER, WRECKING & DEMOLITION; Bituminous batcherman (stationary plant); Bituminous shoveler; Blacksmith helper; Bottom man (sewer, water or gas trench); Bricklayer tender; Cement handler (bulk or bag); Cement coverman (batch trucks); Compaction equipment (hand operated); Concrete shoveler, tamper & puddler (paving); Concrete vibrator; Concrete batcherman (proportioning plant); Concrete longitudinal floatman (manual bull float on paving); Conduit layers (w/o wiring); Chipping hammer; Curb setter (stone or precast concrete); Dumper (wagon, truck, etc.); Dump man; Dump man (paver-batch truck, etc.); Form setter (municipal type curb & sidewalk); Formsetter (pavement); Hydrant & valve setter; Joint filler (concrete pavement); Kettleman (bituminous or lead); Service connection maker (water or gas); Power buggy; Joint sawer; Squeegeeman (bituminous brick or block); Stabilizing batcherman (stationary plant); Stonemason tender; Drill runner (heavy, incl. churn drill)	5.95	.35	.35	.40		
CHAINSAW MAN; Concrete mixer (1 bag); Jackhammer man & paving buster; Mortar mixer; Pipe handler (water, gas, cast iron); Pipe derrickman (tripod, manual)	6.00	.35	.35	.40		

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MINN-9-LAB-2-3-E (2 of 2)

LABORERS CONTINUED:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
BOTTOM MAN (sewer, water or gas trench, more than 8 ft. below starting level of manual work); Tunnel laborer (atmospheric pressure); Underground laborers; cofferdam work; Tunnel work; Underpinning work; Caisson work; Other work more than 8 ft. below starting level of manual work; Open ditch work	6.10	.35	.35	.40		
BITUMINOUS TAMPER; Pipelayer (sewer, water, gas); Sand cushion & bed maker	6.15	.35	.35	.40		
CEMENT GUN (1½ in. & over); Leadman	6.20	.35	.35	.40		
NOZZLEMEN (gunite)	6.25	.35	.35	.40		
BRICK OR BLOCK PAVING SETTER	6.28	.35	.35	.40		
BITUMINOUS RAKER, FLOATER & UTILITY MAN	6.30	.35	.35	.40		
PONDSMAN; Tunnel man (air pressure); Tunnel miner	6.53	.35	.35	.40		

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MINN-6-PEO-2-3-E (1-3)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apprentice	Other
DREDGE DECK HAND; Gravel screening plant (portable, not crushing or washing); Greaser truck & tractor; Leverman; Mechanic helper; Mechanic space heater (temporary heat); Oilers (power shovel, crane, dragline)	$ 6.45	.25	.25			
TRACTOR, 50 H.P. OR LESS WITHOUT POWER TAKE-OFF	6.48	.25	.25			
BATCH PLANT (Concrete); Brakeman or switchman; Conveyor; Fireman; Tank car heater; Self-propelled vibrating packer (pad type) (35 H.P. & over); Truck crane oiler	6.55	.25	.25			
AIR COMPRESSOR; Lead greaser on grease truck or grease rack (where no mechanic is employed)	6.70	.25	.25			
CONCRETE DISTRIBUTOR & SPREADER; Finishing machine; Longitudinal float; Joint machine; Spray op.; Concrete saw (multiple blade) (power operated); Fine grade op.; Form trench digger (power); Power actuated jacks; Pumps; Shouldering machine (power) (Apsco or similar type incl. self-propelled sand & chip spreader); Stump chipper; Self-propelled chip spreader (Flaherty or similar); Curb machine	6.72	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING MACHINE (Helper) (Power)	6.80	.25	.25			
CONCRETE MIXER ON JOB SITE 14s & UNDER: Front end loader, up to & incl. 1 cu. yd.; Gunite op. gunall; Loader (Barber Greene or similar type); Power acutate augers; Boring machine; Rollers up to 8 tons; Tractor, D2, TD6 or similar H.P. w/power take-off	6.83	.25	.25			
GRADER OPERATOR (Motor Patrol)	6.90	.25	.25			
ASPHALT BITUMINOUS STABILIZER PLANT: Automotaic road machine (CMI or similar Backfiller; Bituminous spreader &						

MINN-6-PED-2-3-E (2-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (cont'd):						
finishing machine (power); Boom truck (power operated boom); Concrete mixer, on job site over 14S; Crushing plant (gravel & stone); Gravel washing, crushing & screening plant; Dope machine (pipeline); Drill rigs; Heavy duty rotary churn or cable drills; Engineer in charge of plant requiring first class license; Fork lift; Straddle carrier; Fork lift or lumber stacker (for construction job site); Front end loader, over 1 cu. yd. up to 5 cu. yds.; Launcherman (tankerman or pilot license); Locomotives, all types; Mechanic or welder; Hoist engineer (power); Paving breaker or tamping machine (power driven) (Mighty Mite or similar type); Power actuated horizontal boring machines over 6" operator; Pick-up sweeper, 1 cu. yd. & over hopper cap.; Pipeline wrapping cleaning or bending machine; Power plant engineer 100 K.W.H. & over; Pugmill; Rollers 8 tons & over; Rubber tired tractor backhoe attachs.; Sheep foot roller (self-propelled) (3 drum & over); Slip form (power driven)(paving); Tie tamper & ballast machine; Tractor, over D2, TD6 or similar H.P. with power take-off; Tractor, over 50 H.P. without power take-off; Trenching machine (sewer, water, gas); Turnapull (or similar type); Well point installation, dismantling or repair mechanics; Two or more pumps; Compressors; Welding machines	$ 7.48	.25	.25			
SELF-PROPELLED TRAVELING SOIL STABILIZER	7.55	.25	.25			
DUAL TRACTOR; Elevating grader; Pumpcrete; Scraper struck cap. 32 cu. yd. & over	7.58	.25	.25			
CABLEWAY; Concrete Mixer, stationary plant over 43E; Derrick (Guy & stiff leg) (power) (skids or stationary); Dredge op. or engineer; Dredge op. (power) & engineer; Front end loader 5 cu. yds. & over; Grader or motor patrol, finishing, earth work & bituminous; Locomotive crane; Master						

MINN-6-PED-2-3-E (3-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (cont'd):						
mechanic; Mixer (paving) concrete paving, road; Mole op. incl. power supply; Mucking machine (incl. mucking operations) (Conway or similar); Power shovel and/or other equip. with shovel type controls, up to 3 cu. yds.; Refrigeration plant engineer; Tandem scrapper; Tractor, boom type; Truck crane; Tugboat, 100 H.P. & over	$ 7.70	.25	.25			
CRANE WITH OVER 135 BOOM, EXCL. JIB; Power shovel and/or other equip. with shovel type controls, 3 cu. yds. & over	7.96	.25	.25			

MINN-3-TD-2-3- d

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
GROUP I						
DRIVER (hauling machinery for employer's own use, incl. operation of hand & power operated winches); Truck train Mechanic; Welder; Tractor-trailer; Off-road truck	$6.80	.25	.25			
GROUP II						
TRI-AXLE (incl. four axles); Dump; Dry batch hauler; Tank truck (gas oil road oil & water); Boom & A" frame; Ready mix concrete; Slurry driver	6.50	.25	.25			
GROUP III						
BITUMINOUS DISTRIBUTOR DRIVER: Bituminous distributor (one man operation); Tandem axle.	6.40	.25	.25			
GROUP IV						
BITUMINOUS DISTRIBUTOR SPRAY (rear-end oiler); Dumpman; Grease & truck service man; Tank truck helper (gas, oil road oil & water); Teamster & stableman; Tractor op. (wheel type used for any purpose)1 Pilot car; Self-porpelled packer; Slurry op.; Single axle	6.20	.25	.25			

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: AP-610
Supersedes Decision No. AM-2381 dated August 13, 1971 in 36 FR 15410
DESCRIPTION OF WORK: Heavy and Highway Construction

COUNTIES: Cook, Lake, & St. Louis
DATE: Date of Publication

16-38-69-MINN-2-3 H

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CARPENTERS & PILEDRIVERMEN	$7.43	.25		.30		
CEMENT MASONS	7.85	.15	.25			
ELECTRICIANS (N. ½ of St. Louis Co.)						
Electricians	8.00	4%	3%	11%	1.5%	
Cable splicer	8.55	4%	3%	11%	1.5%	
Lineman	8.00	4%	3%	11%	1.5%	
Groundman	7.10	4%	3%	11%	1.5%	
ELECTRICIANS (Remainder of Area)						
Electrical Contracts $5,000. & over	7.70	4%	4%	11%	1.5%	
Electrical Contracts under $5,000.	7.20	4%	4%	11%	1.5%	
IRONWORKERS	7.65	.25	.45	.10		
PAINTERS: (Portion of St. Louis Co. including the cities of Bear River, Bengal, Buhl, Chisholm, Green Corner, Greaney, Hibbing, Kelly Lake, Riley, Sherwood, Side Lake, Silica, and Toivola)						
Brush	5.50					
Structural Steel	6.60					
PAINTERS: Remainder of Area						
Brush	7.30	.25		.10	.02	
Structural Steel	7.55	.25		.10	.02	

AP-610 P. 2

MINN-10-LAB-2-3-c (1-1)

LABORERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
UNSKILLED LABORERS; Laborers, wrecking and demolition; Bricklayer tender; Drill runner helper; Landscape gardener; Sod layer & nurseryman; Pipe handler (water, gas, cast iron); Salamander heater & blower tender; Carpenter tender; Stone mason tender	$6.08	.15	.15	.25		
BITUMINOUS SHOVELER: Bottom man sewer water or gas trench); Cement handler (bulk or bag); Cement coverman (batch trucks); Chain saw man; Compaction equipment (hand operated); Concrete mixer op. (1 bag); Concrete shoveler, tamper & puddler (paving); Concrete vibrator; Conduit layers (w/o wiring); Dumper (wagon, Truck, etc.); Formsetter (municipal type curb & sidewalk) Formsetter (pavement); Jackhammer man & paving buster; Kettleman (bituminous or lead); Mortar mixer; Power buggy; Joint sawer; Tunnel laborer (atmospheric pressure	6.18	.15	.15	.25		
BITUMINOUS TAMPER; Cofferdam work; Caisson work	6.33	.15	.15	.25		
DRILL RUNNER (heavy, including churn drill)	6.38	.15	.15	.25		
BITUMINOUS RAKER, FLOATER & UTILITY MAN; Pipelayer (sewer, water, gas); Leadman	6.43	.15	.15	.25		
NOZZLEMAN (gunite)	6.48	.15	.15	.25		
POWDERMAN	6.58	.15	.15	.25		
TUNNEL MINER	6.68	.15	.15	.25		

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
DREDGE DECK HAND; Gravel screening plant (portable, not crushing or washing); Greaser truck & tractor; Leverman; Mechanic helper; Mechanic space heater (temporary heat); Oilers (power shovel, crane, dragline)	$ 6.45	.25	.25			
TRACTOR, 50 H.P. OR LESS WITHOUT POWER TAKE-OFF	6.48	.25	.25			
BATCH PLANT (Concrete); Brakeman or switchman; Conveyor; Fireman; Tank car heater; Self-propelled vibrating packer (pad type) (35 H.P. & over); Truck crane oiler	6.55	.25	.25			
AIR COMPRESSOR; Lead greaser on grease truck or grease rack (where no mechanic is employed)	6.70	.25	.25			
CONCRETE DISTRIBUTOR & SPREADER; Finishing machine; Longitudinal float; Joint machine; Spray op.; Concrete saw (multiple blade) (power operated); Fine grade op.; Form trench digger (power); Power actuated jacks; Pumps; Shouldering machine (power) (Apsco or similar type incl. self-propelled sand & chip spreader); Stump chipper; Self-propelled chip spreader (Flaherty or similar); Curb machine	6.72	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING MACHINE (Helper) (Power)	6.80	.25	.25			
CONCRETE MIXER ON JOB SITE 14s & UNDER: Front end loader, up to & incl. 1 cu. yd.; Gunite op. gunall; Loader (Barber Greene or similar type); Power acutate augers; Boring machine; Rollers up to 8 tons; Tractor, D2, TD6 or similar H.P. w/power take-off	6.83	.25	.25			
GRADER OPERATOR (Motor Patrol)	6.90	.25	.25			
ASPHALT BITUMINOUS STABILIZER PLANT: Automotaic road machine (CMI or similar Backfiller; Bituminous spreader &						

POWER EQUIPMENT OPERATORS (cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
finishing machine (power); Boom truck (power operated boom); Concrete mixer, on job site over 14S; Crushing plant (gravel & stone); Gravel washing, crushing & screening plant; Dope machine (pipeline); Drill rigs; Heavy duty rotary churn or cable drills; Engineer in charge of plant requiring first class license; Fork lift; Straddle carrier; Fork lift or lumber stacker (for construction job site); Front end loader, over 1 cu. yd. up to 5 cu. yds.; Launcherman (tankerman or pilot license); Locomotives, all types; Mechanic or welder; Hoist engineer (power); Paving breaker or tamping machine (power driven) (Mighty Mite or similar type); Power actuated horizontal boring machines over 6" operator; Pick-up sweeper, 1 cu. yd. & over hopper cap.; Pipeline wrapping cleaning or bending machine; Power plant engineer 100 K.W.H. & over; Pugmill; Rollers 8 tons & over; Rubber tired tractor backhoe attachs.; Sheep foot roller (self-propelled) (3 drum & over); Slip form (power driven)(paving); Tie tamper & ballast machine; Tractor, over D2, TD6 or similar H.P. with power take-off; Tractor, over 50 H.P. without power take-off; Trenching machine (sewer, water, gas); Turnapull (or similar type), Well point installation, dismantling or repair mechanics; Two or more pumps; Compressors; Welding machines	$ 7.48	.25	.25			
SELF-PROPELLED TRAVELING SOIL STABILIZER	7.55	.25	.25			
DUAL TRACTOR; Elevating grader; Pumpcrete; Scraper struck cap. 32 cu. yd. & over	7.58	.25	.25			
CABLEWAY; Concrete Mixer, stationary plant over 43E; Derrick (Guy & stiff leg) (power) (skids or stationary); Dredge op. or engineer; Dredge op. (power) & engineer; Front end loader 5 cu. yds. & over; Grader or motor patrol, finishing, earth work & bituminous; Locomotive crane; Master						

MINN-6-PEO-2-3-E (3-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS (cont'd):						
mechanic; Mixer (paving) concrete paving, road; Mole op. incl. power supply; Mucking machine (incl. mucking operations) (Conway or similar); Power shovel and/or other equip. with shovel type controls, up to 3 cu. yds.; Refrigeration plant engineer; Tandem scrapper; Tractor, boom type; Truck crane; Tugboat, 100 H.P. & over	$ 7.70	.25	.25			
CRANE WITH OVER 135 BOOM, EXCL. JIB; Power shovel and/or other equip. with shovel type controls, 3 cu. yds. & over	7.96	.25	.25			

MINN-3-TD-2-3- d

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS						
GROUP I						
DRIVER (hauling machinery for employer's own use, incl. operation of hand & power operated winches); Truck train Mechanic; Welder; Tractor-trailer; Off-road truck	$6.80	.25	.25			
GROUP II						
TRI-AXLE (incl. four axles); Dump; Dry batch hauler; Tank truck (gas oil raod oil & water); Boom & A" frame; Ready mix concrete; Slurry driver	6.50	.25	.25			
GROUP III						
BITUMINOUS DISTRIBUTOR DRIVER: Bituminous distributor (one man operation); Tandem axle.	6.40	.25	.25			
GROUP IV						
BITUMINOUS DISTRIBUTOR SPRAY (rear-end oiler); Dumpman; Grease & truck service man; Tank truck helper (gas, oil road oil & water); Teamster & stableman; Tractor op. (wheel type used for any purpose)1 Pilot car; Self-porpelled packer; Slurry op.; Single axle	6.20	.25	.25			

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: AF-611
COUNTY: Anoka
DATE: Date of Publication

Supersedes Decision No. AM-6251 dated November 19, 1971 in 36 FR 22108

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
ASBESTOS WORKERS	$8.17	.30	.35		.02	
BOILERMAKERS	7.80	.30	.85		.02	
BOILERMAKERS' HELPERS	7.55	.30	.85		.02	
BRICKLAYERS; Stonemasons	7.61	.455	.23	.56		
CARPENTERS:						
Carpenters; Millwrights; Piledrivermen When working with material that has been treated with toxic carbolineum or toxic creosote excluding piling	7.36	.40	.20	.50	.02	
	7.61	.40	.20	.50	.02	
CEMENT MASONS	7.88	.30	.25			
ELECTRICIANS (Townships of Anoka & Fridley)	8.00	4%	4%	7½%		
ELECTRICIANS (Remainder of Anoka Co.)	8.00	3%	2.5%	11.5%	1.5%	
ELEVATOR CONSTRUCTORS	7.23	.17	.185	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.17	.185	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	7.70	.15	.10	.13		
IRONWORKERS:						
Ornamental; Reinforcing; Structural	7.60	.40	.45		.02	
LABORERS:						
Carpenter Tender; Common laborers; Earth dumpman; Power buggy op.; Steel joist handler (Erection)	5.90	.35	.35	.40		
Reinforcing steel handlers	5.95	.35	.35	.40		
Concrete Joint saw; Laborers, demolition & wrecking (not incl. remodeling); Men handling cement 2 hours per day (bulk or sack, excl. mortar mixer)	6.00	.35	.35	.40		
Automatic tamper; Gunite machine; Concrete vibrator; Chipping hammer; Hot tar caulkers & cookers; Jackhammer; Laborers on swing stage single line scaffolds (not incl. "Patent" scaffolding); Mixers of Mortar, cement or any other substitute material or composition; Paving buster	6.05	.35	.35	.40		
Drivers on heavy building excavating; Sheeting setter; Underground work	6.15	.35	.35	.40		
Pipelayers	6.20	.35	.35	.40		
Caisson work; Underpinning	6.25	.35	.35	.40		
Nozzlemen	6.30	.35	.35	.40		
Dynamite men; Power drillers for blasting purposes	6.605	.35	.35	.40		
LATHERS	7.60	.20			.01	
MARBLE SETTERS	7.385	.305	.23	.53		
PAINTERS:						
Brush	7.60	.35	.25		.04	
Spray; Structural Steel	8.10	.35	.25		.04	
PLASTERERS	7.39	.31	.20		.01	
PLUMBERS	7.28	.38	.35	$1.25	.02	

AF-611 P. 2
2-MINN-1 (2-2)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
ROOFERS:	$7.49	.39	.25			
SHEET METAL WORKERS	8.73	.32	.40		.04	
SOFT FLOOR LAYERS	7.65b	c		d		
SPRINKLER FITTERS	8.75	.30	.50		.02	
TILE SETTERS	7.59	.22	.50			
TRUCK DRIVERS	6.30	.25	.25			

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

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

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.
b. Out-of-town contractors will pay the rate of $8.40 per hour with no fringe benefits payments.
c. Employer shall contribute $25.00 per month for each employee into the Health & Welfare Fund.
d. Employees with at least 1,700 hours service during the current year & one year's service, one week vacation with pay; three years' service, two weeks' vacation with pay; fifteen years' service, three weeks' vacation with pay.

2-MINN-2-3 T

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CARPENTERS	$7.36	.40	.20	.50	.02	
PILEDRIVERMEN	7.36	.40	.20	.50	.02	
CEMENT MASONS	7.65	.30	.25			

AP-611 P. 3

MINN-1-PED-1-F (1-1)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
HELICOPTER OPERATORS (Hoisting material)	$11.40	.25	.25			
TRUCK & CRAWLER CRANES with 200' of boom & over inc. JIB	9.00	.25	.25			
TRUCK & CRAWLER CRANES with 150' of boom incl. JIB up to 200' of boom	8.65	.25	.25			
TRAVELING TOWER CRANE	8.55	.25	.25			
MASTER MECHANIC	8.45	.25	.25			
DERRICK (GUY & STIFF LEG); Hoist engineer (3 drums or more); Locomotive op., master mechanic; Overhead crane op. (inside building perimeter); Truck & crawler cranes up to 150' of boom incl. JIB	8.20	.25	.25			
AIR COMPRESSOR OPERATOR, Pump op. &/or Conveyor, 2 or more machines: Hoist engineer (2 drums); Mechanic or welder; Pumpcrete or Complaco type machine op.	8.08	.25	.25			
FORK LIFT OPERATOR	8.08	.25	.25			
BOOM TRUCK OPERATOR; Concrete mixer op.; Drill rigs (heavy duty rotary or churn drill when used for caisson drilling or when drilling for elevator cylinder on building construction); Fron end loader op.; Hoist engineer (1 drum); Power plant engineer (100 KWH & over); Straddle carrier op.; Tractor op. (over D-2); Well point pump op.	8.00	.25	.25			
CONCRETE BATCH PLANT OPERATOR; Gunite op.; Tractor op (D-2 or similar size & front end loader operator up to ½ cu. yd.)	7.73	.25	.25			
AIR COMPRESSOR OPERATOR, Pump &/or Conveyor op.; Fireman, Temporary heat; Brakeman; Pick up sweeper (combustion engine operated); Truck crane oiler	7.45	.25	.25			
MECHANIC SPACE HEATER (Temporary heat); Oiler or greaser	7.00	.25	.25			

AP-611 P. 4

Site preparation, excavation and incidental paving

MINN-9-LAB-2-3- (1-2)

LABORERS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
UNSKILLED LABORERS; Drill runner helper; Landscape gardener; Sod layer & nurseryman; Powder monkey; Reinforced steel laborer; Reinforced steel setter (pavement); Salamander heater & blower tender; Carpenter tender; Winch handler (manual)	$5.85	.35	.35	.40		
LABORER, WRECKING & DEMOLITION; Bituminous batcherman (stationary plant); Bituminous shoveler; Blacksmith helper; Bottom man (sewer, water or gas trench); Bricklayer tender; Cement handler (bulk or bag); Cement coverman (batch trucks); Compaction equipment (hand operated); Concrete shoveler, tamper & puddler (paving); Concrete vibrator; Concrete batcherman (proportioning plant); Concrete longitudinal floatmen (manual bull float on paving); Conduit layers (w/o wiring); Chipping hammer; Curb setter (stone or precast concrete); Dumper (wagon, truck, etc.); Dump man; Dump man (paver-batch truck, etc.); Form setter (municipal type curb & sidewalk); Formsetter (pavement); Hydrant & valve setter; Joint filler (concrete pavement); Kettleman (bituminous or lead); Service connection maker (water or gas); Power buggy; Joint sawer; Squeegeeman (bituminous brick or block); Stabilizing batcherman (stationary plant); Stonemason tender; Drill runner (heavy, incl. churn drill)	5.95	.35	.35	.40		
CHAINSAW MAN; Concrete mixer (1 bag); Jackhammer man & paving buster; Mortar mixer; Pipe handler (water, gas, cast iron); Pipe derrickman (tripod, manual)	6.00	.35	.35	.40		

MINN-9-LAB-2-3-d (2-2)

LABORERS CONTINUED:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
BOTTOM MAN (sewer, water or gas trench, more than 8 ft. below starting level of manual work); Tunnel laborer (atmospheric pressure); Underground laborers; cofferdam work; Tunnel work; Underpinning work; Caisson work; Other work more than 8 ft. below starting level of manual work; Open ditch work	6.10	.35	.35	.40		
BITUMINOUS TAMPER; Pipelayer (sewer, water, gas); Sand cushion & bed maker	6.15	.35	.35	.40		
CEMENT GUN (1½ in. & over); Leadman	6.20	.35	.35	.40		
NOZZLEMEN (gunite)	6.25	.35	.35	.40		
BRICK OR BLOCK PAVING SETTER	6.28	.35	.35	.40		
BITUMINOUS RAKER, FLOATER & UTILITY MAN	6.30	.35	.35	.40		
POWDERMAN; Tunnel man (air pressure); Tunnel miner	6.53	.35	.35	.40		

MINN-6-PEO-2-3-E (1-3)

Site preparation, excavation and incidental paving

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
DREDGE DECK HAND; Gravel screening plant (portable, not crushing or washing); Greaser, truck & tractor; Leverman; Mechanic helper; Mechanic space heater (temporary heat); Oilers (power shovel, crane, dragline)	$ 6.45	.25	.25			
TRACTOR, 50 H.P. OR LESS WITHOUT POWER TAKE-OFF	6.48	.25	.25			
BATCH PLANT (Concrete); Brakeman or switchman; Conveyor; Fireman; Tank car heater; Self-propelled vibrating packer (pad type) (35 H.P. & over); Truck crane oiler	6.55	.25	.25			
AIR COMPRESSOR; Lead greaser on grease truck or grease rack (where no mechanic is employed)	6.70	.25	.25			
CONCRETE DISTRIBUTOR & SPREADER; Finishing machine; Longitudinal float; Joint machine; Spray op.; Concrete saw (multiple blade) (power operated); Fine grade op.; Form trench digger (power); Power actuated jacks; Pumps; Shouldering machine (power) (Apsco or similar type incl. self-propelled sand & chip spreader); Stump chipper; Self-propelled chip spreader (Flaherty or similar); Curb machine	6.72	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING MACHINE (Helper) (Power)	6.80	.25	.25			
CONCRETE MIXER ON JOB SITE 14s & UNDER: Front end loader, up to & incl. 1 cu. yd.; Gunite op. gunall; Loader (Barber Greene or similar type); Power acutate augers; Boring machine; Rollers up to 8 tons; Tractor, D2, TD6 or similar H.P. w/power take-off	6.83	.25	.25			
GRADER OPERATOR (Motor Patrol)	6.90	.25	.25			
ASPHALT BITUMINOUS STABILIZER PLANT: Automotaic road machine (CMI or similar Backfiller; Bituminous spreader &						

POWER EQUIPMENT OPERATORS (cont'd):	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
finishing machine (power); Boom truck (power operated boom); Concrete mixer, on job site over 14S; Crushing plant (gravel & stone); Gravel washing, crushing & screening plant; Dope machine (pipeline); Drill rigs; Heavy duty rotary churn or cable drills; Engineer in charge of plant requiring first class license; Fork lift; Straddle carrier; Fork lift or lumber stacker (for construction job site); Front end loader, over 1 cu. yd. up to 5 cu. yds.; Lautcherman (tankerman or pilot license); Locomotives, all types; Mechanic or welder; Hoist engineer (power); Paving breaker or tamping machine (power driven) (Mighty Mite or similar type); Power actuated horizontal boring machines over 6" operator; Pick-up sweeper, 1 cu. yd.& over hopper cap.; Pipeline wrapping cleaning or bending machine; Power plant engineer 100 K.W.H. & over; Pugmill; Rollers 8 tons & over; Rubber tired tractor backhoe attachs.; Sheep foot roller (self-propelled) (3 drum & over); Slip form (power driven)(paving); Tie tamper & ballast machine; Tractor, over D2, TD6 or similar H.P. with power take-off; Tractor, over 50 H.P. without power take-off; Trenching machine (sewer, water, gas); Turnapull (or similar type), Well point installation, dismantling or repair mechanics; Two or more pumps; Compressors; Welding machines	$ 7.48	.25	.25			
SELF-PROPELLED TRAVELING SOIL STABILIZER	7.55	.25	.25			
DUAL TRACTOR; Elevating grader; Pumpcrete; Scraper struck cap. 32 cu. yd. & over	7.58	.25	.25			
CABLEWAY; Concrete Mixer, stationary plant over 43E; Derrick (Guy & stiff leg) (power) (skids or stationary); Dredge op. or engineer; Dredge op. (power) & engineer; Front end loader 5 cu. yds. & over; Grader or motor patrol, finishing, earth work & bituminous; Locomotive crane; Master						

POWER EQUIPMENT OPERATORS (cont'd):	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
mechanic; Mixer (paving) concrete paving, road; Mole op. incl. power supply; Mucking machine (incl. mucking operations) (Conway or similar); Power shovel and/or other equip. with shovel type controls, up to 3 cu. yds.; Refrigeration plant engineer; Tandem scrapper; Tractor, boom type; Truck crane; Tugboat, 100 H.P. & over	$ 7.70	.25	.25			
CRANE WITH OVER 135 BOOM, EXCL. JIB; Power shovel and/or other equip. with shovel type controls, 3 cu. yds. & over	7.96	.25	.25			

Site preparation, excavation and incidential paving

MINN-3-TD-2-3- d

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
GROUP I						
DRIVER (hauling machinery for employer's own use, incl. operation of hand & power operated winches); Truck train Mechanic; Welder; Tractor-trailer; Off-road truck	$6.80	.25	.25			
GROUP II						
TRI-AXLE (incl. four axles); Dump; Dry batch hauler; Tank truck (gas oil road oil & water); Boom & A" frame; Ready mix concrete; Slurry driver	6.50	.25	.25			
GROUP III						
BITUMINOUS DISTRIBUTOR DRIVER: Bituminous distributor (one man operation); Tandem axle.	6.40	.25	.25			
GROUP IV						
BITUMINOUS DISTRIBUTOR SPRAY (rear-end oiler); Dumpman; Grease & truck service man; Tank truck helper (gas, oil road oil & water); Teamster & stableman; Tractor op. (wheel type used for any purpose)1 Pilot car; Self-porpelled packer; Slurry op.; Single axle	6.20	.25	.25			

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: AP-612
COUNTIES: Carver & Hennepin
DATE: Date of Publication
Supersedes Decision No. AM-6248 dated November 19, 1971 in 36 FR 22102
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

27-MINN-1 T (1-2)

Building Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
ASBESTOS WORKERS	$8.17	.30	.35		.02	
BOILERMAKERS	7.80	.30	.85		.02	
BOILERMAKERS' HELPERS	7.55	.30	.85		.02	
BRICKLAYERS; Stonemasons	7.61	.455	.23	.56		
CARPENTERS; MILLWRIGHTS, PILEDRIVERMEN:						
Scott Co. S/W of Belle Plaine Carpenters only	7.65	.20			.02	
Carpenters remainder of area	7.36	.40	.20	.50	.02	
Millwrights & Piledrivermen All Cos	7.36	.40	.20	.50	.02	
CEMENT MASONS	7.88	.30	.25			
ELECTRICIANS; Line Construction:						
Electricians; Linemen	8.00	4%	4%	7½%		
Equipment operators	8.00	4%	4%	7½%		
Groundmen	6.60	4%	4%	7½%		
ELEVATOR CONSTRUCTORS	7.23	.17	.185	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.17	.185	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	7.70	.15	.10	.13		
IRONWORKERS:						
Ornamental; Reinforcing; Structural	7.60	.40	.45		.02	
LABORERS:						
Carpenter tender; Common laborers; Earth dump men; Power buggy op.; Steel joist handlers (erection)	5.90	.35	.35	.40		
Reinforcing steel handlers	5.95	.35	.35	.40		
Concrete joint saw op.; laborer, demolition & wrecking (not incl. remodeling); Men handling cement 2 hours per day (bulk or sack, excl. mortar mixer)	6.00	.35	.35	.40		
Automatic tamper op.; Chipping hammer op.; Concrete vibrator op.; Gunite machine op.; Hot tar caulkers & cookers; Jackhammermen; Laborers on swing stage single line scaffolds (not incl. "Patent" scaffolding); Mixers of mortar, cement or any other substitute material or composition; Paving buster	6.05	.35	.35	.40		
Drivers on heavy building excav.; Sheeting setters; Underground work	6.15	.35	.35	.40		
Pipelayers	6.20	.35	.35	.40		
Caisson work; Underpinning	6.25	.35	.35	.40		
Nozzlemen	6.30	.35	.35	.40		
Dynamite men; Power drillers for blasting purposes	6.605	.35	.35	.40		
LATHERS	7.60	.20			.01	
MARBLE SETTERS	$7.385	.305	.23	.53		
PAINTERS:						
Brush	7.60	.35	.25		.04	
Spray; Structural steel; Swing stage	8.10	.35	.25		.04	
PIPEFITTERS; Steamfitters	7.28	.38	.35	1.25	.02	
PLASTERERS	7.39	.31	.20		.01	
PLUMBERS	7.28	.38	.35	1.25	.02	
ROOFERS	7.49	.39	.25			
SHEET METAL WORKERS	8.83	.32	.30			
SOFT FLOOR LAYERS	7.65b	c		d		
SPRINKLER FITTERS	8.75	.30	.50		.02	
TILE SETTERS	7.59	.22	.50			
TRUCK DRIVERS	6.30	.25	.25			
WELDERS- Receive rate prescribed for craft performing operation to which welding is incidental.						

27-MINN-1 (2-2)

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

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for over 5 years' service, 2% basic hourly rate for over 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

b. Out-of-town contractors will pay the rate of $8.40 per hour with no fringe benefits payments.

c. Employer shall contribute $25.00 per month for each employee into the H & W Fund.

d. Employee with at least 1,700 hours' service during the current year and 1 year's service - 1 week's vacation with pay; 3 years' service - 2 weeks' vacation with pay; 15 years' service - 3 weeks' vacation with pay.

27-MINN-2-3 T

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
CARPENTERS	$7.36	.40	.20	.50	.02	
PILEDRIVERMEN	7.36	.40	.20	.50	.02	
CEMENT MASONS	7.65	.30	.25			

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MINN-1-PEO-1-F (1-1)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
HELICOPTER OPERATORS (Hoisting material)	$11.40	.25	.25			
TRUCK & CRAWLER CRANES with 200' of boom & over inc. JIB	9.00	.25	.25			
TRUCK & CRAWLER CRANES with 150' of boom incl. JIB up to 200' of boom	8.65	.25	.25			
TRAVELING TOWER CRANE	8.55	.25	.25			
MASTER MECHANIC	8.45	.25	.25			
DERRICK (GUY & STIFF LEG); Hoist engineer (3 drums or more); Locomotive op., master mechanic; Overhead crane op. (inside building perimeter); Truck & crawler cranes up to 150' of boom incl. JIB	8.20	.25	.25			
AIR COMPRESSOR OPERATOR, Pump op. &/or Conveyor, 2 or more machines: Hoist engineer (2 drums); Mechanic or welder; Pumpcrete or Complaco type machine op.	8.08	.25	.25			
FORK LIFT OPERATOR	8.08	.25	.25			
BOOM TRUCK OPERATOR; Concrete mixer op.; Drill rigs (heavy duty rotary or churn drill when used for caisson drilling or when drilling for elevator cylinder on building construction); Fron end loader op.; Hoist engineer (1 drum); Power plant engineer (100 KWH & over); Straddle carrier op.; Tractor op. (over D-2); Well point pump op.	8.00	.25	.25			
CONCRETE BATCH PLANT OPERATOR; Gunite op.; Tractor op (D-2 or similar size & front end loader operator up to ½ cu. yd.)	7.73	.25	.25			
AIR COMPRESSOR OPERATOR, Pump &/or Conveyor op.; Fireman, Temporary heat; Brakeman; Pick up sweeper (combustion engine operated); Truck crane oiler	7.45	.25	.25			
MECHANIC SPACE HEATER (Temporary heat); Oiler or greaser	7.00	.25	.25			

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Site preparation, excavation and incidential paving

MINN-9-LAB-2-3- (1-2)

LABORERS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
UNSKILLED LABORERS; Drill runner helper; Landscape gardener; Sod layer & nurseryman; Powder monkey; Reinforced steel laborer; Reinforced steel setter (pavement); Salamander heater & blower tender; Carpenter tender; Winch handler (manual)	$5.85	.35	.35	.40		
LABORER, WRECKING & DEMOLITION; Bituminous batcherman (stationary plant); Bituminous shoveler; Blacksmith helper; Bottom man (sewer, water or gas trench); Bricklayer tender; Cement handler (bulk bag); Cement coverman (batch trucks); Compaction equipment (hand operated); Concrete shoveler, tamper & puddler (paving); Concrete vibrator; Concrete batcherman (proportioning plant); Concrete longitudinal floatmen (manual bull float on paving); Conduit layers (w/o wiring); Chipping hammer; Curb setter (stone or precast concrete); Dumper (wagon, truck, etc.); Dump man; Dump man (paver-batch truck, etc.); Form setter (municipal type curb & sidewalk); Formsetter (pavement); Hydrant & valve setter; Joint filler (concrete pavement); Kettleman (bituminous or lead); Service connection maker (water or gas); Power buggy; Joint sawer; Squeegeman (bituminous brick or block); Stabilizing batcherman (stationary plant); Stonemason tender; Drill runner (heavy, incl. churn drill)	5.95	.35	.35	.40		
CHAINSAW MAN; Concrete mixer (1 bag); Jackhammer man & paving buster; Mortar mixer; Pipe handler (water, gas, cast iron); Pipe derrickman (triped, manual)	6.00	.35	.35	.40		

MINN-9-LAB-2-3-d (2-2)

LABORERS CONTINUED:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER!
BOTTOM MAN (sewer, water or gas trench, more than 8 ft. below starting level of manual work); Tunnel laborer (atmospheric pressure); Underground laborers; cofferdam work; Tunnel work; Underpinning work; Caisson work; Other work more than 8 ft. below starting level of manual work; Open ditch work	6.10	.35	.35	.40		
BITUMINOUS TAMPER; Pipelayer (sewer, water, gas); Sand cushion & bed maker	6.15	.35	.35	.40		
CEMENT GUN (1½ in. & over); Leadman	6.20	.35	.35	.40		
NOZZLEMEN (gunite)	6.25	.35	.35	.40		
BRICK OR BLOCK PAVING SETTER	6.28	.35	.35	.40		
BITUMINOUS RAKER, FLOATER & UTILITY MAN	6.30	.35	.35	.40		
POWDERMAN; Tunnel man (air pressure); Tunnel miner	6.53	.35	.35	.40		

MINN-6-PEO-2-3-E (1-3)

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS						
DREDGE DECK HAND; Gravel screening plant (portable, not crushing or washing); Greaser truck & tractor; Leverman; Mechanic helper; Mechanic space heater (temporary heat); Oilers (power shovel, crane, dragline)	$ 6.45	.25	.25			
TRACTOR, 50 H.P. OR LESS WITHOUT POWER TAKE-OFF	6.48	.25	.25			
BATCH PLANT (Concrete); Brakeman or switchman; Conveyor; Fireman; Tank car heater; Self-propelled vibrating packer (pad type) (35 H.P. & over); Truck crane oiler	6.55	.25	.25			
AIR COMPRESSOR; Lead greaser on grease truck or grease rack (where no mechanic is employed)	6.70	.25	.25			
CONCRETE DISTRIBUTOR & SPREADER; Finishing machine; Longitudinal float; Joint machine; Spray op.; Concrete saw (multiple blade) (power operated); Fine grade op.; Form trench digger (power); Power actuated jacks; Pumps; Shouldering machine (power) (Apsco or similar type incl. self-propelled sand & chip spreader); Stump chipper; Self-propelled chip spreader (Flaherty or similar); Curb machine	6.72	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING MACHINE (Helper) (Power)	6.80	.25	.25			
CONCRETE MIXER ON JOB SITE 14s & UNDER: Front end loader, up to & incl. 1 cu. yd.; Gunite op. gunall; Loader (Barber Greene or similar type); Power acutate augers; Boring machine; Rollers up to 8 tons; Tractor, D2, TD6 or similar H.P. w/power take-off	6.83	.25	.25			
GRADER OPERATOR (Motor Patrol)	6.90	.25	.25			
ASPHALT BITUMINOUS STABILIZER PLANT: Automotaic road machine (CMI or similar Backfiller; Bituminous spreader &						

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MINN-6-PEO-2-3-E (2-3)

POWER EQUIPMENT OPERATORS (cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth.
finishing machine (power); Boom truck (power operated boom); Concrete mixer, on job site over 14S; Crushing plant (gravel & stone); Gravel washing, crushing & screening plant; Dope machine (pipeline); Drill rigs; Heavy duty rotary churn or cable drills; Engineer in charge of plant requiring first class license; Fork lift; Straddle carrier; Fork lift or lumber stacker (for construction job site); Front end loader, over 1 cu. yd. up to 5 cu. yds.; Launchman (tankerman or pilot license); Locomotives, all types; Mechanic or welder; Hoist engineer (power); Paving breaker or tamping machine (power driven) (Mighty Mite or similar type); Power actuated horizontal boring machines over 6" operator; Pick-up sweeper, 1 cu. yd. & over hopper cap.; Pipeline wrapping cleaning or bending machine; Power plant engineer 100 K.W.H. & over; Pugmill; Rollers 8 tons & over; Rubber tired tractor backhoe attachs.; Sheep foot roller (self-propelled) (3 drum & over); Slip form (power driven)(paving); Tie tamper & ballast machine; Tractor, over D2, TD6 or similar H.P. with power take-off; Tractor, over 50 H.P. without power take-off; Trenching machine (sewer, water, gas); Turnapull (or similar type); Well point installation, dismantling or repair mechanics; Two or more pumps; Compressors; Welding machines	$ 7.48	.25	.25			
SELF-PROPELLED TRAVELING SOIL STABILIZER	7.55	.25	.25			
DIAL TRACTOR; Elevating grader; Pumpcrete; Scraper struck cap. 32 cu. yd. & over	7.58	.25	.25			
CABLEWAY; Concrete Mixer, stationary plant over 43E; Derrick (Guy & stiff leg) (power) (skids or stationary); Dredge op. or engineer; Dredge op. (power) & engineer; Front end loader 5 cu. yds. & over; Grader or motor patrol, finishing, earth work & bituminous; Locomotive crane; Master						

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MINN-6-PEO-2-3-E (3-3)

POWER EQUIPMENT OPERATORS (cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
mechanic; Mixer (paving) concrete paving, road; Hole op. incl. power supply; Mucking machine (incl. mucking operations) (Conway or similar); Power shovel and/or other equip. with shovel type controls, up to 3 cu. yds.; Refrigeration plant engineer; Tandem scrapper; Tractor, boom type; Truck crane; Tugboat, 100 H.P. & over	$ 7.70	.25	.25			
CRANE WITH OVER 135 BOOM, EXCL. JIB; Power shovel and/or other equip. with shovel type controls, 3 cu. yds. & over	7.96	.25	.25			

Site preparation, excavation and incidential paving

MINN-3-TD-2-3- d

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
GROUP I						
DRIVER (hauling machinery for employer's own use, incl. operation of hand & power operated winches); Truck train Mechanic; Welder; Tractor-trailer; Off-road truck	$6.80	.25	.25			
GROUP II						
TRI-AXLE (incl. four axles); Dump; Dry batch hauler; Tank truck (gas oil road oil & water); Boom & A" frame; Ready mix concrete; Slurry driver	6.50	.25	.25			
GROUP III						
BITUMINOUS DISTRIBUTOR DRIVER: Bituminous distributor (one man operation); Tandem axle.	6.40	.25	.25			
GROUP IV						
BITUMINOUS DISTRIBUTOR SPRAY (rear-end oiler); Dumpman; Grease & truck service man; Tank truck helper (gas, oil road oil & water); Teamster & stableman; Tractor op. (wheel type used for any purpose)1 Pilot car; Self-porpelled packer; Slurry op.; Single axle	6.20	.25	.25			

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: AP-613
COUNTIES: Dakota & Ramsey
DATE: Date of Publication

Supersedes Decision No. AM-6249 dated November 19, 1971 in 36 FR 22104
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

62-MINN- 1-V (1of2)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$8.17	.30	.35		.02	
BOILERMAKERS	7.80	.30	.85		.02	
BOILERMAKERS' HELPERS	7.55	.30	.85		.02	
BRICKLAYERS; STONEMASONS	7.61	.455	.23	.56		
CARPENTERS:						
Carpenters; Millwrights; Piledrivermen	7.36	.40	.20	.50	.02	
When working with material treated with toxic carbolieum or toxic creosote	7.61	.40	.20	.50	.02	
CEMENT MASONS	7.88	.30	.25			
ELECTRICIANS & LINE CONSTRUCTION:						
Cable Splicer; Technician Electricians; Linemen; Line equipment operator	8.40	5%	2.5%	11.5%	1.5%	
Groundmen	8.00	5%	2.5%	11.5%	1.5%	
ELEVATOR CONSTRUCTORS	5.25	5%	2.5%	11.5%	1.5%	
ELEVATOR CONSTRUCTORS' HELPERS	7.23	.17	.185	2%a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	70%JR	.17	.185	2%a		
GLAZIERS	50%JR					
IRONWORKERS:	7.70	.15	1.0	.13		
Ornamental; Reinforcing; Structural	7.60	.40	.45		.02	
LABORERS:						
Carpenters tenders; Common laborers; Earth dump men; Power buggy op.; Steel joint handlers (erection)	5.90	.35	.35	.40		
Reinforcing steel handlers	5.95	.35	.35	.40		
Concrete joint saw op.; Laborers, demolition & wrecking (not incl. remodeling); Men handling cement 2 hours per day bulk or sack, excl. mortar mixer)	6.00	.35	.35	.40		
Automatic tamper op.; Chipping hammer op.; Concrete vibrator op.; Gunite machine op.; Hot tar caulkers & colors; Jackhammermen; Laobrers on swing stage single line scaffolds (not incl. "Patent" scaffolding); Mixers of mortar, cement or any other substitute material or composition; Paving buster	6.05	.35	.35	.40		
Drivers on heavy building excav.; Sheeting setters; Underground work	6.15	.35	.35	.40		
Pipelayers	6.20	.35	.35	.40		
Caisson work; Underpinning	6.25	.35	.35	.40		
Nozzlemen	6.30	.35	.35	.40		
Dynamitemen; Power drillers for blasting purposes	6.605	.35	.35	.40		

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62-Minn- 1-V 2 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LATHERS	$7.66	.25	.25	.50	.01	
MARBLE SETTERS	7.385	.305	.23	.53		
PAINTERS:						
Brush; Paperhangers	7.68	.35	.15		.06	
Spray; Structrual steel; Swing stage	8.18	.35	.15		.06	
PLUMBERS; Steamfitters	7.42	.38	.35	1.14	.05	
ROOFERS	7.49	.39	.25			
SHEET METAL WORKERS	8.73	.32	.40		.04	
SOFT FLOOR LAYERS	7.65b	c		d		
SPRINKLER FITTERS	8.75	.30	.30		.02	
TILE SETTERS	7.59	.22	.50			
TRUCK DRIVERS	6.30	.25	.25			
RIGGERS-WELDERS: receive rate prescribed for craft performing operation to which rigging or welding is incidental.						

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

FOOT NOTES:

a. Employer contributes 4% basic hourly rate for over 5 years' service, 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit
Six Paid Holidays: A through F.

b. Out-of town contractor will pay the rate of $8.40 per hour with no fringe benefits payments.

c. Employer shall contribute $25.00 per month for each employee into the H & W Fund.

d. Employees with at least 1,700 hours' service curning the current year & 1 year's service- 1 week vacation with pay; 3 years' service - 2 weeks' vacation with pay; 15 years' service - 3 weeks vacation with pay.

62-MINN-2-3 V

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CARPENTERS	$7.36	.40	.20	.50	.02	
PILEDRIVERMEN	7.36	.40	.20	.50	.02	
CEMENT MASONS	7.65	.30	.25			

AP-613 P. 3

MINN-1-PBO-1-F (1-1)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
HELICOPTER OPERATORS (Hoisting material)	$11.40	.25	.25			
TRUCK & CRAWLER CRANES with 200' of boom & over inc. JIB	9.00	.25	.25			
TRUCK & CRAWLER CRANES with 150' of boom incl. JIB up to 200' of boom	8.65	.25	.25			
TRAVELING TOWER CRANE	8.55	.25	.25			
MASTER MECHANIC	8.45	.25	.25			
DERRICK (GUY & STIFF LEG): Hoist engineer (3 drums or more); Locomotive op., master mechanic; Overhead crane op. (inside building perimeter); Truck & crawler cranes up to 150' of boom incl. JIB	8.20	.25	.25			
AIR COMPRESSOR OPERATOR, Pump op. &/or Conveyor, 2 or more machines: Hoist engineer (2 drums); Mechanic or welder; Pumpcrete or Complaco type machine op.	8.08	.25	.25			
FORK LIFT OPERATOR	8.08	.25	.25			
BOOM TRUCK OPERATOR; Concrete mixer op.; Drill rigs (heavy duty rotary or churn drill when used for caisson drilling or when drilling for elevator cylinder on building construction); Pron end loader op.; Hoist engineer (1 drum); Power plant engineer (100 KW & over); Straddle carrier op.; Tractor op. (over D-2); Well point pump op.	8.00	.25	.25			
CONCRETE BATCH PLANT OPERATOR; Gunite op.; Tractor op (D-2 or similar size & front end loader operator up to ½ cu. yd.)	7.75	.25	.25			
AIR COMPRESSOR OPERATOR, Pump &/or Conveyor op.; Fireman, Temporary heat; Brakeman; Pick up sweeper (combustion engine operated); Truck crane oiler	7.45	.25	.25			
MECHANIC SPACE HEATER (Temporary heat); Oiler or greaser	7.00	.25	.25			

AP-613 P. 4

MINN-9-LAB-2-3- (1-2)

Site preparation, excavation and incidental paving	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHER
LABORERS:						
UNSKILLED LABORERS; Drill runner helper; Landscape gardener; Sod layer & nurseryman; Powder monkey; Reinforced steel laborer; Reinforced steel setter (pavement); Salamander heater & blower tender; Carpenter tender; Winch handler (manual)	$5.85	.35	.35	.40		
LABORER, WRECKING & DEMOLITION; Bituminous batchman (stationary plant); Bituminous shoveler; Blacksmith helper; Bottom man (sewer, water or gas trench); Bricklayer tender; Cement handler (bulk or bag); Cement coverman (batch trucks); Compaction equipment (hand operated); Concrete shoveler, tamper & puddler (paving); Concrete vibrator; Concrete batcherman (proportioning plant); Concrete longitudinal floatmen (manual bull float on paving); Conduit layers (w/o wiring); Chipping hammer; Curb setter (stone or precast concrete); Dumper (wagon, truck, etc.); Dump man; Dump man (paver-batch truck, etc.); Form setter (municipal type curb & sidewalk); Formsetter (pavement); Hydrant & valve setter; Joint filler (concrete pavement); Kettleman (bituminous or lead); Service connection maker (water or gas); Power buggy; Joint sawer; Squeegeman (bituminous brick or block); Stabilizing batcherman (stationary plant); Stonemason tender; Drill runner (heavy, incl. churn drill)	5.95	.35	.35	.40		
CHAINSAW MAN; Concrete mixer (1 bag); Jackhammer man & paving buster; Mortar mixer; Pipe handler (water, gas, cast iron); Pipe derrickman (tripod, manual)	6.00	.35	.35	.40		

LABORERS CONTINUED:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
BOTTOM MAN (sewer, water or gas trench, more than 8 ft. below starting level of manual work); Tunnel laborer (atmospheric pressure); Undergrround laborers; cofferdam work; Tunnel work; Underpinning work; Caisson work; Other work more than 8 ft. below starting level of manual work; Open ditch work	6.10	.35	.35	.40		
BITUMINOUS TAMPER; Pipelayer (sewer, water, gas); Sand cushion & bed maker	6.15	.35	.35	.40		
CEMENT GUN (1½ in. & over); Leadman	6.20	.35	.35	.40		
NOZZLEMEN (gunite)	6.25	.35	.35	.40		
BRICK OR BLOCK PAVING SETTER	6.28	.35	.35	.40		
BITUMINOUS RAKER, FLOATER & UTILITY MAN	6.30	.35	.35	.40		
POWDERMAN; Tunnel man (air pressure); Tunnel miner	6.53	.35	.35	.40		

Site preparation, excavation and incidental paving POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
DREDGE DECK HAND; Gravel screening plant (portable, not crushing or washing); Greaser truck & tractor; Leverman; Mechanic helper; Mechanic space heater (temporary heat); Oilers (power shovel, crane, dragline)	$ 6.45	.25	.25			
TRACTOR, 50 H.P. OR LESS WITHOUT POWER TAKE-OFF	6.48	.25	.25			
BATCH PLANT (Concrete); Brakeman or switchman; Conveyor; Fireman; Tank car heater; Self-propelled vibrating packer (pad type) (35 H.P. & over); Truck crane oiler	6.55	.25	.25			
AIR COMPRESSOR; Lead greaser on grease truck or grease rack (where no mechanic is employed)	6.70	.25	.25			
CONCRETE DISTRIBUTOR & SPREADER; Finishing machine; Longitudinal float; Joint machine; Spray op.; Concrete saw (multiple blade) (power operated); Fine grade op.; Form trench digger (power); Power actuated jacks; Pumps; Shouldering machine (power) (Apsco or similar type incl. self-propelled sand & chip spreader); Stump chipper; Self-propelled chip spreader (Flaherty or similar); Curb machine	6.72	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING MACHINE (Helper) (Power)	6.80	.25	.25			
CONCRETE MIXER ON JOB SITE 14s & UNDER; Front end loader, up to & incl. 1 cu. yd.; Gunite op. gunall; Loader (Barber Greene or similar type); Power acutate augers; Boring machine; Rollers up to 8 tons; Tractor, D2, TD6 or similar H.P. w/power take-off	6.83	.25	.25			
GRADER OPERATOR (Motor Patrol)	6.90	.25	.25			
ASPHALT BITUMINOUS STABILIZER PLANT: Automotaic road machine (CMI or similar Backfiller; Bituminous spreader &						

AP-613 P. 7 MINN-6-PEO-2-3-E (2-3)

POWER EQUIPMENT OPERATORS (cont'd):	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
finishing machine (power); Boom truck (power operated boom); Concrete mixer, on job site over 14S; Crushing plant (gravel & stone); Gravel washing, crushing & screening plant; Dope machine (pipeline); Drill rigs; Heavy duty rotary churn or cable drills; Engineer in charge of plant requiring first class license; Fork lift; Straddle carrier; Fork lift or lumber stacker (for construction job site); Front end loader, over 1 cu. yd. up to 5 cu. yds.; Launcherman (tankerman or pilot license); Locomotives, all types; Mechanic or welder; Hoist engineer (power); Paving breaker or tamping machine (power driven) (Mighty Mite or similar type); Power actuated horizontal boring machines over 6" operator; Pick-up sweeper, 1 cu. yd. & over hopper cap.; Pipeline wrapping cleaning or bending machine; Power plant engineer 100 K.W.H. & over; Pugmill; Rollers 8 tons & over; Rubber tired tractor backhoe attachs.; Sheep foot roller (self-propelled) (3 drum & over); Slip form (power driven)(paving); Tie tamper & ballast machine; Tractor, over D2, TD6 or similar H.P. with power take-off; Tractor, over 50 H.P. without power take-off; Trenching machine (sewer, water, gas); Turnapull (or similar type); Well point installation, dismantling or repair mechanics; Two or more pumps; Compressors; Welding machines	$ 7.48	.25	.25			
SELF-PROPELLED TRAVELING SOIL STABILIZER	7.55	.25	.25			
DUAL TRACTOR; Elevating grader; Pumpcrete; Scraper struck cap. 32 cu. yd. & over	7.58	.25	.25			
CABLEWAY; Concrete Mixer, stationary plant over 43E; Derrick (Guy & stiff leg) (power) (skids or stationary); Dredge op. or engineer; Dredge op. (power) & engineer; Front end loader 5 cu. yds. & over; Grader or motor patrol, finishing, earth work & bituminous; Locomotive crane; Master						

AP-613 P. 8 MINN-6-PEO-2-3-E (3-3)

POWER EQUIPMENT OPERATORS (cont'd):	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
mechanic; Mixer (paving) concrete paving, road; Mole op. incl. power supply; Mucking machine (incl. mucking operations) (Conway or similar); Power shovel and/or other equip. with shovel type controls, up to 3 cu. yds.; Refrigeration plant engineer; Tandem scrapper; Tractor, boom type; Truck crane; Tugboat, 100 H.P. & over	$ 7.70	.25	.25			
CRANE WITH OVER 135 BOOM, EXCL. JIB; Power shovel and/or other equip. with shovel type controls, 3 cu. yds. & over	7.96	.25	.25			

Site preparation, excavation and incidential paving

MINN-3-TD-2-3- d

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
GROUP I						
DRIVER (hauling machinery for employer's own use, incl. operation of hand & power operated winches); Truck train Mechanic; Welder; Tractor-trailer; Off-road truck	$6.80	.25	.25			
GROUP II						
TRI-AXLE (incl. four axles); Dump; Dry batch hauler; Tank truck (gas oil road oil & water); Boom & A" frame; Ready mix concrete; Slurry driver	6.50	.25	.25			
GROUP III						
BITUMINOUS DISTRIBUTOR DRIVER: Bituminous distributor (one man operation); Tandem axle.	6.40	.25	.25			
GROUP IV						
BITUMINOUS DISTRIBUTOR SPRAY (rear-end oiler); Dumpman; Grease & truck service man; Tank truck helper (gas, oil road oil & water); Teamster & stableman; Tractor op. (wheel type used for any purpose)1 Pilot car; Self-porpelled packer; Slurry op.; Single axle	6.20	.25	.25			

SUPERSEDEAS DECISION

STATE: Minnesota COUNTY: St. Louis (Duluth Only)

DECISION NUMBER: AP-614 DATE: Date of Publication

Supersedes Decision No. AM-6250 dated November 19, 1971 in 36 FR 22108

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Asbestos workers	$7.80	.15		.40		
Bellmenhers	7.80	.30	.65		.02	
Bellmenhers' helpers	7.55	.30	.85		.02	
Bricklayers; Stonemasons	7.67	.25	.25	.50		
Carpenters:						
Carpenters; Piledrivermen	7.35	.25		.30		
Millwrights	7.57	.25		.30		
Cement Masons	7.595	.25				
Electricians:						
Electrical contracts under $5,000.00	7.50	4%	4%	11%	1.5%	
Electrical contracts $5,000.00 & over	6.80	4%	4%	11%	1.5%	
Elevator constructors	6.84	.185	.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (Prob.)	50%JR					
Ironworkers	7.65	.25	.45	.10		
Laborers:						
Common Laborers	6.25	.15	.15	.25		
Carpenter tenders; Cement handlers; Concrete vibrator operators; Jackhammer operators; Mason tenders; Mortar mixers; Pipelayers (Concrete & Clay); Underground workmen	6.35	.15	.15	.25		
Lathers	7.75	.15				
Marble Setters	7.365	.305	.23	.53		
Painters:						
Brush	7.60	.25			.05	
Paperhangers; Sandblasting; Spray; Structural steel & bridges; Swing stage	7.85	.25			.05	
Plasterers	7.55	.15		.30		
Plumbers; Pipefitters	6.68	.25	.45	1.00	.05	
Roofers:						
Roofers	7.33	.15	.10	.40		
3rd Roofers	7.08	.15	.10	.40		
Kettlemen	6.88	.15	.10	.40		
Helpers	6.15	.15	.10	.40		
Sheet metal Workers	7.92	.15		.30		
Soft Floor Layers	7.25	.25				
Sprinkler fitters	8.75	.30	.30		.02	

PAID HOLIDAYS:

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

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for over 5 years' service, 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.

Six paid holidays: A through F.

AP-614 P. 2

MINN-1-FED-1-F (1-1)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
HELICOPTER OPERATORS (Hoisting material)	$11.40	.25	.25			
TRUCK & CRAWLER CRANES with 200' of boom & over incl. JIB	9.00	.25	.25			
TRUCK & CRAWLER CRANES with 150' of boom incl. JIB up to 200' of boom	8.65	.25	.25			
TRAVELLING TOWER CRANE	8.55	.25	.25			
MASTER MECHANIC	8.45	.25	.25			
DERRICK (GUY & STIFF LEG); Hoist engineer (3 drums or more); Locomotive op., master mechanic; Overhead crane op. (inside building perimeter); Truck & crawler cranes up to 150' of boom incl. JIB	8.20	.25	.25			
AIR COMPRESSOR OPERATOR, Pump op. &/or Conveyer, 2 or more machines: Hoist engineer (2 drums); Mechanic or welder; Pumpcrete or Complaco type machine op.	8.08	.25	.25			
FORK LIFT OPERATOR	8.05	.25	.25			
BOOM TRUCK OPERATOR; Concrete mixer op.; Drill rigs (heavy duty rotary or churn drill when used for caisson drilling or when drilling for elevator cylinder on building construction); Front end loader op.; Hoist engineer (1 drum); Power plant engineer (100 KW & over); Straddle carrier op.; Tractor op. (over D-2); Well point pump op.	8.00	.25	.25			
CONCRETE BATCH PLANT OPERATOR; Gunite op.; Tractor op (D-2 or similar size & front end loader operator up to ½ cu. yd.)	7.73	.25	.25			
AIR COMPRESSOR OPERATOR, Pump &/or Conveyor op.; Fireman, Temporary heat; Brakeman; Pick up sweeper (combustion engine operated); Truck crane oiler	7.45	.25	.25			
MECHANIC SPACE HEATER (Temporary heat); Oiler or greaser	7.00	.25	.25			

AP-614 P. 3

69-MINN-2-3 W

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CARPENTERS	$7.43	.25		.30		
PILEDRIVERMEN	7.43	.25		.30		
CEMENT MASONS	7.85	.15				

MINN-10-LAB-2-3-c (1-1)

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS						
UNSKILLED LABORERS; Laborers, wrecking and demolition; Bricklayer tender; Drill runner helper; Landscape gardener; Sod layer & nurseryman; Pipe handler (water, gas, cast iron); Salamander heater & blower tender; Carpenter tender; Stone mason tender	$6.08	.15	.15	.25		
BITUMINOUS SHOVELER: Bottom man sewer water or gas trench); Cement handler (bulk or bag); Cement coverman (batch trucks); Chain saw man; Compaction equipment (hand operated); Concrete mixer op. (1 bag); Concrete shoveler, tamper & puddler (paving); Concrete vibrator; Conduit layers (w/o wiring); Dumper (wagon, Truck, etc.); Formsetter (municipal type curb & sidewalk) Formsetter (pavement); Jackhammer man & paving buster; Kettleman (bituminous or lead); Mortar mixer; Power buggy; Joint sawer; Tunnel laborer (atmospheric pressure	6.18	.15	.15	.25		
BITUMINOUS TAMPER; Cofferdam work; Caisson work	6.33	.15	.15	.25		
DRILL RUNNER (heavy, including churn drill)	6.38	.15	.15	.25		
BITUMINOUS RAKER, FLOATER & UTILITY MAN; Pipelayer (sewer, water, gas); Leadman	6.43	.15	.15	.25		
NOZZLEMAN (gunite)	6.48	.15	.15	.25		
POWDERMAN	6.58	.15	.15	.25		
TUNNEL MINER	6.68	.15	.15	.25		

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MINN-6-PEO-2-3-E (1-3)

Site preparation, excavation and incidential paving	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
DREDGE DECK HAND; Gravel screening plant (portable, not crushing or washing); Greaser truck & tractor; Leverman; Mechanic helper; Mechanic space heater (temporary heat); Oilers (power shovel, crane, dragline)	$ 6.45	.25	.25			
TRACTOR, 50 H.P. OR LESS WITHOUT POWER TAKE-OFF	6.48	.25	.25			
BATCH PLANT (Concrete); Brakeman or switchman; Conveyor; Fireman; Tank car heater; Self-propelled vibrating packer (pad type) (35 H.P. & over); Truck crane oiler	6.55	.25	.25			
AIR COMPRESSOR; Lead greaser on grease truck or grease rack (where no mechanic is employed)	6.70	.25	.25			
CONCRETE DISTRIBUTOR & SPREADER; Finishing machine; Longitudinal float; Joint machine; Spray op.; Concrete saw (multiple blade) (power operated); Fine grade op.; Form trench digger (power); Power actuated jacks; Pumps; Shouldering machine (power) (Apsco or similar type incl. self-propelled sand & chip spreader); Stump chipper; Self-propelled chip spreader (Flaherty or similar); Curb machine	6.72	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING MACHINE (Helper) (Power)	6.80	.25	.25			
CONCRETE MIXER ON JOB SITE 14s & UNDER: Front end loader, up to & incl. 1 cu. yd.; Gunite op. gunall; Loader (Barber Greene or similar type); Power acutate augers; Boring machine; Rollers up to 8 tons; Tractor, D2, TD6 or similar H.P. w/power take-off	6.83	.25	.25			
GRADER OPERATOR (Motor Patrol)	6.90	.25	.25			
ASPHALT BITUMINOUS STABILIZER PLANT: Automotaic road machine (CMI or similar Backfiller; Bituminous spreader &						

POWER EQUIPMENT OPERATORS (cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
finishing machine (power); Boom truck (power operated boom); Concrete mixer, on job site over 14S; Crushing plant (gravel & stone); Gravel washing, crushing & screening plant; Dope machine (pipeline); Drill rigs; Heavy duty rotary churn or cable drills; Engineer in charge of plant requiring first class license; Fork lift; Straddle carrier; Fork lift or lumber stacker (for construction job site); Front end loader, over 1 cu. yd. up to 5 cu. yds.; Launcherman (tankerman or pilot license); Locomotives, all types; Mechanic or welder; Hoist engineer (power); Paving breaker or tamping machine (power driven) (Mighty Mite or similar type); Power actuated horizontal boring machines over 6" operator; Pick-up sweeper, 1 cu. yd. & over hopper cap.; Pipeline wrapping cleaning or bending machine; Power plant engineer 100 K.W.H. & over; Pugmill; Rollers 8 tons & over; Rubber tired tractor backhoe attachs.; Sheep foot roller (self-propelled) (3 drum & over); Slip form (power driven)(paving); Tie tamper & ballast machine; Tractor, over D2, TD6 or similar H.P. with power take-off; Tractor, over 50 H.P. without power take-off; Trenching machine (sewer, water, gas); Turnapull (or similar type); Well point installation, dismantling or repair mechanics; Two or more pumps; Compressors; Welding machines	$ 7.48	.25	.25			
SELF-PROPELLED TRAVELING SOIL STABILIZER	7.55	.25	.25			
DUAL TRACTOR; Elevating grader; Pumpcrete; Scraper struck cap. 32 cu. yd. & over	7.58	.25	.25			
CABLEWAY; Concrete Mixer, stationary plant over 43E; Derrick (Guy & stiff leg) (power) (skids or stationary); Dredge op. or engineer; Dredge op. (power) & engineer; Front end loader 5 cu. yds. & over; Grader or motor patrol, finishing, earth work & bituminous; Locomotive crane; Master						

POWER EQUIPMENT OPERATORS (cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
mechanic; Mixer (paving) concrete paving, road; Mole op. incl. power supply; Mucking machine (incl. mucking operations) (Conway or similar); Power shovel and/or other equip. with shovel type controls, up to 3 cu. yds.; Refrigeration plant engineer; Tandem scrapper; Tractor, boom type; Truck crane; Tugboat, 100 H.P. & over	$ 7.70	.25	.25			
CRANE WITH OVER 135 BOOM, EXCL. JIB; Power shovel and/or other equip. with shovel type controls, 3 cu. yds. & over	7.96	.25	.25			

Site preparation, excavation and incidential paving

MINN-3-TD-2-3- d

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
GROUP I						
DRIVER (hauling machinery for employer's own use, incl. operation of hand & power operated winches); Truck train Mechanic; Welder; Tractor-trailer; Off-road truck	$6.80	.25	.25			
GROUP II						
TRI-AXLE (incl. four axles); Dump; Dry batch hauler; Tank truck (gas oil road oil & water); Boom & A" frame; Ready mix concrete; Slurry driver	6.50	.25	.25			
GROUP III						
BITUMINOUS DISTRIBUTOR DRIVER: Bituminous distributor (one man operation); Tandem axle.	6.40	.25	.25			
GROUP IV						
BITUMINOUS DISTRIBUTOR SPRAY (rear-end oiler); Dumpman; Grease & truck service man; Tank truck helper (gas, oil road oil & water); Teamster & stableman; Tractor op. (wheel type used for any purpose)1 Pilot car; Self-perpelled packer; Slurry op.; Single axle	6.20	.25	.25			

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Archer, Armstrong, Baylor, Briscoe, Carson, Castro, Childress, Clay, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lipscomb, Montague, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita and Wilbarger

DECISION NO.: AP-372

DATE: Date of Publication

Supersedes Decision No. AP-324, dated September 22, 1972, in 37 FR 19999.

DESCRIPTION OF WORK: Highway Construction

19 - Texas - 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asphalt Heaterman	$3.20					
Asphalt Raker	3.50					
Batching Plant Scaleman	3.90					
Carpenter	3.50					
Carpenter Helper	2.75					
Concrete Finisher (Paving)	3.65					
Concrete Finisher Helper (Paving)	3.40					
Concrete Finisher (Structures)	3.80					
Concrete Finisher Helper (Structures)	2.60					
Concrete Rubber	3.25					
Form Builder (Structures)	4.20					
Form Builder Helper (Structures)	2.75					
Form Liner (Paving and Curb)	3.50					
Form Setter (Structures)	4.35					
Form Setter Helper (Structures)	3.10					
Laborer, Common	2.25					
Laborer, Utility Man	2.75					
Manhole Builder, Brick	2.85					
Mechanic	3.75					
Mechanic Helper	3.25					
Oiler	3.35					
Serviceman	3.10					
Painter (Structures)	3.00					
Pipelayer	2.70					
Pipelayer Helper	2.40					
Powderman	3.50					
Powderman Helper	2.70					
Reinforcing Steel Setter (Paving)	3.20					
Reinforcing Steel Setter (Structures)	2.85					
Reinforcing Steel Setter Helper	2.35					
Sign Erector	3.10					
Sign Erector Helper	2.50					
Spreader Box Man	3.15					
Swamper	2.35					
Power Equipment Operators:						
Asphalt Distributor	3.30					
Asphalt Paving Machine	4.20					
Broom or Sweeper Operator	2.55					
Bulldozer, 150 HP and Less	3.50					
Bulldozer, over 150 HP	3.75					

AP-372 P. 2

19 Texas 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators Cont'd:						
Concrete Paving Finishing Machine	$3.75					
Concrete Paving Spreader	3.75					
Paving Sub Grader	4.00					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½CY)	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.35					
Crusher or Screening Plant Operator	3.75					
Foundation Drill Operator (Truck Mounted)	3.90					
Front End Loader (2½ CY and Less)	3.30					
Front End Loader (Over 2½ CY)	3.85					
Motor Grader Operator, Fine Grade	4.35					
Motor Grader Operator	3.75					
Roller, Steel Wheel (Plant-Mix Pavements)	3.30					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.00					
Roller Pneumatic (Self-Propelled)	2.55					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.50					
Tractor (Crawler Type) 150 HP and Less	2.90					
Tractor (Crawler Type) over 150 HP	3.00					
Tractor (Pneumatic) 80 HP and Less	2.55					
Tractor (Pneumatic) over 80 HP	3.00					
Traveling Mixer	3.75					
Trenching Machine, Light	3.10					
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.90					
Tandem Axle or Semitrailer	2.25					
Weighman (Truck Scales)	2.25					
Welder	4.35					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bailey, Borden, Cochran, Cottle, Crosby, Dawson, Dickens, Fisher, Floyd, Foard, Gaines, Garza, Hale, Haskell, Hockley, Jones, Kent, King, Knox, Lamb, Lubbock, Lynn, Motley, Scurry, Shackelford, Stephens, Stonewall, Terry, Throckmorton, Yoakum and Young

DECISION NO.: AP-373 DATE: Date of Publication

Supersedes Decision No. AP-325, dated September 22, 1972, in 37 FR 20000

DESCRIPTION OF WORK: Highway Construction

24 Texas 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asphalt Heaterman	$2.70					
Asphalt Raker	2.75					
Asphalt Shoveler	2.15					
Batching Plant Scaleman	2.95					
Carpenter	3.25					
Carpenter Helper	2.85					
Concrete Finisher (Paving)	3.50					
Concrete Finisher (Structures)	3.35					
Concrete Finisher Helper (Structures)	2.90					
Form Builder (Structures)	3.25					
Form Builder Helper (Structures)	2.50					
Form Setter (Paving and Curb)	2.35					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.50					
Mechanic	3.05					
Oiler	2.70					
Serviceman	3.00					
Powderman	3.25					
Powderman Helper	2.50					
Sign Erector	2.75					
Sign Erector Helper	2.50					
Spreader Box Man	2.80					
Swamper	2.50					
Power Equipment Operators:						
Asphalt Distributor	2.85					
Asphalt Paving Machine	2.75					
Broom or Sweeper Operator	2.10					
Bulldozer, 150 HP and Less	3.00					
Bulldozer, over 150 HP	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.25					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.85					
Crusher or Screening Plant Operator	3.00					
Front End Loader (2½ CY and Less)	3.00					
Front End Loader (Over 2½ CY)	3.30					
Motor Grader Operator, Fine Grade	3.90					
Motor Grader Operator	3.50					

24 Texas 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators Cont'd:						
Roller, Steel Wheel (Plant-Mix Pavements)	$2.75					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.55					
Roller, Pneumatic (Self-Propelled)	2.40					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.50					
Tractor (Crawler Type) 150 HP and Less	2.75					
Tractor (Crawler Type) over 150 HP	3.00					
Tractor (Pneumatic) 80 HP and Less	2.50					
Tractor (Pneumatic) over 80 HP	2.65					
Traveling Mixer	3.15					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.75					
Truck Drivers:						
Single Axle, Light	2.25					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	2.25					
Transit-Mix	3.10					
Weighman (Truck Scales)	2.30					
Welder	4.10					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Andrews, Brown, Callahan, Coke, Coleman, Comanche, Concho, Crane, Crockett, Eastland, Ector, Erath, Glasscock, Howard, Irion, Kimble, Loving, Martin, McCulloch, Menard, Midland, Mills, Mitchell, Nolan, Reagan, Runnels, San Saba, Schleicher, Sterling, Sutton, Taylor, Tom Green, Upton, Ward and Winkler

DECISION NO.: AP-374

DATE: Date of Publication

Supersedes Decision No. AP-326, dated September 22, 1972, in 37 FR 20001

DESCRIPTION OF WORK: Highway Construction

29 - Texas 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.40					
Asphalt Heaterman	2.50					
Asphalt Raker	2.80					
Asphalt Shoveler	2.35					
Batching Plant Scaleman	2.85					
Carpenter	3.50					
Carpenter Helper	2.50					
Concrete Finisher (Paving)	3.00					
Concrete Finisher Helper (Paving)	2.85					
Concrete Finisher (Structures)	3.35					
Concrete Finisher Helper (Structures)	2.80					
Electrician	5.70					
Form Builder (Structures)	3.25					
Form Builder Helper (Structures)	2.50					
Form Setter (Paving and Curb)	3.25					
Form Setter Helper (Paving and Curb)	2.90					
Form Setter (Structures)	3.35					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.50					
Mechanic	3.00					
Mechanic Helper	2.50					
Oiler	2.50					
Serviceman	3.20					
Painter (Structures)	4.75					
Painter Helper (Structures)	2.70					
Pipelayer	2.50					
Powderman	3.00					
Powderman Helper	2.45					
Reinforcing Steel Setter (Structures)	3.25					
Reinforcing Steel Setter Helper	2.25					
Spreader Box Man	2.60					
Power Equipment Operators:						
Asphalt Distributor	2.75					
Asphalt Paving Machine	3.00					
Broom or Sweeper Operator	2.30					
Bulldozer, 150 HP and Less	3.00					
Bulldozer, over 150 HP	3.25					
Concrete Paving Curing Machine	3.00					
Concrete Paving Saw	2.50					

29 Texas 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators, Cont'd:						
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	$3.25					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.70					
Crusher or Screening Plant Operator	3.00					
Front End Loader (2½ CY and Less)	2.85					
Front End Loader (Over 2½ CY)	3.00					
Motor Grader Operator, Fine Grade	3.75					
Motor Grader Operator	3.25					
Roller, Steel Wheel (Plant-Mix Pavements)	2.55					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.25					
Roller, Pneumatic (Self-Propelled)	2.25					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.25					
Tractor (Crawler Type) 150 HP and Less	2.65					
Tractor (Crawler Type) over 150 HP	3.00					
Tractor (Pneumatic) 80 HP and Less	2.25					
Tractor (Pneumatic) over 80 HP	2.50					
Trenching Machine, Light	2.50					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.50					
Truck Drivers:						
Single Axle, Light	2.30					
Single Axle, Heavy	2.25					
Tandem Axle or Semitrailer	2.25					
Transit-Mix	2.60					
Weighman (Truck Scales)	2.15					
Welder	3.00					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves and Terrell

DECISION NO.: AP-375

DATE: Date of Publication

Supersedes Decision No. AP-327, dated September 22, 1972, in 37 FR 20002

DESCRIPTION OF WORK: Highway Construction

12 - Texas 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$1.80					
Asphalt Heaterman	2.50					
Asphalt Raker	2.50					
Asphalt Shoveler	2.65					
Batching Plant Scaleman	3.05					
Carpenter	3.25					
Concrete Finisher (Paving)	3.75					
Concrete Finisher (Structures)	2.60					
Concrete Finisher Helper (Structures)	2.00					
Concrete Rubber	1.75					
Electrician	5.00					
Electrician Helper	3.00					
Form Builder (Structures)	2.55					
Form Builder Helper (Structures)	2.25					
Form Setter (Paving and Curb)	3.00					
Form Setter Helper (Paving and Curb)	2.25					
Form Setter (Structures)	3.00					
Form Setter Helper (Structures)	2.15					
Laborer, Common	1.60					
Laborer, Utility Man	2.00					
Manhole Builder, Brick	2.75					
Mechanic	3.00					
Mechanic Helper	2.00					
Oiler	2.50					
Serviceman	2.50					
Painter (Structures)	4.75					
Painter Helper (Structures)	3.75					
Piledriverman	2.50					
Pipelayer	2.50					
Powderman	3.30					
Powderman Helper	2.50					
Reinforcing Steel Setter (Paving)	2.00					
Reinforcing Steel Setter (Structures)	2.60					
Reinforcing Steel Setter Helper	1.75					
Sign Erector	3.40					
Spreader Box Man	2.45					
Swamper	2.00					
Power Equipment Operators:						
Asphalt Distributor	$2.50					
Asphalt Paving Machine	3.00					
Broom or Sweeper Operator	2.15					
Bulldozer, 150 HP and Less	3.00					
Bulldozer, over 150 HP	3.25					
Concrete Paving Mixer	4.10					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½CY)	3.00					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½CY and Over)	3.50					
Crusher or Screening Plant Operator	3.00					
Foundation Drill Operator (Truck Mounted)	3.50					
Front End Loader (2½CY and Less)	2.70					
Front End Loader (Over 2½ CY)	3.00					
Motor Grader Operator, Fine Grade	3.75					
Motor Grader Operator	3.35					
Roller, Steel Wheel (Plant-Mix Pavements)	2.55					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.25					
Roller, Pneumatic (Self-Propelled)	2.20					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.25					
Tractor (Crawler Type) over 150 HP	2.75					
Tractor (Pneumatic) 80 PH and Less	1.95					
Tractor (Pneumatic) over 80 HP	2.50					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.85					
Truck Drivers:						
Single Axle, Light	2.25					
Single Axle, Heavy	2.25					
Tandem Axle or Semitrailer	2.25					
Transit-Mix	2.25					
Water Wagon Operator	2.25					
Welder	3.00					
Welder Helper	2.50					

12 - Texas -3 h (2-2)

Basic Hourly Rates	Fringe Benefits Payments				
	H & W	Pensions	Vacation	App. Tr.	Others

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Guadalupe, Kendall, Kerr, Kinney, LaSalle, Maverick, McMullen, Medina, Real, Uvalde, Val Verde, Wilson and Zavala

DECISION NO.: AP-376

DATE: Date of Publication

Supersedes Decision No. AP-328, dated September 22, 1972, in 37 FR 20003

DESCRIPTION OF WORK: Highway, water and sewer utilities construction

16 - Texas - 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others*
Air Tool Man	$2.00					
Asphalt Heaterman	2.50					
Asphalt Raker	2.50					
Batching Plant Scaleman	3.20					
Batterboard Setter	2.65					
Carpenter	2.75					
Carpenter Helper	2.25					
Concrete Finisher (Structures)	3.00					
Concrete Finisher Helper (Structures)	2.60					
Concrete Rubber	2.45					
Electrician	5.60					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	2.50					
Form Setter (Paving and Curb)	3.10					
Form Setter (Structures)	3.00					
Form Setter Helper (Structures)	2.50					
Laborer, Common	1.85					
Laborer, Utility Man	2.00					
Mechanic	3.20					
Mechanic Helper	2.75					
Oiler	2.45					
Serviceman	2.35					
Painter (Structures)	2.90					
Painter Helper (Structures)	2.00					
Pipelayer	2.50					
Pipelayer Helper	2.10					
Powderman	2.85					
Powderman Helper	2.00					
Reinforcing Steel Setter (Paving)	3.00					
Reinforcing Steel Setter (Structures)	2.95					
Reinforcing Steel Setter Helper	2.25					
Spreader Box Man	2.00					
Power Equipment Operators:						
Asphalt Distributor	2.85					
Asphalt Paving Machine	2.75					
Bulldozer, 150 HP and Less	3.00					
Bulldozer, over 150 HP	3.25					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.25					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½CY and Over)	3.50					

16 - Texas 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators Cont'd:						
Crusher or Screening Plant Operator	$3.00					
Elevating Grader	3.00					
Foundation Drill Operator (Crawler Mounted)	3.70					
Foundation Drill Operator (Truck Mounted)	4.80					
Foundation Drill Operator Helper	3.30					
Front End Loader (2½CY and Less)	2.75					
Front End Loader (Over 2½CY)	3.25					
Mixer (16 CF and Less)	2.50					
Motor Grader Operator, Fine Grade	3.50					
Motor Grader Operator	3.25					
Roller, Steel Wheel (Plant-Mix Pavements)	2.60					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.00					
Roller, Pneumatic (Self-Propelled)	2.25					
Scrapers (17 CY and Less)	2.75					
Scrapers (Over 17 CY)	3.00					
Tractor (Crawler Type) 150 HP and Less	2.25					
Tractor (Crawler Type) over 150 HP	2.50					
Tractor (Pneumatic) 80 HP and Less	2.00					
Tractor (Pneumatic) over 80 HP	2.35					
Traveling Mixer	2.50					
Trenching Machine, Light	3.25					
Trenching Machine, Heavy	3.25					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.50					
Truck Drivers:						
Single Axle, Light	2.00					
Single Axle, Heavy	2.00					
Tandem Axle or Semitrailer	2.25					
Winch	2.15					
Welder	4.00					
Welder Helper	2.75					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Kennedy, Starr, Webb, Willacy and Zapata

DECISION NO.: AP-377

DATE: Date of Publication

Supersedes Decision No. AP-329, dated September 22, 1972, in 37 FR 20004

DESCRIPTION OF WORK: Highway Construction

36 Texas 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$1.85					
Asphalt Raker	2.15					
Batterboard Setter	2.70					
Carpenter	3.00					
Carpenter Helper	2.00					
Concrete Finisher (Paving)	2.55					
Concrete Finisher Helper (Paving)	2.50					
Concrete Finisher (Structures)	3.00					
Concrete Finisher Helper (Structures)	2.50					
Electrician	3.50					
Fireman	2.75					
Form Builder (Structures)	3.10					
Form Builder Helper (Structures)	2.35					
Form Setter (Paving and Curb)	3.00					
Form Setter Helper (Paving and Curb)	2.50					
Form Setter (Structures)	3.00					
Form Setter Helper (Structures)	2.50					
Laborer, Common	1.85					
Laborer, Utility Man	2.30					
Manhole Builder, Brick	2.50					
Mechanic	3.15					
Mechanic Helper	2.60					
Oiler	2.50					
Serviceman	2.33					
Piledriverman	3.50					
Pipelayer	2.50					
Reinforcing Steel Setter (Structures)	3.00					
Reinforcing Steel Setter Helper	2.00					
Spreader Box Man	2.60					
Sweeper	2.50					
Power Equipment Operators:						
Asphalt Distributor	2.60					
Asphalt Paving Machine	3.00					
Broom or Sweeper Operator	2.25					
Bulldozer, 150 HP and Less	3.00					
Bulldozer, over 150 HP	3.25					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.00					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.50					

36 Texas 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators, Cont'd:						
Front End Loader (2½ CY and Less)	$2.75					
Front End Loader (Over 2½ CY)	3.00					
Motor Grader Operator, Fine Grade	3.50					
Motor Grader Operator	3.00					
Roller, Steel Wheel (Plant-Mix Pavements)	2.35					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.35					
Roller, Pneumatic (Self-Propelled)	2.10					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.25					
Tractor (Crawler Type) 150 HP and Less	2.50					
Tractor (Crawler Type) over 150 HP	2.75					
Tractor (Pneumatic) 80 HP and Less	2.25					
Tractor (Pneumatic) over 80 HP	2.85					
Traveling Mixer	2.85					
Trenching Machine, Light	3.25					
Truck Drivers:						
Single Axle, Light	1.85					
Single Axle, Heavy	2.00					
Tandem Axle or Semitrailer	1.85					
Welder	3.00					
Welder Helper	2.75					

SUPERSEDEAS DECISION

AP-378 P. 2

STATE: Texas

COUNTIES: Aransas, Bee, Calhoun, DeWitt, Goliad, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Nueces, Refugio, San Patricio and Victoria

DECISION NO.: AP-378

DATE: Date of Publication

Supersedes Decision No. AP-330, dated September 22, 1972, in 37 FR 20005

DESCRIPTION OF WORK: Highway Construction

15 - Texas - 3 h (1-2)

	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	3.35					
Batterboard Setter	2.60					
Carpenter	3.00					
Carpenter Helper	2.45					
Concrete Finisher (Paving)	3.50					
Concrete Finisher Helper (Paving)	3.25					
Concrete Finisher (Structures)	2.85					
Concrete Finisher Helper (Structures)	2.40					
Electrician	4.60					
Fireman	3.00					
Form Builder (Structures)	3.00					
Form Builder Helper (Structures)	2.25					
Form Setter (Paving and Curb)	2.40					
Form Setter (Structures)	2.70					
Form Setter Helper (Structures)	2.15					
Laborer, Common	2.00					
Laborer, Utility Man	2.25					
Mechanic	3.40					
Mechanic Helper	2.50					
Oiler	2.50					
Piledriverman	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 HP and Less	2.85					
Bulldozer, over 150 HP	3.20					
Concrete Paving Saw	2.25					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½CY)	3.00					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.50					

15 - Texas 3 - h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators cont'd:						
Foundation Drill Operator(Truck Mounted)	$4.35					
Front End Loader (2½ CY and Less)	2.50					
Front End Loader (Over 2½ CY)	3.00					
Motor Grader Operator, Fine Grade	3.75					
Motor Grader Operator	3.00					
Roller, Steel Wheel (Plant-Mix Pavements)	2.60					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.05					
Roller, Pneumatic (Self-Propelled)	2.00					
Scrapers (17 CY and Less)	2.75					
Scrapers (Over 17CY)	3.00					
Tractor (Crawler Type) 150 HP and Less	2.50					
Tractor (Crawler Type) over 150 HP	3.10					
Tractor (Pneumatic) 80 HP and Less	2.00					
Tractor (Pneumatic) over 80 HP	2.40					
Traveling Mixer	2.50					
Trenching Machine, Light	2.25					
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00					
Truck Drivers:						
Single Axle, Light	2.20					
Single Axle, Heavy	2.25					
Tandem Axle or Semitrailer	2.50					
Vibrator Man (Hand Type)	2.00					
Welder	3.00					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Austin, Bastrop, Blanco, Burnet, Caldwell, Colorado, Fayette, Gillespie, Gonzales, Hays, Lee, Llano, Mason, Travis and Williamson

DECISION NO.: AP-379

DATE: Date of Publication

Supersedes Decision No. AP-331, dates September 22, 1972, in 37 FR 20006

DESCRIPTION OF WORK: Highway and water and sewer utilities construction

18 - Texas -3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.30					
Asphalt Heaterman	2.40					
Asphalt Raker	2.95					
Batching Plant Scaleman	3.10					
Carpenter	3.30					
Carpenter Helper	2.25					
Concrete Finisher (Structures)	3.20					
Concrete Finisher Helper (Structures)	2.50					
Electrician	5.75					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	2.00					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	2.35					
Laborer, Common	2.00					
Laborer, Utility Man	2.15					
Mechanic	3.25					
Mechanic Helper	2.70					
Oiler	2.25					
Serviceman	2.85					
Pipelayer	2.75					
Pipelayer Helper	2.25					
Powderman	3.25					
Powderman Helper	2.00					
Reinforcing Steel Setter (Structures)	3.50					
Reinforcing Steel Setter Helper	2.95					
Spreader Box Man	2.55					
Power Equipment Operators:						
Asphalt Distributor	2.50					
Asphalt Paving Machine	3.50					
Bulldozer, 150 HP and Less	3.00					
Bulldozer, over 150 HP	3.20					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.25					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.50					
Crusher or Screening Plant Operator	3.00					
Elevating Grader	3.00					
Foundation Drill Operator (Crawler Mounted)	2.85					
Foundation Drill Operator (Truck Mounted)	4.50					
Front End Loader (2½ CY and Less)	3.00					
Front End Loader (Over 2½ CY)	3.50					
Motor Grader Operator, Fine Grade	3.50					
Motor Grader Operator	3.25					
Power Equipment Operators, Cont'd:						
Roller, Steel Wheel (Plant-Mix Pavements)	$2.95					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.50					
Roller, Pneumatic (Self-Propelled)	2.00					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.25					
Tractor (Crawler Type) 150 HP and Less	2.60					
Tractor (Crawler Type) over 150 HP	2.80					
Tractor (Pneumatic) 80 HP and Less	2.30					
Tractor (Pneumatic) over 80 HP	2.45					
Trenching Machine, Heavy	3.25					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.50					
Truck Drivers:						
Single Axle, Light	2.00					
Single Axle, Heavy	2.30					
Tandem Axle or Semitrailer	2.30					
Weighman (Truck Scales)	2.00					
Welder	3.80					

18 - Texas - 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others

SUPERSEDEAS DECISION

AP-380 P. 2

STATE: Texas

COUNTIES: Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Limestone, McLennan and Navarro

DECISION NO.: AP-380

DATE: Date of Publication

Supersedes Decision No. AP-332, dated September 22, 1972, in 37 FR 20007

DESCRIPTION OF WORK: Highway Construction

22 - Texas 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.65					
Asphalt Heaterman	2.50					
Asphalt Raker	2.75					
Batching Plant Scaleman	2.85					
Carpenter	3.25					
Carpenter Helper	2.50					
Concrete Finisher (Paving)	3.50					
Concrete Finisher Helper (Paving)	3.00					
Concrete Finisher (Structures)	3.60					
Concrete Finisher Helper (Structures)	2.50					
Concrete Rubber	2.45					
Electrician	3.45					
Electrician Helper	2.75					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	2.85					
Form Setter (Paving and Curb)	3.25					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	2.25					
Laborer, Common	2.00					
Laborer, Utility Man	2.35					
Manhole Builder, Brick	3.50					
Mechanic	4.00					
Mechanic Helper	2.65					
Oiler	3.25					
Serviceman	2.25					
Painter (Structures)	2.85					
Painter Helper (Structures)	2.00					
Pipelayer	3.00					
Pipelayer Helper	2.40					
Powderman	3.20					
Powderman Helper	2.75					
Reinforcing Steel Setter (Paving)	2.25					
Reinforcing Steel Setter (Structures)	3.25					
Reinforcing Steel Setter Helper	2.00					
Spreader Box Man	2.75					
Swamper	2.60					

22 - Texas 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators:						
Asphalt Distributor	$2.75					
Asphalt Paving Machine	3.00					
Bulldozer, 150 HP and Less	3.25					
Bulldozer, over 150 HP	3.50					
Concrete Paving Mixer	3.65					
Paving Sub Grader	3.60					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.85					
Crusher or Screening Plant Operator	2.75					
Foundation Drill Operator (Crawler Mounted)	5.55					
Foundation Drill Operator (Truck Mounted)	4.10					
Front End Loader (2½ CY and Less)	2.90					
Front End Loader (Over 2½ CY)	3.50					
Motor Grader Operator, Fine Grade	3.75					
Motor Grader Operator	3.25					
Roller, Steel Wheel (Plant-Mix Pavements)	2.35					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.50					
Roller, Pneumatic (Self-Propelled)	2.25					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.25					
Tractor (Crawler Type) 150 HP and Less	3.00					
Tractor (Crawler Type) over 150 HP	3.15					
Tractor (Pneumatic) 80 HP and Less	2.25					
Tractor (Pneumatic) over 80 HP	3.10					
Traveling Mixer	2.80					
Trenching Machine, Light	3.00					
Trenching Machine, Heavy	3.00					
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	2.50					
Weighman (Truck Scales)	2.25					
Welder	4.00					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Cooke, Denton, Hood, Jack, Johnson, Palo Pinto, Parker, Somervell, Tarrant and Wise

DECISION NO.: AP-381

DATE: Date of Publication

Supersedes Decision No. AP-333, dated September 22, 1972, in 37 FR 20008

DESCRIPTION OF WORK: Highway Construction (excluding Dallas-Fort Worth Regional Airport)

13 - Texas - 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.55					
Asphalt Raker	3.25					
Asphalt Shoveler	2.65					
Batching Plant Scaleman	3.10					
Carpenter	3.50					
Carpenter Helper	2.70					
Concrete Finisher (Paving)	3.50					
Concrete Finisher Helper (Paving)	3.00					
Concrete Finisher (Structures)	3.50					
Concrete Finisher Helper (Structures)	2.95					
Concrete Rubber	2.85					
Form Builder (Structures)	3.65					
Form Builder Helper (Structures)	2.50					
Form Liner (Paving and Curb)	3.40					
Form Setter (Paving and Curb)	3.10					
Form Setter Helper (Paving and Curb)	2.50					
Form Setter (Structures)	3.60					
Form Setter Helper (Structures)	3.25					
Laborer, Common	2.25					
Laborer, Utility Man	2.50					
Mechanic	3.50					
Mechanic Helper	3.00					
Oiler	2.90					
Serviceman	2.85					
Painter (Structures)	2.50					
Piledriverman	3.00					
Pipelayer	3.00					
Pipelayer Helper	2.50					
Powderman	3.00					
Reinforcing Steel Setter (Structures)	3.35					
Reinforcing Steel Setter Helper	2.40					
Spreader Box Man	3.00					
Swamper	2.50					
Power Equipment Operators:						
Asphalt Distributor	3.00					
Asphalt Paving Machine	3.25					
Bulldozer, 150 HP and Less	3.25					
Bulldozer, over 150 HP	3.50					
Concrete Paving Curing Machine	3.10					
Concrete Paving Finishing Machine	4.00					

13 - Texas - 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators cont'd:						
Concrete Paving Saw	$3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½CY)	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½CY and Over)	3.65					
Crusher or Screening Plant Operator	3.50					
Foundation Drill Operator (Truck Mounted)	4.45					
Foundation Drill Operator Helper	3.00					
Front End Loader (2½ CY and Less)	3.25					
Front End Loader (Over 2½ CY)	3.50					
Motor Grader Operator, Fine Grade	3.65					
Motor Grader Operator	3.50					
Roller, Steel Wheel (Plant-Mix Pavements)	3.25					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.50					
Rollers, Pneumatic (Self-Propelled)	2.80					
Scrapers (17 CY and Less)	3.25					
Scrapers (Over 17 CY)	3.50					
Tractor (Crawler Type) 150 HP and less	2.80					
Tractor (Crawler Type) over 150 HP	3.00					
Tractor (Pneumatic) over 80 HP	3.25					
Traveling Mixer	3.25					
Trenching Machine, Heavy	3.50					
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.70					
Tandem Axle or Semitrailer	2.50					
Welder	3.00					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Collin, Dallas, Ellis, Grayson and Rockwall

DECISION NO.: AP-382

DATE: Date of publication

Supersedes Decision No. AP-334, dated September 22, 1972, in 37 FR 20009

DESCRIPTION OF WORK: Heavy & Highway construction (excluding Dallas-Fort Worth Regional Airport)

11 - Texas - 3 1 (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.75					
Asphalt Heaterman	2.75					
Asphalt Raker	3.50					
Batching Plant Scaleman	2.90					
Carpenter	3.50					
Carpenter Helper	2.75					
Concrete Finisher (Paving)	3.75					
Concrete Finisher Helper (Paving)	3.00					
Concrete Finisher (Structures)	3.30					
Concrete Finisher Helper (Structures)	2.90					
Concrete Rubber	2.25					
Fireman	3.30					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	3.00					
Form Liner (Paving and Curb)	3.80					
Form Setter (Paving and Curb)	3.25					
Form Setter Helper (Paving and Curb)	3.00					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	2.85					
Laborer, Common	2.25					
Laborer, Utility Man	2.50					
Mechanic	3.50					
Mechanic Helper	2.75					
Oiler	2.75					
Serviceman	3.00					
Painter (Structures)	5.00					
Piledriverman	3.00					
Pipelayer	3.00					
Pipelayer Helper	2.50					
Pneumatic Mortarman	3.25					
Powderman	3.35					
Reinforcing Steel Setter (Paving)	2.40					
Reinforcing Steel Setter (Structures)	3.50					
Reinforcing Steel Setter Helper	2.40					
Steel Worker (Structural)	3.50					
Steel Worker Helper (Structural)	2.80					
Spreader Box Man	2.75					
Swamper	2.50					
Power Equipment Operators:						
Asphalt Distributor	3.50					
Asphalt Paving Machine	3.35					
Bulldozer, 150 HP and Less	3.25					
Bulldozer, over 150 HP	3.50					

11 Texas 3 1 (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators, Cont'd:						
Concrete Paving Curing Machine	$3.10					
Concrete Paving Finishing Machine	3.50					
Concrete Paving Form Grader	2.75					
Concrete Paving Joint Machine	2.95					
Concrete Paving Joint Sealer	2.25					
Concrete Paving Mixer	3.75					
Concrete Paving Saw	3.50					
Concrete Paving Spreader	2.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and over)	3.75					
Crusher or Screening Plant Operator	3.50					
Foundation Drill Operator (Truck Mounted)	3.90					
Foundation Drill Operator Helper	3.20					
Front End Loader (2½ CY and less)	3.00					
Front End Loader (Over 2½ CY)	3.50					
Mixer Operator	2.75					
Motor Grader Operator, Fine Grade	3.75					
Motor Grader Operator	3.50					
Roller, Steel Wheel (Plant-Mix Pavements)	3.50					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.85					
Roller, Pneumatic (Self-Propelled)	2.95					
Scrapers (17 CY and less)	3.25					
Scrapers (Over 17 CY)	3.50					
Tractor (Crawler Type) 150 HP and less	2.85					
Tractor (Crawler Type) over 150 HP	3.00					
Tractor (Pneumatic) 80 HP and less	2.50					
Tractor (Pneumatic) over 80 HP	3.50					
Traveling Mixer	2.90					
Trenching Machine, Light	3.10					
Trenching Machine, Heavy	3.50					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.75					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.75					
Tandem Axle or Semitrailer	2.50					
Lowboy-Float	2.95					
Transit-Mix	3.00					
Winch	3.00					
Vibrator Man (Hand Type)	2.75					
Welder	4.00					
Welder Helper	2.75					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Raine, Red River, Rusk, Smith, Titus, Upshur, Van Zandt and Wood

DECISION NO.: AP-383

DATE: Date of Publication

Supersedes Decision No. AP-335, dated September 22, 1972, in 37 FR 20010

DESCRIPTION OF WORK: Highway Construction

30 - Texas 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.85					
Asphalt Heaterman	2.75					
Asphalt Raker	3.35					
Asphalt Shoveler	2.40					
Batching Plant Scaleman	2.95					
Carpenter	3.50					
Carpenter Helper	2.75					
Concrete Finisher (Paving)	3.75					
Concrete Finisher (Structures)	3.25					
Concrete Finisher Helper (Structures)	2.75					
Concrete Rubber	2.65					
Fireman	3.35					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	2.65					
Form Liner (Paving and Curb)	3.35					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.45					
Mechanic	3.50					
Mechanic Helper	3.25					
Oiler	2.75					
Serviceman	2.60					
Painter (Structures)	4.85					
Pipelayer	2.85					
Pipelayer Helper	2.30					
Reinforcing Steel Setter (Paving)	2.65					
Reinforcing Steel Setter (Structures)	2.85					
Sign Erector	3.00					
Sign Erector Helper	2.60					
Spreader Box Man	2.75					
Swamper	2.35					
Power Equipment Operators:						
Asphalt Distributor	3.00					
Asphalt Paving Machine	3.25					
Bulldozer, 150 HP and Less	3.00					
Bulldozer, over 150 HP	3.25					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½CY)	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.75					

30 Texas 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators, Cont'd:						
Foundation Drill Operator (Crawler Mounted)	$5.90					
Foundation Drill Operator (Truck Mounted)	4.50					
Foundation Drill Operator Helper	3.10					
Front End Loader (2½ CY and Less)	3.00					
Front End Loader (Over 2½ CY)	3.30					
Motor Grader Operator, Fine Grade	3.70					
Motor Grader Operator	3.50					
Roller, Steel Wheel (Plant-Mix Pavements)	3.35					
Roller, Steel, Wheel (Other-Flat Wheel or Tamping)	2.50					
Roller, Pneumatic (Self-Propelled)	2.50					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.25					
Self-Propelled Hammer	4.00					
Tractor (Crawler Type) 150 HP and Less	3.00					
Tractor (Crawler Type) over 150 HP	3.25					
Tractor (Pneumatic) 80 HP and Less	2.50					
Tractor (Pneumatic) over 80 HP	3.25					
Traveling Mixer	3.25					
Truck Drivers:						
Single Axle, Light	2.25					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	2.50					
Winch	3.00					
Weighman (Truck Scales)	2.45					
Welder	3.60					
Welder Helper	3.35					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Anderson, Angelina, Cherokee, Henderson, Houston, Jasper, Nacogdoches, Newton, Panola, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity and Tyler

DECISION NO.: AP-384

DATE: Date of Publication

Supersedes Decision No. AP-336, dated September 22, 1972, in 37 FR 20011

DESCRIPTION OF WORK: Highway Construction

111 - Texas 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others'
Asphalt Heaterman	$2.75					
Asphalt Raker	2.60					
Asphalt Shoveler	2.40					
Batching Plant Scaleman	3.00					
Carpenter	3.40					
Carpenter Helper	2.50					
Concrete Finisher (Paving)	3.85					
Concrete Finisher (Structures)	3.25					
Concrete Finisher Helper (Structures)	2.90					
Concrete Rubber	2.85					
Form Builder (Structures)	3.50					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.50					
Mechanic	3.50					
Mechanic Helper	2.75					
Oiler	2.50					
Painter (Structures)	4.50					
Painter Helper (Structures)	3.00					
Pipelayer	3.10					
Reinforcing Steel Setter (Structures)	3.25					
Reinforcing Steel Setter Helper	2.75					
Steel Worker (Structural)	4.00					
Steel Worker Helper (Structural)	2.80					
Spreader Box Man	3.00					
Power Equipment Operators:						
Asphalt Distributor	3.15					
Asphalt Paving Machine	3.05					
Bulldozer, 150 HP and Less	3.00					
Bulldozer, over 150 HP	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.25					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.50					

111 - Texas 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators, Cont'd:						
Front End Loader (2½ CY and Less)	$3.00					
Front End Loader (Over 2½ CY)	3.25					
Motor Grader Operator, Fine Grade	3.75					
Motor Grader Operator	3.50					
Roller, Steel Wheel (Plant-Mix Pavements)	3.00					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.55					
Roller, Pneumatic (Self-Propelled)	2.50					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.25					
Tractor (Crawler Type) 150 HP and Less	2.85					
Tractor (Crawler Type) over 150 HP	3.50					
Tractor (Pneumatic) 80 HP and Less	2.50					
Tractor (Pneumatic) over 80 HP	3.25					
Traveling Mixer	2.50					
Trenching Machine, Light	3.00					
Truck Drivers:						
Single Axle, Light	2.25					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	2.50					
Lowboy-Float	3.00					
Welder	3.75					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brazos, Burleson, Grimes, Leon, Madison, Milam, Robertson, Walker and Washington

DECISION NO.: AP-385

DATE: Date of Publication

Supersedes Decision No. AP-337, dated September 22, 1972, in 37 FR 20012

DESCRIPTION OF WORK: Highway Construction

25 Texas 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asphalt Heaterman	$2.70					
Asphalt Raker	2.75					
Batching Plant Scaleman	2.70					
Carpenter	3.00					
Carpenter Helper	2.75					
Concrete Finisher (Structures)	3.50					
Concrete Finisher Helper (Structures)	2.50					
Fireman	3.00					
Form Builder (Structures)	3.25					
Form Setter (Structures)	3.25					
Form Setter Helper (Structures)	2.65					
Laborer, Common	2.00					
Laborer, Utility Man	2.50					
Mechanic	3.00					
Mechanic Helper	2.60					
Oiler	2.60					
Serviceman	2.40					
Pipelayer	3.00					
Pipelayer Helper	2.75					
Reinforcing Steel Setter (Structures)	3.00					
Reinforcing Steel Setter Helper	2.50					
Sign Erector	3.00					
Sign Erector Helper	2.80					
Power Equipment Operators:						
Asphalt Distributor	2.45					
Asphalt Paving Machine	3.00					
Bulldozer, 150 HP and Less	3.00					
Bulldozer, over 150 HP	3.45					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.25					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.65					
Crusher or Screening Plant Operator	3.10					
Foundation Drill Operator (Truck-Mounted)	4.25					
Front End Loader (2½ CY and Less)	3.00					
Front End Loader (Over 2½ CY)	3.30					
Motor Grader Operator, Fine Grade	3.50					
Motor Grader Operator	3.25					
Roller, Steel Wheel (Plant-Mix Pavements)	2.50					

25 Texas 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators, Cont'd:						
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	$2.40					
Roller, Pneumatic (Self-Propelled)	2.50					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.25					
Tractor (Crawler Type) 150 HP and Less	2.25					
Tractor (Crawler Type) over 150 HP	3.25					
Tractor (Pneumatic) 80 HP and Less	2.40					
Tractor (Pneumatic) over 80 HP	2.65					
Traveling Mixer	2.50					
Trenching Machine, Light	3.25					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.75					
Truck Drivers:						
Single Axle, Light	2.25					
Single Axle, Heavy	2.25					
Tandem Axle or Semitrailer	2.25					
Welder	3.00					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brazoria, Fort Bend, Galveston, Harris, Matagorda, Montgomery, Waller and Wharton

DECISION NO.: AP-386

DATE: Date of Publication

Supersedes Decision No. AP-338, dated September 22, 1972, in 37 FR 20013

DESCRIPTION OF WORK: Heavy & Highway Construction

14 - Texas - 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.55					
Asphalt Heaterman	2.85					
Asphalt Raker	3.00					
Batching Plant Scaleman	2.60					
Carpenter	3.75					
Carpenter Helper	3.25					
Concrete Finisher (Paving)	4.00					
Concrete Finisher Helper (Paving)	3.10					
Concrete Finisher (Structures)	3.65					
Concrete Finisher Helper (Structures)	3.00					
Concrete Rubber	3.00					
Electrician	5.50					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	2.65					
Form Liner (Paving and Curb)	3.80					
Form Setter (Paving and Curb)	3.50					
Form Setter Helper (Paving and Curb)	2.90					
Form Setter (Structures)	3.75					
Form Setter Helper (Structures)	2.90					
Laborer, Common	2.25					
Laborer, Utility Man	2.75					
Manhole Builder, Brick	3.70					
Mechanic	3.90					
Mechanic Helper	3.50					
Oiler	3.05					
Serviceman	3.20					
Painter (Structures)	3.85					
Painter Helper (Structures)	2.75					
Piledriverman	4.00					
Pipelayer	3.50					
Pipelaysr Helper	3.00					
Reinforcing Steel Setter (Paving)	3.40					
Reinforcing Steel Setter (Structures)	3.50					
Reinforcing Steel Setter Helper	2.60					
Steel Worker (Structural)	3.70					
Steel Worker Helper (Structural)	3.45					
Sign Erector	3.00					
Spreader Box Man	3.25					

14 - Texas - 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators:						
Asphalt Distributor	$3.25					
Asphalt Paving Machine	3.50					
Bulldozer, 150 HP and Less	3.25					
Bulldozer, over 150 HP	3.50					
Concrete Paving Curing Machine	3.35					
Concrete Paving Finishing Machine	3.50					
Concrete Paving Mixer	4.00					
Concrete Paving Saw	3.00					
Concrete Paving Spreader	3.40					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½CY)	3.75					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.00					
Foundation Drill Operator (Crawler Mounted)	4.25					
Foundation Drill Operator (Truck Mounted)	3.80					
Front End Loader (2½ CY and Less)	3.25					
Front End Loader (Over 2½ CY)	3.50					
Motor Grader Operator, Fine Grade	4.00					
Motor Grader Operator	3.50					
Roller, Steel Wheel (Plant-Mix Pavements)	3.00					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.75					
Roller, Pneumatic (Self-Propelled)	3.00					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.25					
Tractor (Crawler Type) 150 HP and Less	2.50					
Tractor (Crawler Type) over 150 HP	3.15					
Tractor (Pneumatic) 80 HP and less	2.25					
Tractor (Pneumatic) over 80 HP	2.75					
Trenching Machine, Light	3.50					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.75					
Tandem Axle or Semitrailer	2.75					
Lowboy-Float	3.35					
Winch	2.75					
Welder	4.60					
Welder Helper	3.15					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Chambers, Hardin, Jefferson, Liberty and Orange

DECISION NO.: AP-387

DATE: Date of Publication

Supersedes Decision No. AP-339, dated September 22, 1972, in 37 FR 20014

DESCRIPTION OF WORK: Highway Construction

17 Texas 3 h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.75					
Asphalt Heaterman	2.75					
Asphalt Raker	3.50					
Carpenter	4.00					
Carpenter Helper	3.00					
Concrete Finisher (Paving)	3.75					
Concrete Finisher Helper (Paving)	3.05					
Concrete Finisher (Structures)	3.75					
Concrete Finisher Helper (Structures)	3.10					
Concrete Rubber	3.25					
Form Builder (Structures)	4.00					
Form Setter (Paving and Curb)	3.25					
Form Setter Helper (Paving and Curb)	3.00					
Form Setter (Structures)	3.70					
Form Setter Helper (Structures)	2.75					
Laborer, Common	2.25					
Laborer, Utility Man	2.90					
Mechanic	4.00					
Oiler	3.50					
Piledriverman	3.50					
Pipelayer	3.00					
Reinforcing Steel Setter (Structures)	3.60					
Reinforcing Steel Setter Helper	2.75					
Spreader Box Man	3.05					
Power Equipment Operators:						
Asphalt Distributor	3.25					
Asphalt Paving Machine	4.00					
Bulldozer, 150 HP and Less	3.50					
Bulldozer, over 150 HP	4.00					
Concrete Paving Curing Machine	3.80					
Concrete Paving Finishing Machine	3.85					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½CY)	3.75					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½CY and Over)	4.00					
Foundation Drill Operator (Truck-Mounted)	3.00					
Front End Loader (2½ CY and Less)	3.00					
Front End Loader (Over 2½ CY)	4.00					

17 Texas 3 h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators Cont'd:						
Motor Grader Operator, Fine Grade	$4.00					
Motor Grader Operator	3.75					
Roller, Steel Wheel (Plant-Mix Pavements)	3.50					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.75					
Roller, Pneumatic (Self-Propelled)	2.50					
Scrapers (17 CY and Less)	3.00					
Tractor (Crawler Type) 150 HP and Less	2.75					
Tractor (Pneumatic) 80 HP and Less	3.00					
Tractor (Pneumatic) over 80 HP	3.20					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	2.50					
Lowboy-Float	4.00					
Welder	3.75					

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FRIDAY, JANUARY 19, 1973
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Volume 38 ■ Number 13

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

FOOD LABELING

Title 21—FOOD AND DRUGS

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

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Food Label Information Panel

In the FEDERAL REGISTER of March 30, 1972 (37 FR 6493), the Commissioner of Food and Drugs proposed under Title 21 a new § 1.8d, relating to establishment of a food label information panel, in conjunction with the related proposal for nutrition labeling. The Commissioner's decision with respect to nutrition labeling appears in this issue of the FEDERAL REGISTER (38 FR 2125). Because the food label information panel regulation would apply to all mandatory label requirements, in addition to nutrition labeling, it is considered separately in this final order. A total of 83 comments were received from consumers, consumer organizations, industry representatives, trade associations, and other interested persons, specifically related to the food label information panel proposal.

1. Nineteen comments questioned the legality of the proposal. Most of these stated generally that there does not seem to be any statutory authority for some of the proposed provisions in either the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act. The comments argued that neither act gives the Food and Drug Administration the authority to require an information panel or to regulate its exact location and the size of the type to be used. It was also asserted that there is nothing in the legislative history of either act to indicate that Congress intended to delegate to the Food and Drug Administration the power to prescribe the specific location of any label declaration.

The Commissioner concludes that sections 201, 403, and 701 of the Federal Food, Drug, and Cosmetic Act contain sufficient authority for the promulgation of this regulation. Section 403(a) provides that a food shall be deemed to be misbranded if its labeling is false or misleading in any particular, and section 201(n) states that the failure to include material information may be as misleading as the inclusion of false information. Section 403(f) further provides that a food shall be deemed to be misbranded if any of the information required by law to appear on the label or labeling is not prominently placed thereon with such conspicuousness and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. The Commissioner has concluded that the information required to appear on the label or labeling would be misleading and lack sufficient prominence and conspicuousness to render it likely to be read and understood unless it appears in compliance with the requirements of new § 1.8d. Section 701(a) of the act provides that regulations may be issued for the efficient enforcement of the act, and accordingly this new regulation is fully authorized.

2. Three nutritionists commented in favor of a uniform location for nutrition information. The Society for Nutrition Education objected to nutrition information being restricted to either the principal display panel or the information panel, but recommended it be located in one area. The Massachusetts Consumer Council agreed with an information panel but recommended that the panel be defined in more detail concerning different package shapes and sizes. The Council on Children, Media and Merchandising objected to the defined restriction of the placement of the information panel. Forty-five members of industry and 33 trade associations, including one foreign association, also submitted comments. Some objected to the concept of an information panel as being impracticable, or recommended that the proposal concerning information panels be withdrawn. Virtually all comments from industry and trade associations objected to the requirement for placement of the information panel immediately to the right of the principal display panel as being too restrictive or as not being amenable to some products.

The Commissioner has considered all these comments. Information panels on food packages will contribute organization to labeling that will reduce confusion and promote better understanding, in the interest of consumers. In consideration of the impracticability of placing the information panel immediately to the right of the principal display panel in all cases, the revised regulation provides for variations in package shapes and sizes. If there is an impracticable panel "immediately to the right" or if the package is designed so that there is no such panel, the information panel will be permitted to appear on the next panel to the right. For example, cyclindrical containers with a principal display panel oriented along the horizontal (end-to-end) axis will be permitted to use some other part of the cylindrical surface for the required information panel rather than the container end. In cases where there are two or more alternate principal display panels, only one information panel is required, and any one of the two or more alternate principal display panels may bear the required information. Areas of space not used, e.g., between spot labels are not part of the label or information panel.

3. Several firms objected to the inclusion of certain mandatory information under § 1.8d, or objected to the requirement that this information appear either on the principal display panel or on the information panel. The Commissioner believes that this information should be easily and readily available to consumers and the requirement for placement on one of these panels is the most appropriate means of assuring this availability. Therefore, this requirement remains unchanged.

4. Concerning the minimum type size requirement of 1/16 inch there were comments that this provision is unnecessarily rigid and impractical, particularly with respect to small labels. Lesser minimum type sizes were suggested. Several comments expressed concern that certain existing labels, e.g., a milk bottle or soda pop bottle cap provide insufficient space to accommodate the information that would be required in view of the new nutrition labeling requirements under § 1.17. The Commissioner agrees that type size is only one of the elements which determines conspicuousness; however, type size is an important element that can be readily measured. Therefore, the final regulation retains a uniform type size and placement requirement, but provides that any interested person may petition the Commissioner to establish, where justified, a smaller type size or an alternative means of disseminating such information to consumers.

5. Exemptions were requested from the requirements of § 1.8d for random food packages, margarine, and salt on the basis of conflict with existing regulations. Section 1.1c (21 CFR 1.1c) exempts random food packages from certain requirements for declaration of quantity of contents. The standard of identity for margarine § 45.1 (21 CFR 45.1) requires ingredients to be stated on the principal display panel immediately preceding or following the name of the food. Section 3.87 (21 CFR 3.87) requires labels of salt and iodized salt to bear statements concerning iodide to appear on the principal display panel. The Commissioner concludes that existing regulations concerning random food packages, salt, and margarine do not conflict with the requirements of § 1.8d, and that there is no reason for exempting these products from the requirements. Those existing regulations remain effective and are not changed by § 1.8d.

6. In response to other concerns expressed in the comments, the Commissioner advises that:

(a) The term "label" is defined in section 201(k) of the Federal Food, Drug, and Cosmetic Act to mean "a display of written, printed, or graphic matter upon the immediate container of any article * * *."

(b) Information required by the regulation may be repeated in whole or in part elsewhere on the label, provided it is not misleading.

(c) Information not required to appear on the principal display panel or information panel is not subject to the type size restrictions.

The Commissioner concludes, having considered the comments received and other relevant material, that the proposed regulation with changes, should be adopted as set forth below.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic

Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055; 21 U.S.C. 321, 343, 371(a)), and under authority delegated to him (21 CFR 2.120), Part 1 is amended by adding a new § 1.8d, as follows:

§ 1.8d Food labeling; information panel.

(a) The term "information panel" as it applies to packaged food means that part of the label immediately to the right of the principal display panel as observed by an individual facing the principal display panel with the following exceptions:

(1) If the part of the label immediately to the right of the principal display panel is too small to accommodate the necessary information or is otherwise unuseable label space, e.g., folded flaps or can ends, the panel immediately to the right of this part of the label may be used.

(2) If the package has one or more alternate principal display panels, the information panel is immediately to the right of any principal display panel.

(3) If the top of the container is the principal display panel and the package has no alternate principal display panel, the information panel is any panel adjacent to the principal display panel.

(b) All information required to appear on the label of any package of food pursuant to §§ 1.8a, 1.8c, 1.10, 1.17, 1.18, and Parts 80 and 125 of this chapter shall appear either on the principal display panel or on the information panel unless otherwise specified by regulations in this chapter.

(c) All information appearing on the principal display panel or the information panel pursuant to this section shall appear prominently and conspicuously, but in no case may the letters and/or numbers be less than 1/16 inch in height unless an exemption pursuant to paragraph (e) of this section is established. The requirements for conspicuousness and legibility shall include the specifications of §§ 1.8b(h) (1) and (2) and 1.9.

(d) All information appearing on the principal display panel or on the information panel pursuant to this section shall appear on the same panel unless there is insufficient space. If there is insufficient space for all of this information to appear on a single panel it may be divided between these two panels except that the information required pursuant to any given section or part shall all appear on the same panel.

(e) If the label of any package of food is too small to accommodate all of the information required by §§ 1.8a, 1.8c, 1.10, 1.17, 1.18, and Parts 80 and 125, the Commissioner may establish by regulation an acceptable alternative method of disseminating such information to the public, e.g., a type size smaller than 1/16 inch in height, or labeling attached to or inserted in the package or available at the point of purchase. A petition requesting such a regulation, as an amendment to this paragraph, shall be submitted to the Hearing Clerk in the form established in § 2.65 of this chapter.

Effective date. All labeling ordered after December 31, 1973, and all labeling used for products shipped in interstate commerce after December 31, 1974 shall comply with this regulation.

(Secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055; 21 U.S.C. 321, 343, 371(a))

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

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PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Nutrition Labeling

In the FEDERAL REGISTER of March 30, 1972 (37 FR 6493), the Commissioner of Food and Drugs proposed a new section on nutrition labeling under Title 21. Individuals and organizations submitted 3,140 comments on the proposal. These included 2,863 comments from individual consumers, 71 from consumer groups and dietetic associations, 57 from professionals, 24 from representatives of governmental agencies including State and local groups, 84 from food manufacturers and distributors, and 41 from trade associations. Comments received from all of these groups and individuals strongly favored nutrition labeling, with the exception of 23 replies which contained negative views of the basic concepts of the proposal.

Mandatory nutrition labeling. Some 290 consumers and 15 consumer groups believe that nutrition labeling should be mandatory for all foods. The Commissioner has concluded that insufficient information is known about the nutrient content and variability of some foods, and that the analytical methodology and capability of some food manufacturers, processors, and distributors is inadequate to permit adoption of a requirement at this time that all foods bear nutrition labeling. Experience under this new regulation is required before expansion to all foods on a mandatory basis can be considered.

Percentage labeling. Some 17 consumer groups requested percentage labeling of at least major food ingredients, e.g., the percentage of fruit juice and fruit drinks. The Commissioner has proposed a separate regulation dealing with this subject in the FEDERAL REGISTER of June 22, 1972 (37 FR 12327), and a final order will be issued on it in the near future.

Applicability of nutrition labeling. Numerous comments requested clarification of the circumstances under which nutrition labeling will and will not be applicable, and particularly the relationship between nutrition labeling and special dietary food labeling under 21 CFR Part 125. The final regulation clarifies both of these points.

Except for some standardized foods, the decision to add a vitamin or mineral to, or make a nutritional claim for, a food is entirely voluntary. The Commissioner has therefore concluded that, where a nutrient is added to a food, e.g., the addition of vitamin C to a breakfast drink, or a claim or information with respect to nutritional properties of a food is included in labeling or advertising, e.g., the amount of vitamin C in orange juice, or the fact that orange juice is a good source of vitamin C, or a general or specific reference to the caloric or fat content of a food, or any other representation that a food is useful in the daily diet because of any of the nutrient qualities covered in this regulation, the full nutrition labeling established in this regulation must be utilized. Only by having available this full nutrition labeling for a food to which such a nutrient is added or for which such claim or information is provided can such claim or information be evaluated and understood, and the food properly used in the diet. Without full nutrition labeling such claims or information would be confusing and misleading for lack of completeness, and could deceive consumers about the true nutritional value of the food, its overall nutritional contribution to the daily diet, and its nutritional weaknesses as well as strengths. Since addition of nutrients and use of nutrition claims or information is voluntary in most cases, the application of this new regulation on nutrition labeling is also voluntary. A manufacturer who does not wish to use nutrition labeling need not add nutrients to his products or refer to their nutritional properties in labeling or advertising.

All food standards providing for addition of nutrients or labeling of nutritional qualities have been reviewed. For most food standards, the addition of nutrients is optional and nutrition labeling is therefore entirely appropriate because the manufacturer is not required to add nutrients or to label nutritional properties. For those few food standards where the addition of nutrients and/or the labeling of nutritional properties is mandatory, the Commissioner has concluded that no hardship will be imposed by the application of nutrition labeling. Accordingly, none of these standardized foods is exempted from nutrition labeling. The Commissioner will consider requests for such exemptions on an ad hoc basis, based upon a showing of undue hardship.

Several food standards for enriched foods require labeling under 21 CFR Part 125. The addition of a nutrient or the use of a nutrition claim or information has in the past uniformly required the use of labeling under 21 CFR Part 125. The Commissioner has therefore reviewed the relationship of 21 CFR Part 125 to nutrition labeling and has reconciled them in a way designed to provide the maximum useful information to consumers.

In the past, the term "special dietary food" has been defined to include any food to which a nutrient has been added or for which nutrition claims or informa-

tion have been used. This approach was adopted to assure that such foods would contain specific label information about the particular nutrient(s) involved, pursuant to regulations promulgated in 21 CFR Part 125, because until now general nutrition labeling for such foods was not considered feasible or appropriate. In fact, virtually all of the foods categorized as special dietary foods for purposes of requiring nutrient labeling have been intended for consumption by the general population and not by any particular small segment.

The development of general nutrition labeling, applicable to all foods, obviates continuation of nutrient labeling of these general purpose foods under 21 CFR Part 125, and permits replacement of this approach with broad nutrition labeling under new § 1.17 (21 CFR 1.17) as set forth below.

For some products, general nutrition labeling under § 1.17 is inappropriate and very specific special dietary food labeling under 21 CFR Part 125 is retained. These foods are exempted from § 1.17 in this final regulation. Such exempted foods include certain infant foods (for which separate labeling has been promulgated in 21 CFR 125.5); dietary supplements of vitamins and minerals (subject to a standard of identity promulgated elsewhere in this issue of the FEDERAL REGISTER as § 80.1 (21 CFR 80.1) and for which specific special dietary food labeling under 21 CFR Part 125 is appropriate); any food intended for use as the sole item of the diet (for which specific special dietary food labeling, including in some cases amino acid composition, is appropriate under 21 CFR Part 125); and foods represented for use solely under medical supervision in the dietary management of specific diseases and disorders (such as foods for the dietary management of inborn errors of metabolism, for which specific special dietary food labeling is also more appropriate under 21 CFR Part 125). In each of these instances, the broad approach adopted for nutrition labeling, which is clearly desirable for general consumer use, is inappropriate because of the need for more detailed and specific information and because the type of product involved is more readily susceptible to precise quality control of the nutrient levels.

To correct the present reference in several food standards to labeling under 21 CFR Part 125, the Commissioner is proposing elsewhere in this issue of the FEDERAL REGISTER to amend all such standards to provide that the reference be changed to new § 1.17, 21 CFR Part 125, which is the subject of a separate order published elsewhere in this issue of the FEDERAL REGISTER, also clarifies the intended application of § 1.17 by providing that the term "special dietary use" as applied to food used by man means a particular use for which an article purports or is represented to be used, including supplying a vitamin, mineral, or other dietary property for use by man to supplement his diet by increasing the total dietary intake, except for foods for which nutrition labeling is used as required pursuant to § 1.17.

The revision of 21 CFR Part 125 published elsewhere in this issue of the FEDERAL REGISTER relates only to §§ 125.1–125.3, and does not deal with § 125.6 (relating to food used in control of body weight or in dietary management with respect to disease). Although a revision of § 125.6 has been proposed and was included as part of the 1968–70 Special Dietary Food Hearings, the Commissioner has not yet acted upon this aspect of those hearings.

As already explained, any reference in labeling or advertising to protein, fat, carbohydrates, or calories will result in a requirement that the food bear full nutrition labeling pursuant to new § 1.17. Under § 125.6, which is more limited in its application than § 1.17, specific claims relating to weight control or dietary management of disease result in a requirement that the product bear a statement of the percent by weight of protein, fat, and carbohydrates, and the number of calories. In view of the wording of new § 1.17, there will be no situation in which § 125.6 will be applicable and § 1.17 will not be applicable. Moreover, § 1.17 requires that the information set out in § 125.6 be included in nutrition labeling in the format established in § 1.17. Thus, these two regulations are entirely consistent, and there is no need to amend § 125.6 to accommodate nutrition labeling at this time. The Commissioner intends to review the need for § 125.6, and to act upon the related issue of claims based upon caloric content of a food, in the context of the proposals which were the subject of the Special Dietary Food Hearings, in the near future.

Sodium declaration. Several authorities indicated the value of continuing to list sodium content of foods, without listing other nutrients, for those on a sodium-controlled diet. This need has been met by permitting the listing of sodium in milligrams per serving, without subjecting the label to the requirements of nutrition labeling. Any such label declaration must be in compliance with § 125.9. However, § 1.17 provides for the inclusion of sodium content within nutritional labeling when the manufacturer so chooses. When a sodium content declaration is included in full nutrition labeling, the sodium content declaration shall appear immediately following the statement on fat content.

Cholesterol declaration. Because of the interest of many individuals and medical authorities, the Commissioner has concluded that it is in the best interest of the consumer to permit listing of cholesterol content without subjecting the label to the requirement of full nutrition labeling. Any such label must be in compliance with § 1.18, which is published in this issue of the FEDERAL REGISTER. However, § 1.17 provides for the inclusion of cholesterol content when the manufacturer chooses. When a cholesterol declaration is included in full nutrition labeling, the declaration shall appear immediately following the fat statement.

Infant, baby, and junior food. Manufacturers of strained conventional foods for infants and children asked that they be permitted to use a standard for nutrition labeling applicable to children under 4 years of age. This has been provided for in the final order by permitting these products to utilize the recommended daily allowances for children under 4 years of age as set forth in new 21 CFR 125.1(b), which is published elsewhere in this issue of the FEDERAL REGISTER, and a corresponding average serving size.

Reference standard. The problem of selecting a proper reference standard for nutrient levels drew considerable comment. The change from use of the outdated Food and Drug Administration Minimum Daily Requirement (MDR) values to use of a standard derived from the National Academy of Sciences-National Research Council (NAS–NRC) Recommended Dietary Allowance (RDA) values was approved by all who commented. Several specialists in the area of human nutritional needs commented on the selection of the proper reference standard and its nomenclature. Most of these specialists agreed that, to be useful for labeling, the table of the NAS–NRC report "Recommended Dietary Allowances" needs simplification. Suggestions included calculating a weighted mean Recommended Dietary Allowance (RDA) value, omitting or including infants and pregnant women, and using one specific RDA group, such as the 22-to-35-year-old male or female. An NAS–NRC ad hoc Conference on Nutritional Labeling held July 24–26, 1972, in Washington, D.C., recommended use of the adult male standard, adding an allowance for vitamin D.

The need was recognized for the development of a single set of standard nutrient requirements applicable to nutritional labeling and other regulations with nutrition components. After consideration of the comments on the nutrition labeling proposal and other available information, a standard set of values, to be known as the U.S. Recommended Daily Allowances (U.S. RDA), was developed. The designation "U.S. RDA" will distinguish this set of values from any single set of NAS–NRC RDA values. These U.S. RDA values were derived from the highest value for each nutrient given in the NAS–NRC tables for males and nonpregnant, nonlactating females, 4 or more year of age, except for calcium, phosphorous, biotin, pantothenic acid, copper, and zinc.

The highest values were selected to assist all segments of the population. Further, the differences between the highest values and some specific set of values for an age or sex group or a median or mean set are generally minor. The U.S. RDA values for calcium and phosphorus (both 1 gram) are not the highest values in the above-cited NAS–NRC tables for these nutrients (both 1.4 grams), because of their physical bulk

and solubility, the wide variability in requirements depending on age (0.8 to 1.4 grams), the human requirements of approximately 1 gram generally accepted in the United States, and the lower values generally advocated by international nutrition groups, e.g., the FAO/WHO Expert Group on Calcium Requirements.

Two members of the National Advisory Food Committee to the Food and Drug Administration pointed out that the National Academy of Sciences has not tabulated RDA values for biotin, pantothenic acid, copper, and zinc, although these nutrients are now recognized as essential in human nutrition. While biotin, pantothenic acid, copper, and zinc are so widely distributed in conventional foods that it would be difficult to select a diet in which they would be deficient, they are essential nutrients and are included as optional nutrients in dietary supplements in 21 CFR 80.1. Therefore, the Commissioner has concluded that it is appropriate to include biotin, pantothenic acid, copper, and zinc, in nutrition labeling at this time. In addition, evidence of zinc deficiency in some segments of the population also supports the conclusion that zinc should be included in nutrition labeling.

It is anticipated that the U.S. RDA values will be amended periodically to concur with major changes that may be made in the National Academy of Sciences-National Research Council RDA values.

Standardized format. The Food and Drug Administration proposed a standardized format for listing seven commonly analyzed nutrients. This proposal was well received by consumers, consumer groups, and most professionals and teachers. The intense interest of consumer groups in inclusion of all seven nutrients in the standardized format has been reiterated several times. Industry, however, strongly opposed listing nutrients that were not present, emphasizing that this is a negative approach to nutrition labeling and referring to it as "negative labeling." Recognizing the validity of both views, the Commissioner has concluded that it is reasonable to require a standard seven-nutrient format unless a food contains less than 2 percent of the U.S. RDA for four or more of the seven nutrients. In the latter case, the manufacturer or distributor may list no more than three nutrients without listing the seven required by the standard format. Where the standard seven-nutrient format is not used, it is necessary to add the statement "contains less than 2 percent of the U.S. RDA of ------," listing whichever of the seven nutrients for which specific levels have not been declared.

The original proposal indicated that quantities of nutrients at levels less than 5 percent of the RDA would be considered insignificant and would have to be labeled to show consumers this fact. Suggestions were made that levels of nutrients less than the lowest increment be designated by an asterisk opposite the given nutrient or nutrients in the standard seven-nutrient format with a reference statement "less than ------ percent of the RDA." After careful consideration of these comments, the regulation has been changed to provide that nutrients present in amounts less than 2 percent of the U.S. RDA may be indicated by a zero, or by an asterisk referring to another asterisk placed at the bottom of the table and followed by the statement "contains less than 2 percent of the U.S. RDA of this (these) nutrient (nutrients)."

Labeling increments. The question of "negative labeling" is linked to the labeling increments used. Many of the objections to a standardized format disappear when the lower limit for a serving is decreased from the proposed 5 percent of the reference standard of a nutrient to 2 percent of that standard. Such small increments appear to be approaching the limits of accuracy of the analytical methods. However, practicing nutritionists pointed out that nutritionally acceptable diets could be assembled with foods that had nutrient contents that are virtually all below the proposed 5 percent cutoff value. Nutrition labeling is voluntary, and manufacturers need positive reasons for using nutrition labeling if it is to be widely accepted and of optimum value to the consumer. In recognition of these views, the regulation includes use of a standard format, but with reduction of the increments to 2 percent for levels up to and including 10 percent of the reference standard and to 5 percent for levels above 10 percent and up to and including 50 percent of the reference standard. As originally proposed, 10 percent increments of the U.S. RDA will be used for content above 50 percent.

Combination packaging. Comments were received from manufacturers asking if foods commonly combined with other ingredients could have nutrition labeling which stated nutrition information for the food plus the ingredients, e.g., a dry cake mix plus the eggs and milk required for producing a finished cake, or dry ready-to-eat breakfast cereal plus milk. Although combined values provide the consumer with a better view of the nutritional value of the food, the consumer will not realize the nutritional value of the specific product purchased if only such combined values are provided. It appears reasonable to require that the label state separately the nutrition information for the specific food product and, if the manufacturer desires, to give the nutrition information for the product plus the other ingredients in a second column of values. The manufacturer must clearly identify the other ingredients, and the quantity used as part of one serving of the final food as consumed, e.g., ½ cup of vitamin D milk, or 1 tablespoon of butter.

It was pointed out that a number of food products are comprised of two or more separately packaged ingredients enclosed in an outer container, and if nutrition information were placed on the labels of the individual packaged ingredients, the consumer would be unable to use the information at point of purchase. It is reasonable to require the manufacturer to place nutrition information on the outer container for the combination of the individual ingredients and the total product. However, when two or more food products are simply combined together in such a manner that no outer container is used, or no outer label is available, each product shall have its own nutrition information statement, e.g., two boxes taped together or two cans combined in a clear plastic overwrap.

Fortification guidelines and nutritional claims. The subject of labeling increments and "negative labeling" is inextricably involved with the problem of "nutrient races" and promiscuous fortification. Several educators and professionals cautioned that guidelines for adding nutrients were needed. Nutrition labeling is designed to provide consumers with a means for identifying the nutrition properties of a food, and is not intended to encourage or suggest that foods with apparently low nutrient content should be fortified in order to give an improved nutrition label statement. In addition to existing regulations pertaining to nutrition fortification, the Food and Drug Administration intends to publish regulations that will govern nutrient additions. These regulations will include nutritional quality guidelines for specific classes of foods and standards of identity. Also governing nutrient additions are the regulations dealing with special dietary foods (1 CFR 125.1–125.3) and a standard of identity for dietary supplements of vitamins and minerals (21 CFR 80.1), published elsewhere in this issue of the FEDERAL REGISTER. Until the new regulations dealing with fortification become effective, the Food and Drug Administration will conduct frequent reviews of label practices of food manufacturers to prevent inappropriate and irrational addition of nutrients. Unwarranted claims or emphasis based on fortification constitute misbranding in violation of section 403(a) of the act.

Some foods currently available to consumers have added nutrients at levels of 50 percent or more of the U.S. RDA per serving and are promoted as a form of dietary supplement. The Commissioner has concluded that such products are dietary supplements of vitamins and minerals. Thus, if vitamins and/or minerals are added to a food so that a single serving provides 50 percent or more of the U.S. RDA of any one of the added vitamins and/or minerals, unless such addition is permitted or required in other regulations, e.g., standards of identity or nutritional quality guidelines, such food is a dietary supplement that is subject to and must conform to the standard of identity set forth in 21 CFR 80.1 as related to vitamins and minerals, as well as conforming to the requirements of nutrition labeling relating to nutrients other than vitamins and minerals.

With the selection of smaller increments (2 percent) below the 10 percent level, there is concern that claims of nutrient superiority of one food over another based solely on small differences could become a problem. The smaller in-

crements were selected in order to provide more useful nutrition labeling for consumers, because otherwise the cumulative amounts of low nutrient levels would not be known (e.g., it is estimated that 20 percent to 40 percent of the daily nutrient supply is obtained from foods containing less than 5 percent of the U.S. RDA in a serving); the small increments are not intended to suggest that a 2 percent or 5 percent difference in one food is itself significant. When making claims of nutrient superiority of one food over another, a difference of less than 10 percent of the U.S. RDA is not considered significant. Thus, any label claims for nutritional superiority, or claims that a product makes a significant contribution to the daily allowances of a nutrient(s), will be evaluated by this 10 percent standard.

Comments were received calling attention to the possible abuse of nutrition labeling by the use of labeling claims for specific properties of a food in the prevention or treatment of diseases or disorders, or suggesting that conventional foods in the U.S. diet, as usually prepared, are inadequate to meet nutritional needs or that "natural" sources of vitamins are different and better than vitamins chemically produced or in isolated form. These problems were also pointed out during the 1968–70 Special Dietary Hearings as reflected in the findings of fact and conclusions of law in 21 CFR Part 125 published elsewhere in this issue of the FEDERAL REGISTER. Based upon the foregoing, the Commissioner concludes that a food labeled under the provisions of this section shall not be considered to be in conformity with the requirements of sections 201(n) and 403(a) of the act if its labeling represents, suggests, or implies:

1. That the food, because of the presence or absence of certain dietary properties, is adequate or effective in the prevention, cure, mitigation, or treatment of any disease or symptom.

2. That a diet of ordinary foods cannot supply adequate amounts of nutrients.

3. That the lack of optimum nutritive quality of a food, by reason of the soil on which that food was grown, is or may be responsible for an inadequacy or deficiency in the quality of the daily diet.

4. That the storage, transportation, processing, or cooking of a food is or may be responsible for an inadequacy or deficiency in the quality of diets.

5. That the food has dietary properties when such properties are of no significant value or need in human nutrition. Over the years there have been a number of ingredients or products marketed as nutrients and nutritional supplements which have not been shown to be essential in human nutrition. This point was discussed in considerable detail during the 1968–70 Special Dietary Food Hearings. Among ingredients or products of this type are rutin, other bioflavonoids, para-aminobenzoic acid, inositol, and similar ingredients or products. These ingredients or products have frequently been combined with vitamins and minerals or otherwise represented as a type of nutritional supplement. In these situations, there is a false representation that these ingredients or products have nutritional value. The Commissioner has concluded that for ingredients or products of this type there may not properly be made direct or implied nutritional claims, and that in no instances can these ingredients or products be represented in any way that suggests a nutritional value. Combining these ingredients or products with added vitamins and/or minerals in any food, or adding these ingredients to any food for which nutrition labeling is used, or calling attention to these ingredients or products in a manner which would be considered to imply some nutritional benefit, is inherently misleading. Labeling of such ingredients or products may not state that their usefulness in human nutrition has not been established or otherwise disclaim dietary or therapeutic value since such statements are also misleading. The Commissioner recognizes that there are individuals who desire to purchase ingredients or products of this type for various reasons. These individuals have a right to obtain these ingredients or products as long as they are truthfully labeled. Thus, ingredients or products of this type may properly be marketed as individual ingredients or products or mixtures thereof, provided that no nutritional or dietary supplement claims or disclaimers are made.

6. That a natural vitamin in a food is superior to an added vitamin, or to differentiate in any way between vitamins naturally present from those added.

Protein quality. Wide divergence of opinions and views appears regarding the need to have a measure of protein quality. Suggestions for rating protein quality ranged from comprehensive scaling factors to simple delineation of vegetable and animal protein sources. Measures of protein quality are complex and expensive and commonly are related to use of the given protein as a unique source during the test. Despite the difficulty of selecting a standard, consumers should be protected against indiscriminate use of various low-quality sources of protein.

The 65-gram figure cited in the proposal is the value listed in the NAS–NRC report, "Recommended Dietary Allowances," 1968. This figure presumes consumption of a mixture of protein sources, and is therefore a reasonable value for proteins in general. The above report further lists 45.5 grams of "ideal" protein as the RDA. For this reason, 45.5 grams, or the integral value of 45 grams, is a reasonable figure for high-quality protein.

Extensive subdivision of protein types or qualities does not appear justified at this time in view of the current state of scientific knowledge in this area. The common measure of the quality of all the protein in a food is the Protein Efficiency Ratio (PER), an expensive and time-consuming biological feeding study that uses test animals. This is not an ideal measure for this purpose, even though it is the best currently available. A simplified approach to the designation of protein quality has therefore been devised.

A value of 45 grams of total protein has been selected as the U.S. RDA for protein having a PER value equal to or greater than that of casein. A value of 65 grams of total protein has been selected as the U.S. RDA for protein having a PER value less than that of casein. This gross separation of protein types reduces the need for extensive PER determinations. Total protein having a PER value less than 20 percent of the PER of casein shall not be stated on the label in terms of percent U.S. RDA, and shall be designated as "not a significant source of protein." This approach will be revised if further research provides a better answer to this difficult problem.

Compliance levels. The setting of practical limits of variation in nutrient levels for compliance purposes was the subject of extensive comments by some trade associations and manufacturers. Some 26 manufacturers and 16 trade associations opposed the compliance limits as listed in the proposal. However, none suggested a viable alternative. A few consumer groups and professionals spoke directly to this point; they were in favor of tighter compliance limits than those proposed. These views illustrate the complicated and interrelated problems involved in setting compliance limits for nutrition labeling.

The Commissioner is aware that there is natural variation in the nutrient content of food products. In developing a nutrition labeling system, it is therefore important that the manufacturer be permitted a sufficient tolerance so that he may provide useful nutrition information on the label without incurring excessive control costs, which would result in a significant price increase to the consumer. However, consumers have a right to expect that nutrition labeling honestly represent the products they buy. The change from the proposed label increments of 5 percent to increments of 2 percent permits more accurate representation of nutrient levels and increases the necessity of a compliance mechanism. This regulation has as its objective assuring compliance with requirements for average nutrient levels for units in a lot, with only as much variability among individual units as is inherent in the nutrients when foods are processed under good manufacturing practices.

The Commissioner realizes that manufacturers can exert varying degrees of control over the nutrient content of food products. Considerable control can be exerted over the nutrient levels when individual nutrients are added as specific substances. When discrete nutrients consisting of vitamins, minerals, and/or protein are added for the purposes of increasing the nutrient claims as a percent of the U.S. RDA, it is reasonable to require that compliance procedures be rigid. The compliance procedures set forth below for foods to which nutrients are so added require relatively exact nutrient levels in relation to label claims. Less variation in nutrient level is expected in a nutrient that is added to a

food than in a naturally occurring (indigenous) nutrient in a food. When any ingredient which contains a naturally occurring (indigenous) nutrient is added to a food it is not considered an addition for purposes of classification and such food shall be evaluated for compliance purposes in terms of naturally occurring (indigenous) nutrients unless the same nutrient is also added.

Therefore, nutrients in foods will be divided generally into two classes for compliance purposes. These two classes are:

Class I. Added nutrients in fortified or fabricated foods.

Class II. Naturally occurring (indigenous) nutrients.

If a vitamin, mineral, or protein, or an ingredient containing such an added nutrient, is added to a food, the total amount of each such nutrient in the final food product is subject to Class I requirements with certain exceptions.

For either Class I or Class II nutrients, the compliance procedures must be applied to a definitive grouping of product units. Depending on the outcome of the compliance evaluation by the Food and Drug Administration, this grouping will either be considered as correctly labeled and therefore satisfactory for retail sale, or as mislabeled and subject to a regulatory action. Conventionally, such a grouping is a convenient collection of primary containers or units of the same size, type, and style, produced under conditions as nearly uniform as possible, e.g., production from a single shift or day, and designated by a common container code or marking. A collection of products defined in this way is termed a "lot" and is the basic unit to which the compliance procedures shall be applied.

Complete assurance that a lot is or is not in compliance with the labeled nutrient values would of course require destructive analysis of the entire lot. Therefore, a statistical approach involving analysis of a representative sample from the lot is required. Any such approach entailing examination of only a portion of the lot is subject to the possibility of an incorrect compliance decision. However, the differentiation between Class I and Class II nutrients, linked to a valid sampling plan, permits the derivation of a logical compliance procedure, which reduces the chance of an incorrect decision to a tolerable level.

In order to select a representative sample from a lot, the sampling must be accomplished while the lot is still reasonably intact. At the same time, the concern in nutrition labeling is that the label accurately reflect the nutrient level available to the consumer at the point of purchase. Both of these objectives will be satisfied by sampling the product at the manufacturer, wholesaler, or chain store warehouse.

Sample units are customarily combined to form a composite for nutrient analysis. Therefore, compliance procedures will be based on composite analysis. Such a composite must be formed from 12 consumer units chosen in a random fashion so as to be representative of the lot. The composites will be analyzed by the Association of Official Analytical Chemists (A.O.A.C.) methods where available or by appropriate analytical procedures the agency considers reliable.

The agency is prepared to provide guidance to manufacturers in relation to analytical procedures which will be used by the agency for compliance. For those cases in which an A.O.A.C. method is not available for a labeled nutrient, alternative methods of analysis may be submitted to the Food and Drug Administration to determine their acceptability.

In order to assure that the average nutrient level of a lot meets the label declaration for that nutrient, according to statistical projection, the following criteria shall be met:

Class I. The nutrient content of the composite shall be at least equal to the value for that nutrient declared on the label.

Class II. The nutrient content of the composite shall equal at least 80 percent of the value for that nutrient declared on the label.

Although the greater variability of Class II nutrients requires a different statistical approach, the average nutrient content of the lot will nonetheless be the same as for a Class I nutrient.

The above minimum composite values, together with suitable measures of variation among individual units in a lot, are sufficient to describe the compliance limits statistically, and to protect both the consumer and the manufacturer. The degree of flexibility permitted for composites in the case of Class II nutrients reflects both the degree of fluctuation in nutrient levels and the present lack of sufficient detailed data on nutrient variability. As data are accumulated through experience with nutrition labeling, it is anticipated that a lesser degree of flexibility may be needed.

The effectiveness of this compliance approach stems from the following considerations. Lots with different average nutrient levels will yield composites with different nutrient values. However, even for lots with the same average nutrient level, different composite values will result. Some composite values will be less than, some equal to, and some greater than the average nutrient level in the lot depending on the nutrient contents of the individual containers composited. Therefore, the actual composite value obtained depends not only on the average lot nutrient level but also on the variation in nutrient contents among individual containers in the lot. In general, the higher the lot average the higher the composite value, and the less variation among individual containers the closer the composite values will be to the lot average. The flexibility noted above for Class II nutrients reflects this dependence on variability.

With these compliance procedures, the chance of a lot being considered acceptable depends not only on the average nutrient level of individual units in the lot but also on their variability with respect to the average. It is assumed that Class I nutrient levels in individual containers will vary in such a way that they will have a standard deviation no larger than 10 percent of the lot average, and that Class II nutrients will have a standard deviation no larger than 25 percent of the lot average. For these variability assumptions, the stated compliance procedures will assure maintenance of average nutrient levels in the lot at or slightly above the label values. At the same time, these compliance procedures will provide reasonable protection against appreciable numbers of individual containers having nutrient levels below the label values. At the assumed level of variability in nutrient levels, the above compliance procedures afford reasonable protection to both producer and consumer.

The above discussion presumes that excesses of nutrients over labeled amounts in accord with good manufacturing practices are acceptable. However, many consumers are particularly interested in the caloric or fat content of foods for purposes of control of caloric or fat intake. The compliance methods that apply to other nutrients are therefore also made applicable to labeled caloric or fat values, with the composite sample values being required to be no more than 20 percent above the value appearing in the label.

The compliance procedures cited have been statistically evaluated and judged to be adequate. Additional information in this regard may be obtained from the Food and Drug Administration statistical staff. Should additional information become available that justifies any change in these compliance provisions, the provisions will be amended.

Representative values. Some 22 companies and 21 trade associations felt that "representative" values based upon averages of surveys made over the years, rather than actual analytical values based on current testing of lots of the manufacturer's product, should be permitted as a basis for labeling for many foods. The consumer groups generally favored use of current analytical values.

The Commissioner is aware of current efforts of the U.S. Department of Agriculture and industry to provide data and programing for a nutrient-data bank. The Food and Drug Administration applauds these efforts and encourages the groups involved to submit for such a bank data which will provide valuable information for industry, consumers, and governmental agencies. At the present time, however, the data available from survey averages are incomplete, and thus unsuitable as a basis for labeling claims. Moreover, processes of various manufacturers differ enough that comprehensive data may never provide a single representative "industry average" for processed foods. The consumer has a right to expect that nutrition labeling will honestly represent the food in the package. It is therefore essential that "representative" data be checked at this time by analysis of sufficient individual lots to give assurance that the labeled value adequately represents the product offered, at least until accurate and complete data are available on an industry-wide, regional, and manufacturer basis.

Comprehensive data obtained over a period of time for an individual product will undoubtedly yield more information on nutrient variability, and thus provide greater certainty with fewer product analyses. Proper statistical sampling by a manufacturer can also reduce the number of analyses to provide the required level of certainty.

Raw agricultural commodities. Some trade associations state that raw agricultural commodities, and particularly fresh fruits and vegetables, cannot be accurately labeled from a nutritional standpoint. They emphasize the natural variation of nutrients in various types of produce due to climate, species, growing conditions, and other factors.

The Commissioner is aware that certain of the problems inherent in nutrition labeling are increased in fresh fruits and vegetables. The answer to these problems lies not in exempting these products from nutrition labeling or in permitting inaccurate labeling, but in obtaining the information necessary for complete and accurate nutrition labeling.

For the reasons already given above, "representative" data for these products from handbooks and literature references do not presently provide an adequate basis for labeling. It is essential to establish accurate and complete analytical values for each product, and perhaps for each variety in each region. There is a steady increase in valid nutrient composition data on raw and fresh foods from State departments of agriculture, industry, universities, and Federal laboratories. The Commissioner believes that promulgation of this regulation will encourage such research, since the data obtained will serve as the basis for the expansion of nutrition labeling for fresh produce.

Serving size. Eighteen consumer groups and some professionals recommended that the Food and Drug Administration establish standard serving sizes. Some 13 manufacturers and five trade associations also requested such standardization. Standardization of serving sizes for foods requires close coordination of consumer representatives and members of the particular industry involved. Use of an overly large serving gives an inflated idea of nutrient content, but reduces the number of servings per package. The advent of nutrition labeling thus provides additional incentive for proper standardization of serving sizes. The term "serving" means that reasonable quantity of food suited for or practicable of consumption as part of a meal by an adult male engaged in light physical activity. A label statement regarding a serving shall be in terms of a convenient unit of such food or a convenient unit of measure that can be easily identified as an average or usual serving and can be readily understood by purchasers of such food (e.g., a serving may be expressed in slices, cookies, or wafers; or in terms of ounces, fluid ounces, teaspoonfuls, tablespoonfuls, or cupfuls). A teaspoonful shall be considered to mean 5 milliliters (approximately ⅙ fluid oz.) in volume; a tablespoonful shall be considered to mean 15 milliliters (approximately ½ fluid oz.) in volume; and a cupful shall be considered to mean 240 milliliters (approximately 8 fluid oz.) in volume. Where there are no established reasonable standard serving sizes, the Commissioner intends to develop a procedure for establishing such reasonable standard serving sizes.

The Commissioner has therefore concluded, on the basis of currently available information, that nutrition labeling shall be based on the following general criteria:

1. Vitamins and minerals shall be expressed as a percentage of the U.S. Recommended Daily Allowances (U.S. RDA).

2. The nutrient content shall be related to a serving of the food expressed in common household terms or easily identifiable units.

3. The labeling shall indicate the caloric content and the amounts (in grams) of protein, carbohydrate, and fat in the product.

4. A complete listing of the seven commonly analyzed vitamins and minerals shall appear on the label of the product in a standard format, unless a food contains less than 2 percent of the U.S. RDA for each of four or more of the seven nutrients, in which case the manufacturer may choose to list only those nutrients present at 2 percent or more of the U.S. RDA with appropriate disclaimer for the nutrients not listed.

5. A listing of protein content shall appear on all products unless the product contains no substantial amount of protein. A method has been devised to protect the consumer against misrepresentation of low-quality proteins.

6. Nutrition information provided for by other regulations shall also appear in the same single panel on the label.

It is recognized that experience under this approach, as well as new information, may lead to desirable modifications. The Commissioner will review the regulation periodically, on his own initiative and at the request of others, and will propose and adopt whatever changes are shown to be in the public interest.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047, 1055; 21 U.S.C. 321, 343, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner hereby adds the following new section to Part 1 of title 21:

§ 1.17 Food; nutrition labeling.

(a) Nutrition information relating to food may be included on the label and in the labeling of a product: *Provided*, That it conforms to the requirements of this section. Except as provided in paragraph (h) of this section, inclusion of any added nutrient in a product or of any nutrition claim or information, other than sodium and/or cholesterol content, on a label or in advertising for a food subjects the label to the requirements of this section, and in labeling for a food subjects the label and that labeling to the requirements of this section except that the label of a food will not be subject to the requirements of this section solely because of a manufacturer's or distributor's direct written reply to an unsolicited request for information on cholesterol or fatty acid content of such a food. If vitamins and/or minerals are added to a food so that a single serving provides 50 percent or more of the U.S. Recommended Daily Allowance (U.S. RDA) for adults and children 4 years or more of age, as specified in § 125.1 of this chapter, of any one of the added vitamins and/or minerals, unless such addition is permitted or required in other regulations, e.g., a standard of identity or nutritional quality guideline, or is otherwise exempted by the Commissioner, the food shall conform to the standard of identity set forth in § 80.1 (21 CFR 80.1), but shall also conform to the labeling established in § 80.1, except that the labeling established in pargaraph (c) of this section, including the order for listing vitamins and minerals established in paragraph (c)(7)(iv), shall be used in lieu of the labeling established in 21 CFR 80.1(i)(1).

(b) All nutrient quantities (including vitamins, minerals, calories, protein, carbohydrate, and fat) shall be declared in relation to the average or usual serving. The term "serving" means that reasonable quantity of food suited for or practicable of consumption as part of a meal by an adult male engaged in light physical activity, or by an infant or child under 4 years of age when the article purports or is represented to be for consumption by an infant or child under 4 years of age. A label statement regarding a serving shall be in terms of a convenient unit of such food or a convenient unit of measure that can be easily identified as an average or usual serving and can be readily understood by purchasers of such food (e.g., a serving may be expressed in slices, cookies, or wafers; or in terms of ounces, fluid ounces, teaspoonfuls, tablespoonfuls, or cupfuls). A teaspoonful shall be considered to mean 5 milliliters (approximately ⅙ fluid oz.) in volume; a tablespoonful shall be considered to mean 15 milliliters (approximately ½ fluid oz.) in volume; and a cupful shall be considered to mean 240 milliliters approximately 8 fluid oz.) in volume. The weight of the serving may also be expressed in grams.

(c) The declaration of nutrition information on the label and in labeling shall contain the following information in the following order, using the headings specified, under the overall heading of "Nutrition Information":

(1) "Serving size": A statement of the serving size.

(2) "Servings per container": The number of servings per container.

(3) "Caloric content": A statement of the caloric content per serving, expressed to the nearest 10-calorie increment. Caloric content shall be determined by the Atwater method as described in A. L. Merrill and B. K. Watt, "Energy Value

of Foods—Basis and Derivation", USDA Handbook 74 (1955).[1]

(4) "Protein content": A statement of the number of grams of protein in a serving expressed to the nearest gram.

(5) "Carbohydrate content": A statement of the number of grams of carbohydrate in a serving, expressed to the nearest gram.

(6) "Fat content": A statement of the number of grams of fat in a serving, expressed to the nearest gram. Fatty acid composition, cholesterol content, and sodium content may also be declared in compliance with §§ 1.18 and 125.9 of this chapter.

(i) When fatty acid composition is declared, the information on fatty acids required by § 1.18 shall be placed on the label immediately adjacent to the statement of fat content. The declaratory information statement required by § 1.18 (e) shall be placed either immediately following the statement on fat and fatty acids or shall be appropriately referenced by symbol and placed immediately following the completed nutrition information statement.

(ii) When cholesterol content is declared, the information on cholesterol required by § 1.18(c) shall immediately follow the statement on fat content (and fatty acids, if stated). The declaratory information statement required by § 1.18 (i) shall be placed either immediately following the statement on cholesterol or shall be appropriately referenced by symbol and placed immediately following the completed nutrition information statement.

(iii) When both fatty acid and cholesterol information are provided, the declaratory information statement may be combined as permitted by § 1.18(i).

(iv) When sodium is declared, the information on sodium required by § 125.9 of this chapter shall be placed on the label immediately following the statement on fat content (and fatty acid and/or cholesterol, if stated).

(7) "Percentage of U.S. Recommended Daily Allowances of protein, vitamins, and minerals": A statement of the amount per serving of the protein, vitamins, and minerals, as described in this subparagraph, expressed in percentage of the U.S. Recommended Daily Allowance (U.S. RDA).

(i) The percentages shall be expressed in 10 percent increments, except that 2 percent increments shall be used up to and including the 10 percent level, 5 percent increments above 10 percent and up to and including the 50 percent level, and 10 percent increments above the 50 percent level. Nutrients present in amounts less than 2 percent of the U.S. RDA may be indicated by a zero, or by an asterisk referring to another asterisk placed at the bottom of the table and followed by the statement "contains less than 2 percent of the U.S. RDA of this (these) nutrients (nutrients)." However, when a product contains less than 2 percent of the U.S. RDA for each of four or more of the seven nutrients specified in paragraph (c)(7)(iii) of this section, the manufacturer or distributor may choose to declare no more than three of those nutrients and none of the remainder listed in paragraph (c)(7)(iv) of this section. The statement "contains less than 2 percent of the U.S. RDA of _____", listing whichever of the seven nutrients are present at less than 2 percent of the U.S. RDA and have not been declared, shall directly follow the declared nutrients in the same type size. Any nurtient declared shall always appear in the order established in paragraph (c)(7)(iv) of this section.

(ii) The declaration of protein, which shall come first, shall be a statement of the amount per serving of protein, expressed as a percentage of the U.S. Recommended Daily Allowance (U.S. RDA).

(*a*) The U.S. RDA of the protein in a food product is 45 grams if the Protein Efficiency Ratio (PER) of the total protein in the product is equal to or greater than that of casein, and 65 grams if the PER of the total protein in the product is less than that of casein. The percentage of the U.S. RDA shall be declared as described in paragraph (c)(7)(i) of this section.

(*b*) Total protein with a PER less than 20 percent of the PER of casein may not be stated on the label in terms of percentage U.S. RDA, and the statement of protein content in grams per serving under paragraph (c)(4) of this section shall be modified by the statement "not a significant source of protein" immediately adjacent to the protein content statement regardless of the actual amount of protein present.

(iii) The declaration of vitamins and minerals, which shall follow the protein declaration, shall include vitamin A, vitamin C, thiamine, riboflavin, niacin, calcium, and iron, in that order, and may include any of the other vitamins and minerals listed in paragraph (c)(7)(iv) of this section in the order listed therein.

(iv) The following U.S. Recommended Daily Allowances (U.S. RDA) and nomenclature are established for these vitamins and minerals, essential in human nutrition:

Vitamin A, 5,000 International Units.
Vitamin C, 60 milligrams.[1]
Thiamine, 1.5 milligrams.[1]
Riboflavin, 1.7 milligrams.[1]
Niacin, 20 milligrams.
Calcium, 1.0 gram.
Iron, 18 milligrams.
Vitamin D, 400 International Units.
Vitamin E, 30 International Units.
Vitamin B_6, 2.0 milligrams.
Folic acid, 0.4 milligram.[1]
Vitamin B_{12}, 6 micrograms.
Phosphorus, 1.0 gram.
Iodine, 150 micrograms.
Magnesium, 400 milligrams.
Zinc, 15 milligrams.
Copper, 2 milligrams.
Biotin, 0.3 milligram.
Pantothenic acid, 10 milligrams.

These nutrients and levels have been derived by the Food and Drug Administration from the "Recommended Dietary Allowances," published by the Food and Nutrition Board, National Academy of Sciences-National Research Council, and are subject to amendment from time to time as more information on human nutrition becomes available.

(v) No claim may be made that a food is a significant source of a nutrient unless that nutrient is present in the food at a level equal to or in excess of 10 percent of the U.S. RDA in a serving. No claim may be made that a food is nutritionally superior to another food unless it contains at least 10 percent more of the U.S. RDA of the claimed nutrient per serving.

(d) Products with separately packaged ingredients or to which other ingredients are added by the user may be labeled as follows:

(1) If a product is comprised of two or more separately packaged ingredients enclosed in an outer container, nutrition labeling of the total product shall be located on the outer container to provide information for the consumer at the point of purchase. However, when two or more food products are simply combined together in such a manner that no outer container is used, or no outer label is available, each product shall have its own nutrition information statement, e.g., two boxes taped together or two cans combined in a clear plastic overwrap.

(2) If a food is commonly combined with another ingredient(s) before eating and directions for such combination are provided, a second column of figures may be used to provide a list of the nutrient contents for the final combination (e.g., a dry ready-to-eat cereal may be described with one set of percentage U.S. RDA values for the cereal as sold (per ounce), and another set for the cereal and milk as suggested in the label (per ounce of cereal and ½ cup of vitamin D fortified whole milk); and a cake mix may be labeled with one set of percentage U.S. RDA values for the dry mix (per serving), and another set for a serving of the final cake when prepared). The type and quantity of the other ingredient(s) to be added by the user to the product shall be specified.

(e) Compliance with this section shall be determined as follows:

(1) A collection of primary containers or units of the same size, type, and style produced under conditions as nearly uniform as possible, designated by a common container code or marking, constitutes a "lot".

(2) The sample for nutrient analysis shall consist of a composite of 12 subsamples (consumer units), taken one from each of 12 different randomly chosen shipping cases, to be representative of a lot. Composites shall be analyzed by Association of Official Analytical Chemists (A.O.A.C.) methods where

[1] Copies may be obtained from: Division of Nutrition (BF-124), Bureau of Foods, Food and Drug Administration, 200 C Street SW., Washington, DC 20204.

[1] The following synonyms may be added in parentheses immediately following the name of the vitamin:

Vitamin	*Synonym*
Vitamin C	Ascorbic acid.
Folic acid	Folacin.
Riboflavin	Vitamin B_2.
Thiamine	Vitamin B_1.

available, or, if no A.O.A.C method is available, by reliable and appropriate analytical procedures. Methods of analysis may be submitted to the Food and Drug Administration to determine their acceptability.

(3) Two classes of nutrients are defined for purposes of compliance:

Class I. Added nutrients in fortified or fabricated foods.
Class II. Naturally occurring (indigenous) nutrients.

If any ingredient which contains a naturally occurring (indigenous) nutrient is added to a food the total amount of such nutrient in the final food product is subject to Class II requirements unless the same nutrient is also added

(4) A food with a label declaration of a vitamin, mineral, or protein shall be deemed to be misbranded under section 403(a) of the act unless it meets the following requirements:

(i) *Class I vitamin, mineral, or protein.* The nutrient content of the composite is at least equal to the value for that nutrient declared on the label.

(ii) *Class II vitamin, mineral, or protein.* The nutrient content of the composite is at least equal to 80 percent of the value for that nutrient declared on the label.

(5) A food with a label declaration of calories, carbohydrate, or fat shall be deemed to be misbranded under section 403(a) of the act unless the nutrient content of the composite is no greater than 20 percent in excess of the value for that nutrient declared on the label.

(6) Reasonable excesses of a vitamin, mineral, or protein over labeled amounts are acceptable within good manufacturing practices. Reasonable deficiencies of calories or fat under labeled amounts are acceptable within good manufacturing practices.

(f) A statement may be included on the label or in labeling offering additional nutrition information upon written request to a specified address. Any additional labeling furnished to consumers or professionals shall comply with all applicable requirements of this chapter.

(g) The location of nutrition information on a label shall be in compliance with § 1.8d.

(h) The following foods are exempt from this section or are subject to special labeling requirements:

(1) Except where expressly covered by § 125.5 of this chapter, infant, baby, and junior-type foods marketed and promoted for children under 4 years of age shall be labeled in compliance with this section except that the term "serving" shall mean that reasonable quantity of food suited for or practicable of consumption by an infant or child under 4 years of age and that the U.S. RDA levels for infants and children under 4 years of age contained in § 125.1(b) shall be used in lieu of the U.S. RDA levels contained in paragraph (c)(7)(iv) of this section.

(2) Dietary supplements, the nutrients of which consist solely of vitamins and/or minerals, shall be labeled in compliance with §§ 80.1 and 125.3 of this chapter, except that the labeling of a dietary supplement in food form, e.g., a breakfast cereal, shall conform to the labeling established in paragraph (c) of this section, including the order for listing vitamins and minerals established in paragraph (c)(7)(iv) of this section, in lieu of the labeling established in § 80.1(i)(1).

(3) Any food represented for use as the sole item of the diet shall be labeled in compliance with Part 125 of this chapter.

(4) Foods represented for use solely under medical supervision in the dietary management of specific diseases and disorders shall be labeled in compliance with Part 125 of this chapter.

(5) Iodized salt shall be labeled in compliance with § 3.87 of this chapter.

(6) A nutrient(s) included in food solely for technological purposes may be declared solely in the ingredient statement, without complying with this section, if the nutrient(s) is otherwise not referred to on the label or in labeling or in advertising.

(7) A standardized food containing an added nutrient(s), e.g., enriched flour, and included in another food as a component may be declared in the ingredient statement by its standardized name, without compliance with this section, if neither the nutrient(s) nor the component is otherwise referred to on the label or in labeling or in advertising.

(i) A food labeled under the provisions of this section shall be deemed to be misbranded under sections 201(n) and 403(a) of the act if its labeling represents, suggests, or implies:

(1) That the food, because of the presence or absence of certain dietary properties, is adequate or effective in the prevention, cure, mitigation, or treatment of any disease or symptom.

(2) That a diet of ordinary foods cannot supply adequate amounts of nutrients.

(3) That the lack of optimum nutritive quality of a food, by reason of the soil on which that food was grown, is or may be responsible for an inadequacy or deficiency in the quality of the daily diet.

(4) That the storage, transportation, processing, or cooking of a food is or may be responsible for an inadequacy or deficiency in the quality of diets.

(5) That the food has dietary properties when such properties are of no significant value or need in human nutrition. Ingredients or products such as rutin, other bioflavonoids, para-aminobenzoic acid, inositol, and similar substances which have in the past been represented as having nutritional properties but which have not been shown to be essential in human nutrition may not be combined with vitamins and/or minerals, added to food labeled in accordance with this section, or otherwise used or represented in any way which states or implies nutritional benefit. Ingredients or products of this type may be marketed as individual products or mixtures thereof provided that the possibility of nutritional, dietary, or therapeutic value is not stated or implied (e.g., their labeling does not state that their usefulness in human nutrition has not been established and does not otherwise disclaim nutritional, dietary, or therapeutic value).

(6) That a natural vitamin in a food is superior to an added or synthetic vitamin, or to differentiate in any way between vitamins naturally present from those added.

Effective date. All labeling ordered after December 31, 1973, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with this regulation.

(Secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047, 1055; 21 U.S.C. 321, 343, 371(a))

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

NOTE: Incorporation by reference provisions approved by the Director of the Federal Register, January 15, 1973.

[FR Doc.73-988 Filed 1-18-73;8:45 am]

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Labeling of Foods With Information on Cholesterol and Fat and Fatty Acid Composition

In the FEDERAL REGISTER of June 15, 1971 (36 FR 11521), the Commissioner of Food and Drugs proposed a series of three proposals relating to labeling of foods with information on cholesterol, fat, and fatty acid composition.

The first proposal concerned a proposed statement of policy on ingredient statements regarding fats and oils in food for human consumption. This proposal is still under consideration.

The second proposal was that there be an amendment to § 3.41 (21 CFR 3.41), the statement of policy on the status under the Federal Food, Drug, and Cosmetic Act of articles offered to the general public for the control or reduction of blood cholesterol levels and for the prevention and treatment of heart and artery disease. It was proposed that there be added to this statement of policy two new paragraphs (d) and (e) which would declare misleading under the act, any statement in the labeling which represents or suggests that the article contains less or no cholesterol and for any use of the terms "polyunsaturated," "monounsaturated," or "saturated" in relation to the fat content of foods except when expressly stated in accordance with 21 CFR 125.12 as proposed in the same issue of the FEDERAL REGISTER.

The third proposal was a new regulation (21 CFR 125.12) on the requirements for label statements relating to oils, fats, and fatty acids used as a means of regulating intake of fatty acids. This proposal established labeling requirements for foods represented for special

dietary use containing 10 percent or more fat on a dry weight basis and no less than 3 grams of fat in an average serving.

Ninety days were originally provided for filing of comments on these proposals; this comment period was extended to November 12, 1971, by notices published in the FEDERAL REGISTER of September 9, 1971 (36 FR 18098).

The Commissioner received 502 letters commenting on one or more of the proposals that were published simultaneously on June 15, 1971 (36 FR 11521).

The Commissioner has carefully reviewed the comments concerning the labeling of cholesterol, fat, and fatty acids, and has concluded that these two issues should be considered in a uniform manner as both deal with the consumers' need to have informative labeling on foods which make up the usual diet of those individuals on modified diets on the advice of their physician. In the opinion of the Commissioner such labeling would markedly assist individuals in their attempts to adhere to a modified diet. Thus, the two proposals published as an amendment to 21 CFR 3.41 and as a proposed new section (21 CFR 125.12) have been combined into a single new regulation (21 CFR 1.18).

I. CHOLESTEROL LABELING

Many consumers expressed an interest in having cholesterol values given on all food labels. Individuals who asked that cholesterol values be allowed on food labels supported their view by saying they were on a low or moderate cholesterol diet on instruction of their physicians in an effort to reduce one of the risk factors, i.e., high blood cholesterol levels. They felt that unless foods are labeled with cholesterol content it would be difficult to follow their doctors' orders. Some respondents asserted that the Commissioner was making a less than objective appraisal of the current status or knowledge about the etiology of heart and artery disease by not changing paragraphs (a) and (b) of 21 CFR 3.41 which were factual in 1959 when the statements were made, but which do not now address the subject candidly.

Manufacturers and their spokesmen felt that labeling food with information about fatty acids as required under the proposed § 125.12 together with the application of the constraints of § 3.41 would prevent them from labeling general purpose foods with important composition information which, in the context of the scientific controversy over the etiology of heart and artery disease, may be important for some physicians, paramedical personnel, and patients. These respondents felt that cholesterol, food fat, and calorie composition information on food labels should not, by itself, constitute a representation that the food is for special dietary use.

Many respondents, viewing what they regarded as an apparent dichotomy between the recognition of the greater importance of fatty acid composition compared with the cholesterol composition of foods, felt that the Food and Drug Administration was not being objective and fair. They did not disagree with the position reflected in the proposed amendment to § 3.41 that in many instances it might be improper or frivolous to make label declarations of cholesterol content, but they argued that there does not appear to be a reasonable basis for prohibiting truthful label statements about cholesterol content while at the same time allowing the presence of label statements relating to fatty acid content.

The Commissioner has considered the question of cholesterol labeling of food in relation to the sources of cholesterol in the diet of Americans. The ordinary intake of cholesterol by adults in this country ranges from between 300 to 1,000 milligrams per day and is significantly affected by the cholesterol level of the particular foods chosen by the individual for his daily diet. The Commissioner believes that consumers who have been properly instructed by their physicians understand the physicians' requests that they curtail their intake of certain foods. All foods from vegetable sources and many fabricated foods which contain, as a minor ingredient, an item from a food with high cholesterol content, are not important contributors of cholesterol; however, this information itself may be useful label information for consumers if it is presented in a factual and nonmisleading manner.

The Commissioner recognizes that products can be specially manufactured or formulated to be in simulation of a food in one of the major cholesterol-contributing foods in such a way that these products contain either no cholesterol or significantly less cholesterol than their regular counterpart foods. The manufacturers of products of this kind believe that consumers will benefit from knowing the cholesterol content of these products. Consumers should not be misled, however, into believing that these products are equivalent to their regular counterpart foods in all important respects, especially nutritional, if they are not. The criterion, therefore, for labeling products of this kind should be that the product (analogue) be nutritionally equivalent to the food which it obviously simulates. When requested, the Food and Drug Administration will render opinions on the nutritional equivalency of new products as compared with conventional products. The Commissioner is publishing elsewhere in this issue of the FEDERAL REGISTER a proposed new § 1.8(e) governing the labeling of such substitute foods.

In light of all the available information, the Commissioner has concluded that new § 1.18 should include provisions regulating the labeling of cholesterol content. Labeling permitted by this new section may voluntarily be used by any manufacturer to show the cholesterol content of a food. The use of any claim or information concerning cholesterol on a label or in labeling or advertising for a food also subjects the label to the requirements of this section. The label statement shall provide the following information in the following order:

1. A statement of the serving size.

2. The number of milligrams of cholesterol per serving.

3. The number of milligrams of cholesterol per 100 grams of the food.

4. The statement "Information on cholesterol content is provided for individuals who, on the advice of a physician, wish to modify their total dietary intake of cholesterol."

This information on cholesterol content shall appear on the label in accordance with new § 1.8d, which is published elsewhere in this issue of the FEDERAL REGISTER. In order to avoid giving the information undue prominence, in no event may it appear on the labeling in more than the minimum type size required for the declarition of net quantity of contents by § 1.8b of this chapter.

If the food is labeled in compliance with § 1.17 (nutrition labeling), which is also published elsewhere in this issue of the FEDERAL REGISTER, and the manufacturer chooses to include the cholesterol content, the above information shall be included as provided in § 1.17(c)(6)(ii), except that the serving size need not be repeated. Section 1.17(a) specifically provides, however, that inclusion only of cholesterol content on a food label does not require full nutrition labeling in compliance with § 1.17.

II. FAT AND FATTY ACID LABELING

In relation to the proposal on the labeling of foods for fat and fatty acid, 229 comments were received from a number of sources. Consumers as a whole favored the proposal. Comments from the scientific community, trade associations, and manufacturers expressed reservations about specific portions of the proposal but indicated that these groups would accept a revised regulation that was reasonable and enforceable.

A suggested alternative to the proposed § 125.12 would move the requirements of the proposed §§ 125.12 to 3.41 (21 U.S.C. 3.41) by revising the proposed § 3.41(e). Under this alternative the label statements would not constitute representations for special dietary use, but would provide labeling in a meaningful and uniform way on fat and fatty acid composition regardless whether the product's composition is fixed by nature or formulated by the food technologist. There were a number of other comments, some in opposition to the proposal and others containing proposed alternative action of several types:

1. Leave label declaration as it is presently constituted.

2. Survey the U.S. population to see what the consumer really wants on a label.

3. Require a label disclaimer statement which would tell the consumer that the information on fat content does not represent the product for treatment or prevention of disease.

4. Liberalize criteria for labeling by lowering minimum values for amount of fat in foods.

5. State more clearly the definitions for polyunsaturated and saturated fatty acids, and for special dietary food.

6. Make provision for including the monosaturated fatty acid values on the label.

7. State clearly the conditions which influence whether the application of the section is optional or mandatory.

8. Withdraw proposal § 125.12.

9. Proposed regulation does not delineate the criteria for determining whether a fat is for special dietary use or for general use.

10. List any polyunsaturate not as the glyceryl ester but as P/S (polyunsaturated to saturated) ratio, e.g., P/S ratio of 2.5 or more.

11. Change term "glyceryl ester" to "glyceryl triester."

12. Provide for including the percentage of trans-fatty acid value on the label.

13. Make the regulation mandatory for all foods containing fats.

14. Establish the range of variation to be allowed in fatty acid composition information.

15. "Average serving" should be defined.

16. Canadian Food and Drug Directorate FA–59 method for cis-methylene-interrupted fatty acids is not reliable.

Each of these have been considered, and where applicable changes or modifications have been made in the proposal. They are included in the following discussion. However, in regard to the comments suggesting delay in action, the Commissioner is of the opinion that further delay on providing consumers with information on the fat and fatty acid content of foods would serve no purpose, and accordingly new § 1.18 provides for such labeling.

Some comments indicated that the correspondents wanted the provisions of the proposed section to be voluntary; others argued for mandatory labeling requirements. Some questions of clarity of language regarding voluntary use were asked. The use of labeling as provided by the final regulation shall be on a voluntary basis for all foods, and will be mandatory if claims are made with respect to fatty acid composition but not if claims are made with respect to general fat content. There are many general purpose foods that could be used for dietary regulation of fat and/or fatty acid intake, and there is no reason why the option to label these foods should not be exercised by a manufacturer, as long as he complies with the labeling requirements contained in new § 1.18 and does not make medical claims.

New § 1.17 (nutrition labeling) and new § 1.18 (fat and fatty acid labeling) are closely related. Section 1.17(c)(6) provides that nutrition labeling shall include the number of grams of fat per serving of a food. Any claim or information with respect to any nutrient covered by § 1.17, e.g., protein, fat, calories, vitamins, automatically requires full nutrition labeling under § 1.17. Thus, any claim or information relating to the fat content, e.g., the percentage of fat in the product, automatically makes § 1.17 applicable.

New § 1.18 (fat and fatty acid labeling) is far more narrow, and is applicable only when a claim or information is included on the label or in labeling or advertising specifically related to the fatty acid composition of a food. Thus, information about fat content does not make § 1.18 applicable unless that information includes a reference to fatty acid composition. When § 1.18 is applicable, on the other hand, the information required under its provisions with respect to fat and fatty acids automatically also makes § 1.17 applicable. Section 1.17(c)(6)(i) specifically provides for the inclusion of the labeling required by § 1.18 in the standard nutrition labeling format. In short, § 1.17 does not require labeling under § 1.18, but § 1.18 labeling automatically requires labeling under § 1.17 and must be included within the § 1.17 format.

While comments were received suggesting that the polyunsaturated fatty acid to saturated fatty acid ratio (P/S) be included on the label, the majority of comments stressed the current interest in actual amounts of fatty acids in the diet. For those desiring to determine the P/S ratio, the information required to be furnished by the regulation will be sufficient to enable the consumer to calculate it by dividing the amount in grams of polyunsaturated fatty acid by the amount in grams of saturated fatty acids.

Adverse comments were submitted relating to the proposed limiting of fatty acid labeling to foods containing a minimum of 10 percent total fat on a dry-matter basis and of 3 grams total fat per serving. A majority of comments were concerned with the 10-percent figure on a dry weight basis. Suggestions were made to change this to another value; some believed that it should be less than 3 percent, and others believed it should be more than 10 percent. Based upon an analysis of the foods which contribute fat to the diet, the Commissioner concludes that it is reasonable to limit fatty acid labeling to foods containing a minimum of 10 percent total fat on a dry matter basis. This will prevent manufacturers from placing fatty acid information on products which are insignificant sources of fatty acid in the diet.

One respondent suggested that the fat-per-serving figure should be lowered from 3 to 2 grams because the larger figure would exclude some foods such as coffee whiteners used in the daily diet of some individuals which affects their total fat intake. This change is reflected in the final order.

Considerable industrial and trade organization concern over the fatty acid categories or groups that should appear on the label was evident from the wide variety of comments and suggestions received. Several possible combinations of fatty acid categories or groups for label purposes emerged from the comments; these are:

1. Polyunsaturated fatty acids, monounsaturated fatty acids, saturated fatty acids (C–1 through C–22).

2. *Cis*-polyunsaturated fatty acids, *trans*-unsaturated fatty acids, monounsaturated fatty acids, saturated fatty acids (C–1 through C–22).

3. *Cis*-polyunsaturated fatty acids, *trans*-unsaturated fatty acids, conjugated polyunsaturated fatty acids, monounsaturated fatty acids, saturated fatty acids (C–1 through C–22).

4. Polyunsaturated fatty acids, monounsaturated fatty acids, saturated fatty acids (C–14 through C–22).

5. (Same as Categories 1 to 4 above except that saturated fatty acids would encompass C–12 through C–18).

6. *Cis*-polyunsaturated fatty acids, saturated fatty acids (C–12 through C–18), other fatty acids (total amount of fatty acids minus sum of amounts in first two categories).

All those who expressed an opinion concerning this matter felt that it would be informative to include the amount of polyunsaturated fatty acids present to be declared as one category. The other categories to be declared was the point of controversy.

In the comments received, reference was made to scientific reports which suggest that any fatty acid category may contain a quality or factor which tends to elevate blood cholesterol levels in controlled experiments. However, the most widely accepted opinion at this time is that long-chain saturated fatty acids and polyunsaturated fatty acids may have some relationship to changes in serum cholesterol levels. Most saturated fatty acids in conventional foods are long-chain fatty acids; they contain 12 carbons or more. Saturated fatty acids containing eight and 10 carbons (referred to as medium-chain fatty acids) and those containing four and seven carbons (referred to as short-chain fatty acids) are absorbed and utilized in a much different manner than are long-chain fatty acids. Their metabolic effects on plasma lipids and cholesterol appear to be different than those of the long-chain saturated fatty acids.

Since the label statements should be both suitably informative and simple to understand, approximately three categories is the limit that can be expected to be tolerated by consumers and industry alike. The classification outlined below will provide adequate useful information for persons on a fat-modified diet. In view of the fact that most people expect the sum of percentage values in a complete statement of total fatty acid content to be 100, it is appropriate to subtract from 100 the sum of the percentages of polyunsaturated and saturated fatty acids; the remainder being the third category "other fatty acids."

For the purpose of labeling, therefore, saturated fatty acids containing less than 12 carbons will not be considered in the category of "saturated fatty acids", but shall be included in the category "other fatty acids". Based on practicality, ability to carry out rapid analysis, and consequently the ability to enforce for regulation, the long-chain saturated fatty acid range of C–12 through C–18 (lauric, myristic, palmitic, and stearic acids) have been defined as "saturated fatty acids."

Several comments suggested that the *trans*-unsaturated fatty acids present in hydrogenated fats, and conjugated polyunsaturated fatty acids should be listed

on the labels. *Trans*-unsaturated fatty acids generally constitute a small portion of the total fatty acids in marketed fats and oils. This situation is similar to that of the conjugated polyunsaturated fatty acids, although very little information on the content of these two fatty acid subgroups in foods is available. Some fat and oil manufacturers do make periodic checks on the content of these subgroups in their products, but to require such monitoring by industry and government is unreasonable at this time. If new evidence suggests that it is necessary to require label information on either one or both of these subgroups, the appropriate section(s) of the regulations will be amended.

The original proposal on fatty acid labeling required the quantities of fatty acids to be listed as a percentage of the total fat content. Comments were received from nutritionists who advise patients on modifying their diet suggesting that the actual quantity in terms of grams of fat and fatty acids is more useful than percentages as this nomenclature is used in advising patients on the modification of fat and fatty acid content of their diet. Since the purpose of the fatty acid labeling is to assist those individuals seeking to modify the fat and fatty acid content of their diet and those professionals seeking to help these individuals, it is reasonable to provide the fatty acid information in grams per serving.

The Commissioner has concluded that claims or information about fatty acid content should require inclusion on the label of the following fat and fatty acid information in addition to full nutrition labeling.

1. The amounts of fatty acids expressed in grams calculated as triglycerides, in the following three categories with the headings as listed, and in the following order:

(i) *cis, cis*-methylene-interrupted polyunsaturated fatty acids, stated as "Polyunsaturated fatty acids";

(ii) The sum of lauric, myristic, palmitic, and stearic acids, stated as "Saturated fatty acids"; and

(iii) The difference, stated as "Other fatty acids", between the total amount of fatty acids and the sum of fatty acids in (i) and (ii).

2. The total fat content in terms of the percent of the total calories provided by fat with the heading, Percent of calories from fat.

Several comments were received concerning the analytical methods and compliance procedures to be used in regulating products with fat and fatty acid, and/or cholesterol labeling. The Commissioner is aware that there is natural variation in the fat and cholesterol content of food products. In developing a labeling system it is therefore important that the manufacturer be permitted a tolerance so that he may provide useful information on the label without incurring excessive control costs, which will result in a significant price increase to the consumer. However, consumers have a right to expect that labeling honestly represents the products they buy.

Section 1.17, governing nutrition labeling, contains a detailed statistically valid compliance mechanism. Basically the same compliance provisions are included in this regulation for determining cholesterol, fat, and fatty acids as are included in new § 1.17 for determining fat. For the purposes of compliance a food with a label declaration of cholesterol content shall be deemed to be misbranded under section 403(a) of the Act if the content of a 12-sample composite is greater than 20 percent in excess of the value for the cholesterol content declared on the label. A food with a label declaration of fatty acids content shall be deemed to be misbranded under section 403(a) of the Act if the composite is greater than 20 percent in excess of the value or less than 80 percent of the value for the fatty acids declared on the label.

Comments on methods for analysis asked that the specific methods to be used for compliance be identified. The methods for fat, fatty acids, and cholesterol will be those of the Association of Official Analytical Chemists (AOAC), or other reliable and appropriate methods. Methods of analysis may be submitted to the Food and Drug Administration to determine their acceptability. The determination of *cis, cis*-methylene-interrupted polyunsaturated fatty acids of fats, and oils will be carried out by the Canadian Food and Drug Directorate FA–59 method entitled "Enzymatic Determination of Polyunsaturated Fatty" published during December 1967 as modified by the Division of Nutrition, Food and Drug Administration. The FA–59 method is a modification of the MacGee method (Analytical Chemistry 31, 298 [1959]).

The problem of defining the serving size was raised. Each manufacturer should define the serving size appropriate for his specific product and state the serving size on the label. Where there are no established reasonable standard serving sizes, or if there is an unreasonable variance among manufacturers, the Commissioner intends to develop a procedure for establishing such reasonable standard serving sizes.

For the purposes of this regulation, the same basic definitions shall apply as in §§ 1.17 and 125.1. An average serving shall be expressed in terms of a convenient unit of measure that can be readily understood and utilized by purchasers of such food. For example, a serving may be expressed in terms of slices, cookies, wafers, ounces, fluid ounces, teaspoonfuls, tablespoonfuls, or cupfuls. A teaspoonful shall be considered to mean 5 milliliters (approximately ⅙ fluid ounce) in volume; a tablespoonful shall be considered to mean 15 milliliters (approximately ½ fluid ounce) in volume; and a cupful shall be considered to mean 240 milliliters (approximately 8 fluid ounces) in volume.

It was pointed out in many comments that it would be in the best interest of consumers to have a declaratory statement that would appear in the labeling of products to accompany the information permitted in this section. Such statement would state to the purchaser that the product may be useful to those persons who are advised by a physician to modify their fat intake as part of a total dietary plan. There may be no statement or implication, however, that the product per se will be sufficient to modify fat intake, or will help to prevent coronary heart disease or its adjunctive conditions. This is reasonable in light of the fact that the Food and Drug Administration is neither recommending any dietary regimens nor taking a position in the dietary fat/coronary heart disease controversy. The regulation is being issued in response to public and medical requests that such information be placed on food product labels. The regulation is designed simply to provide fat and fatty acid label information that will be useful to consumers, physicians, dietitians, and other health professionals who are involved directly or indirectly in regulating an individual's dietary intake of total fat and/or fatty acids. Thus, the statement "Information on fat content is provided for individuals who, on the advice of a physician, are modifying their total dietary intake of fat" would immediately follow the required statements on fat and fatty acid content, as required in 21 CFR 1.17.

There was an oversight in the published proposal, in that it lacked any reference to the kind of information which must appear in product literature sent by the manufacturer on request of a consumer. Such material is labeling. In some cases, it is possible that a manufacturer may not have a product labeled with fat and fatty acid information, but will provide information about the product in labeling if the customer writes the company. A declaration of cholesterol or fatty acid content on the label or in advertising of a food subjects the label to the requirements of this section. A declaration of cholesterol or fatty acid content in labeling of a food subjects the label and that labeling to the requirements of this section except that the label of a food will not be subject to the requirements of this section solely because of a manufacturer's or distributor's direct written reply to an unsolicited request for information on cholesterol or fatty acid content of such food.

The cholesterol and fat and fatty acid labeling as set forth below incorporates the more useful principles presented in the comments received on the published proposal. The Commissioner has concluded in relation to the labeling of the cholesterol, fat, and fatty acid content of foods that:

1. A restatement of the policy regarding labeling of foods possibly of value in diets for the control of fatty acid and cholesterol consumption is appropriate.

2. Information associated with the cholesterol, fat, and fatty acid composition of foods should be combined in a single regulation as set forth below.

3. It is necessary to call consumers' attention, by means of a label statement, to the fact that information being

permitted by promulgation of this regulation should be used with the understanding that it is useful only when the total dietary intake of fat and/or cholesterol is being controlled and then only when this is done on the initial and continuing advice of a physician familiar with the patient's condition.

4. The cholesterol content should be allowed to be stated on the label of any food in succinct terms.

5. The fatty acid content should be allowed to be stated on the label of foods with at least 10 percent total fat on a dry weight basis and/or containing at least 2 grams of fat in a serving. When the manufacturer voluntarily elects to provide information under § 1.18 it is reasonable to require complete nutrition information as provided for in § 1.17 and in the format required by § 1.17(c)(6)(i).

6. When a manufacturer elects to declare cholesterol content it is reasonable not to require complete nutrition labeling. When a manufacturer elects to provide chlosterol and nutrition labeling on a product it is reasonable that the labeling be in compliance with 21 CFR 1.17(c)(6)(ii).

7. Statements of cholesterol and fat content, both by themselves and when accompanied by an informational statement indicated in conclusion 3 above, are not misleading; however, direct claims that a product will prevent, mitigate, or cure atherosclerotic cardiovascular disease or any attendant condition are false and misleading.

Accordingly, having considered the comments received and other relevant information, and after further study on the impact of his proposal on current medical practice, the Commissioner concludes that a new § 1.18 *Labeling of foods in relation to fat and fatty acid, and cholesterol content* should be established, combining the provisions of the existing and proposed § 3.41 and the proposed § 125.12 (36 FR 11521), to provide for more informative labeling of foods containing cholesterol and fat and fatty acids.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1047–1048 as amended, 1055; 21 U.S.C. 321, 343, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 1 and 3 are amended as follows:

1. In Part 1 a new § 1.18 is added to read as follows:

§ 1.18 Labeling of foods in relation to fat and fatty acid, and cholesterol content.

(a) Implicit or explicit claims for the value of food in preventing or treating heart or artery disease can be misleading to consumers. However, a significant segment of the medical community is recommending that individuals modify their total diet by eliminating certain foods or by replacing certain foods with others in order to effect changes in the levels of blood components. Although there have been no definitive studies which have demonstrated beyond doubt that extensive changes in the consumption of fat and cholesterol by the general public are desirable, it is nevertheless appropriate to provide for informative labeling which will help individuals to identify foods for inclusion in fat-modified diets recommended by physicans. It is also appropriate to prohibit label statements which misrepresent specific foods as being, of themselves, of value in the control of the levels of these blood components or in the control of heart or artery disease.

(b) A label statement regarding a serving shall be expressed in terms of a convenient unit of measure that can be readily understood and utilized by purchasers of such food. For example, a serving may be expressed in terms of slices, cookies, wafers, ounces, fluid ounces, teaspoonfuls, tablespoonfuls, or cupfuls. A teaspoonful shall be considered to mean 5 milliliters (approximately one-sixth fluid ounce) in volume; a tablespoonful shall be considered to mean 15 milliliters (approximately one-half fluid ounce) in volume, and a cupful shall be considered to mean 240 milliliters (approximately 8 fluid ounces) in volume.

(c) A food label or labeling may include a statement of the cholesterol content of the food, provided that it is stated both in terms of the number of milligrams per serving and in terms of the number of milligrams per 100 grams of the food. This listing shall follow a statement of the serving size, which shall be determined in accordance with § 1.17 and shall appear as provided in § 1.8d, but in no case in a type size larger than the minimum type size required for the declaration of net quantity of contents by § 1.8b of this chapter. No other statement may be made relating to cholesterol. When the cholesterol content is stated on the label of a food which is also labeled in accordance with § 1.17, the statement of the cholesterol content shall conform to the requirements of § 1.17(c)(6)(ii).

(d) A food label or labeling may include information on the fatty acid content of the food: *Provided*, That it meets the following conditions.

(1) The food contains 10 percent or more fat on a dry weight basis and not less than 2 grams of fat in an average serving. Any food containing less than 10 percent total fat on a dry weight basis and/or containing less than 2 grams of fat in a serving is not suitable for use by man as a means of regulating the intake of fatty acids.

(2) The food is labeled in compliance with § 1.17 and the following information is included in the folowing order in accordance with § 1.17(c)(6)(ii).

(i) The amounts of fatty acids, calculated as the triglycerides, shall be stated in grams per serving in the following three categories, stated with the following headings, in the following order, and displayed in equal prominence:

(*a*) *cis, cis* - methylene - interrupted polyunsaturated fatty acids, stated as "Polyunsaturated fatty acids";

(*b*) The sum of lauric, myristic, palmitic, and steric acids, stated as "Saturated fatty acids"; and

(c) The difference, stated as other" fatty acids," between the total amount of fatty acids and the sum of fatty acids in paragraph (d)(1)(i) (*a*) and (*b*) of this section.

(ii) The total fat content in terms of the percentage of the total calories in the food, provided by fat with the heading "Percent of calories from fat:".

(iii) The statement required by paragraph (e) of this section.

(iv) No other statement may be made relating to fatty acid content.

(e) A food labeled in accordance with paragraph (c) or (d) of this section shall display the folowing statement on the label: "Information on fat (and/or cholesterol, where appropriate) content is provided for individuals who, on the advice of a physician, are modifying their total dietary intake of fat (and/or cholesterol, where appropriate.)" If the food is not labeled in accordance with § 1.17 and is labeled only in accordance with paragraph (c) of this section, the statement shall appear in the same label panel and in proximity to the statements prescribed in paragraph (c) of this section and in the same type size. In the event the cholesterol content is included under nutritional labeling, the statement shall be in compliance with § 1.17(c)(6)(ii).

(f) A declaration of cholesterol or fatty acid content on the label or in advertising of a food subjects the label to the requirements of this section. A declaration of cholesterol or fatty acid content in the labeling of a food subjects the label and that labeling to the requirements of this section except that the label of a food will not be subject to the requirements of this section solely because of a manufacturer's or distributor's direct written reply to an unsolicited request for information on cholesterol or fatty acid content of such food.

(g) Compliance with this section shall be determined as follows:

(1) A collection of primary containers or units of the same size, type, and style produced under conditions as nearly uniform as possible, designated by a common container code or marking constitutes a "lot."

(2) The sample for analysis shall consist of a composite of 12 subsamples (consumer units), taken one from each of 12 different randomly chosen shipping cases, to be representative of a lot.

(3) Composites shall be analyzed for fat and saturated fatty acids by the methods of the Association of Official Analytical Chemists (AOAC). The methods for fat, fatty acids, and cholesterol will be those of the Association of Official Analytical Chemists (AOAC), or other reliable and appropriate methods. Alternative methods of analysis

may be submitted to the Food and Drug Administration to determine their acceptability. The determination of cis, cis-methylene-interrupted polyunsaturated fatty acids will be the Canadian Food and Drug Directorate Method FA-59 [1] for cis-methylene-interrupted fatty acid.

(4) A food with a label declaration of cholesterol content shall be deemed to be misbranded under section 403(a) of the Act if the content of the composite is greater than 20 percent in excess of the value for the cholesterol content declared on the label.

(5) A food with a label declaration of fat content shall be deemed to be misbranded under section 403(a) of the Act if the content of the composite is greater than 20 percent in excess of the value for the fat content declared on the label.

(6) A food with a label declaration of fatty acid content shall be deemed to be misbranded under section 403(a) of the Act if the content of the composite is greater than 20 percent in excess of the value, or less than 80 percent of the value, for the fatty acid content declared on the label.

(h) Label statements made in accordance with paragraphs (c), (d), or (e) of this section shall comply with the requirements of § 1.8d, but in no case may it be printed in larger than the minimum size type required for the declaration of net quantity of contents by § 1.8b.

(i) No label or labeling may contain a claim indicating, suggesting, or implying that the product will prevent, mitigate, or cure heart or artery disease or any attendant condition.

(j) Any label or labeling containing a statement on cholesterol and fatty acid content not in conformity with this section shall be deemed to be misbranded under sections 201(n) and 403(a) of the Act.

§ 3.41 [Revoked]

2. In Part 3 existing § 3.41 is hereby revoked.

Effective date. All labeling ordered after December 31, 1973, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with this regulation.

(Secs. 201, 403, 701(a), 52 Stat. 1047-1048, as amended, 1055; 21 U.S.C. 321, 343, 371(a))

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[1] Copies of the method may be obtained by writing to Division of Nutrition BF-124, Bureau of Foods, Food and Drug Administration, 200 C Street SW., Washington, DC 20204.

NOTE: Incorporation by reference provisions approved by the Director of the Federal Register, January 15, 1973.

[FR Doc.73-969 Filed 1-18-73;8:45 am]

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Label Designation of Ingredients for Standardized Foods

A statement of policy, § 3.88 *Label designation of ingredients for standardized foods*, was published in the FEDERAL REGISTER of March 10, 1972 (37 FR 5120). On the basis of questions raised regarding the exemption granted by § 3.88(d), the Commissioner of Food and Drugs has concluded that the exemption should be clarified so that the intent of the regulation, to provide more informative labeling for the consumer, can be achieved with a minimum of confusion and misunderstanding.

In many food standards the name of the principal mandatory ingredient appears in the name of the food, e.g., peaches. Where the standard also provides an option to the variety and form of the unit, e.g., yellow clingstone, yellow freestone—unpeeled whole, peeled slices, a statement designating the optional variety and optional form of the unit used is required to appear in close proximity to the name of the food, e.g., whole yellow cling peaches, sliced yellow freestone peaches. It was not the intention of the Commissioner in promulgating § 3.88(d) to change the requirement that statements that significantly qualify or explain the name of the principal mandatory ingredient should appear prominently and conspicuously in close proximity to the name of the food.

In addition, where certain optional ingredients are used, such as the packing media of canned fruits and canned tuna, smoke flavoring in the case of cheese, or hot dried red peppers in the case of canned corn, statements informing consumers of such use should continue to be placed conspicuously on the principal display panel to facilitate the consumer's choice between the same food containing or not containing such ingredients.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 3.88 is revised to read as follows:

§ 3.88 Label designation of ingredients for standardized foods.

(a) There is significant consumer interest that the labels of standardized foods bear complete information of the ingredients contained in the food. In the absence of legal authority to require that the label bear such information, the Food and Drug Administration encourages all manufacturers, packers, and distributors to voluntarily make such disclosure.

(b) The Food and Drug Administration intends to amend the definitions and standards of identity of food by setting into motion as rapidly as possible the provisions of section 401 of the act to require label declaration of all optional ingredients with the exception of optional spices, flavorings, and colorings which may continue to be designated as such without specific ingredient declaration.

(c) Statutory authority does not exist to require the declaration of mandatory ingredients on the label of standardized foods.

(d) The requirement (set forth in some of the definitions and standards of identity for food) that designated optional ingredients such as spices, flavorings, colorings, emulsifiers, flavor enhancers, stabilizers, preservatives, and sweeteners be declared in a specified manner on the label wherever the name of the standardized food appears on the label so conspicuously as to be easily seen under customary conditions of purchase shall not apply to any manufacturer, packer, or distributor of a standardized food who voluntarily labels such food in the manner indicated by section 403(i) of the act (21 U.S.C. 343(i)), and the regulations promulgated thereunder, and who otherwise complies with such definition and standard. Words and statements that significantly differentiate between several foods complying with the same standard by describing the optional forms or varieties, the packing medium, and significant characterizing ingredients present in the food, shall continue to be declared in the manner as required by the particular standard.

Since this amendment is for the purpose of clarifying an already existing regulation notice and public procedure are not necessary prerequisites to the promulgation of this order.

Effective date. This order shall be effective on January 19, 1973.

(Sec. 701(a); 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-990 Filed 1-18-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

IMITATION FOODS

Application of Term "Imitation"

Section 403(c) of the Federal Food, Drug, and Cosmetic Act provides that a food shall be deemed to be misbranded "If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word 'imitation' and, immediately thereafter, the name of the food imitated."

When section 403(c) of the act was adopted in 1938, Congress was seeking to protect the consumer from uninformed purchase of an inferior substitute product, which could be mistaken for a traditional food product.

The courts have long recognized that the term "imitation" suggests an inferior product. In 62 Cases * * * Jam v. United States, 340 U.S. 593, 600 (1951), the U.S. Supreme Court observed that the term "imitation" as applied to jam connotes "a different, an inferior preserve * * *" In United States v. 651 Cases * * * Chocolate Chil-Zert, 114 F. Supp. 430, 432 (N.D.N.Y. 1953), the court stated "[T]he word [imitation] connotes inferiority * * * in the sense that it is cheapened by the substitution of ingredients."

Vast strides in food technology have taken place since section 403(c) of the act was enacted, and there are now on the market many new wholesome and nutritious food products, some of which resemble and are substitutes for other, traditional foods. Significantly, it is no longer the case that such products are necessarily inferior to the traditional foods for which they may be substituted.

There has been some uncertainty as to the proper scope of the term "imitation" in this modern context. The term clearly fails to inform the public of the actual characteristics and properties of a new food product. In its "Report to the President," the White House Conference on Food, Nutrition, and Health held in November and December 1969 recommended that "[o]versimplified and inaccurate terms as 'imitation' should be abandoned as uninformative to the public."

To apply automatically the term "imitation" to new substitute food products which are not nutritionally inferior would be a disservice to consumers and would be contrary to the common understanding that the word "imitation" connotes inferiority. Section 403(c) of the act would then present a serious obstacle to the development and marketing of modified products with improved nutritional content. Indeed, because of the traditional connotation of inferiority, application of the term "imitation" to a substitute food product which is not inferior could be misleading to the consumer, in violation of section 403(a) of the act.

Accordingly, the Commissioner of Food and Drugs has concluded that it is in the interest of consumers and consistent with the general intent of Congress to restrict required application of the term "imitation" to a substitute food which is nutritionally inferior to the food for which it is a substitute.

The consumer, however, must be protected from unwitting purchase of a product which is different, although not inferior, from what he may reasonably expect. The Commissioner concurs with the further recommendation of the White House Conference that the "name of a food should accurately describe, in as simple and direct terms as possible, the basic nature of the food or its characterizing properties or ingredients." Accordingly, in order to avoid "imitation" status, a substitute food product which is not nutritionally inferior must also bear a label which clearly states the common or usual name of the product and which is not false or misleading.

The Commissioner has paid particular attention to the definition of "nutritional inferiority". Section 1.17, nutrition labeling, which is published in this issue of the FEDERAL REGISTER provides that a difference of less than 10 percent of the U.S. Recommended Daily Allowance (U.S. RDA) of any vitamin, mineral, or protein is not properly regarded as significant. Accordingly, nutritional inferiority is defined as a reduction in the content of an essential vitamin or mineral or of protein that amounts to 10 percent or more of the U.S. RDA. Any lesser difference is regarded as nutritional equivalence, even though small differences may exist.

The Commissioner has also concluded that, since a reduction in fat content or caloric content may well be desirable, such a reduction should not be regarded as nutritional inferiority as long as the product is labeled pursuant to the provisions of § 1.17, and any labeling with respect to a reduction in caloric content complies with the regulations applicable to caloric content in Part 125. The proper declaration of a reduction in caloric content was included as part of the revision of Part 125 and the resulting 1968–1970 Special Dietary Food Hearings. The Commissioner anticipates that a tentative order on that aspect of the hearings will be issued in the near future. When effective, those regulations will be appropriately referenced in this regulation.

Finally, the Commissioner recognizes that it is impossible to set out in general language in any regulation the precise parameters of nutritional inferiority. Accordingly, it must be recognized that the criteria for nutritional inferiority proposed in this regulation are not all-inclusive, and that the Commissioner reserves the right to make a determination of nutritional inferiority on an ad hoc basis, depending upon the facts of the specific situation. Any such determination falling outside the general proposed criteria in this regulation will be made in writing and sent to the manufacturer or distributor of the food, and an opportunity will be given for changes in the labeling and/or formulation before regulatory action is undertaken.

The Commissioner has considered whether there may be basis for imitation labeling other than nutritional inferiority. In reviewing this matter, it appears that nutritional inferiority is the only type of inferiority that is quantifiable on an objective basis. All other potential aspects of inferiority involve essentially subjective judgment which may vary from person to person. Some individuals may prefer a new food to a traditional food, whereas others may prefer the traditional food. The Commissioner has concluded that it is not the function of the Food and Drug Administration to attempt to arbitrate between the likes and dislikes of different individuals or between the different economic considerations that motivate different producers of agricultural commodities or different manufacturers and distributors of foods. The function of the Food and Drug Administration is solely to assure the safety of all foods and to prevent misleading labeling. This new regulation, which cross-references the proposal previously published in the FEDERAL REGISTER of June 22, 1972 (37 FR 12327) requiring the establishment and use of truthful and accurate descriptive names for all food, will make certain that no food is labeled in a false or misleading way and thus fully implements the mandate given by Congress.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 403, 701(a), 52 Stat. 1047–48 as amended, 1055; 21 U.S.C. 343, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Part 1 in § 1.8 by adding the following new paragraph:

§ 1.8 Food in package form, labeling; identity.

* * * * *

(e) Under the provisions of section 403(c) of the Federal Food, Drug, and Cosmetic Act, a food shall be deemed to be misbranded if it is an imitation of another food unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(1) A food shall be deemed to be an imitation and consequently subject to the requirements of section 403(c) of the act if it is a substitute for and resembles another food but is nutritionally inferior to the food imitated.

(2) A food that is a substitute for and resembles another food shall not be deemed to be an imitation provided it meets each of the following requirements:

(i) It is not nutritionally inferior to the food for which it substitutes and which it resembles.

(ii) Its label bears a common or usual name that complies with the provisions of § 102.1(a) of this chapter and that is not false or misleading.

(3) The label of a food that is a substitute for and resembles another food shall bear a common or usual name or

an appropriately descriptive term in addition to any fanciful name. Petitions to establish a common or usual name shall be submitted in accordance with the provisions of § 102.1(c) of this chapter.

(4) Nutritional inferiority includes a reduction in the content of an essential vitamin or mineral or of protein that amounts to 10 percent or more of the U.S. Recommended Daily Allowance established under § 1.17(c)(7)(iv), but does not include a reduction in the caloric or fat content provided the food is labeled pursuant to the provisions of § 1.17, and provided that the labeling with respect to any reduction in caloric content complies with the provisions applicable to caloric content in Part 125 of this chapter. If the Commissioner concludes that a food falls within this paragraph in that it is a substitute for and resembles another food but is nutritionally inferior to the food imitated, for reasons other than those set out in this subparagraph, he shall so inform the manufacturer or distributor in writing of his conclusions and shall offer a reasonable time period within which labeling and/or formulation changes may be made prior to the institution of regulatory action.

(5) The provisions of this paragraph do not affect the required declarations of identity under definitions and standards of identity for foods promulgated pursuant to section 401 of the act.

Interested persons may, on or before March 20, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-991 Filed 1-18-73;8:45 am]

[21 CFR Part 1]

FLAVOR, SPICES, AND FOOD CONTAINING ADDED FLAVOR

Proposed Labeling

Section 403(i)(2) of the Federal Food, Drug, and Cosmetic Act authorizes the declaration of "spices," "flavorings," and "colorings" when these are used as food ingredients, except in the case of foods sold as spices, flavoring, or colorings.

There is some confusion as to the precise classification of certain substances as spices and flavorings. Artificial flavor is defined by § 1.12(a)(1) (21 CFR 1.12 (a)(1)), but definitions for spices and natural flavors have not been established by regulation. Advisory standards were issued in 1918 as Food Inspection Decision (FID) 172, covering the collective term spices, and a number of specific foods were classified as spices. Since that time, this FID and its subsequent revisions have been used within the agency as guides for rendering decisions concerning the classification of selected substances as spices.

Some confusion also exists concerning the classification of certain newer flavors, because certain of their constituent parts are foods per se or are regulated chemicals. Diverse opinions have been offered over the years concerning labeling requirements of new flavors, causing uncertainty in the food industry.

There are at present also no regulations establishing a consistent pattern either for labeling bulk flavors shipped to a food manufacturer for use in making a finished food, or for designating the type of flavor on the label of the finished food.

The Food and Drug Administration is aware that the composition of a proprietary flavor compound marketed by a flavor manufacturer to a food manufacturer is a valuable trade secret. At the same time, the food manufacturer and the public require assurance that the ingredients used in such compounds meet the safety requirements of the law. Accordingly, it is proposed that, in lieu of declaring each separate ingredient on such compounds, a statement will suffice that each ingredient is contained in one of the three Food and Drug Administration flavor regulations, § 121.101, § 121.1163, or § 121.1164 (21 CFR 121.101, 121.1163, or 121.1164); it is also proposed that any ingredient not contained in one of those regulations shall be listed separately on the label.

Recent legal actions demonstrate that incorrect labeling is often used and that a uniform labeling policy for flavor designation should be established. The Food and Drug Administration adopted, in the ice cream standard, § 20.1 (21 CFR 20.1), a labeling pattern for flavor that has been proven to be very clear and informative to consumers. It is therefore proposed that this pattern, with appropriate modification, be extended to all foods.

When a flavor or spice is used as an ingredient in fabricated foods, the flavor or spice is covered by the labeling exemptions in section 403(i)(2) of the act and may be designated as "spices," "flavorings," or "artificial flavorings." There is uncertainty, however, as to the extent the other components of these manufactured flavors or seasonings, e.g., carriers, preservatives, emulsifiers, and enhancers, are exempt from specific ingredient declaration in the finished food.

Historically, the Food and Drug Administration has handled problems related to labeling of ingredients contained in flavors on a case-by-case basis. Specific inquiries from manufacturers and other interested individuals concerning the label declaration of certain nonflavors as ingredients in processed foods have resulted in the issuance of the following advisory opinions:

1. Anticaking agents need not be declared, provided the levels used are so low that they have no functional effect in the food itself.

2. Preservatives need not be declared if they are not intended to, and do not in fact, have any preservative effect on the finished food.

3. Ingredients ordinarily used as vehicles or emulsifiers need not be declared, but unusual solvents or vehicles must be declared.

4. Emulsifiers need not be declared on the label of the finished food if they do not function as such in the finished food.

5. It is necessary to declare the base used, such as sugar, dextrose, or salt.

The inclusion of most nonflavor components of flavor ingredients on the label of the finished food product would be impractical and even misleading to the ultimate consumer, and it is therefore proposed that such label declaration not be required where the nonflavor component(s) has no function in the finished food.

In order to clarify the policy of the Food and Drug Administration on these issues, the Commissioner of Food and Drugs proposes to issue regulations which: (1) Accurately define materials which may be considered flavors and spices; (2) describe specific conditions under which nonflavor ingredients of manufactured flavors are and are not exempt from the requirement of specific label declaration in finished food; (3) list those substances which are considered foods regardless of conditions of use and therefore require a declaration on the label of the finished food; (4) establish specific conditions under which bulk flavors are and are not exempt from the requirement of specific ingredient labeling; (5) establish a uniform pattern for label declaration of flavoring in finished food; and (6) consolidate in one regulation provisions relating to flavor labeling contained in statements of policy (21 CFR 3.10, 3.23(b), and 3.201).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 403, 701(a), 52 Stat. 1047, 1055; 21 U.S.C. 343, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes to revoke §§ 3.10, 3.23(b), and 3.201 (21 CFR 3.10, 3.23(b), and 3.201), and to amend § 1.12 (21 CFR 1.12) by revising the section title, by revising paragraph (a)(1), by redesignating existing paragraphs (a)(2) and (a)(3) as new paragraphs (a)(4) and (a)(5), by adding new paragraphs (a)(2) and (a)(3), and by adding new paragraphs (g), (h), and (i), as follows:

§ 1.12 Food; labeling; flavoring, spices, or coloring, chemical preservatives.

(a) (1) The term "artificial flavor" or "artificial flavoring" means any substance, the function of which is to impart flavor, which is not derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf, or similar plant material, meat, fish, or poultry. Artificial flavor includes the substances listed in §§ 121.101(g) and 121.1164(b) of this chapter.

(2) The term "spice" means any aromatic vegetable substance in the whole, broken, or ground form; whose signifi-

cant function in food is seasoning rather than nutritional; that is true to name; and from which no portion of any volatile oil or other flavoring principle has been removed. Spices include the spices listed in § 121.101(e) of this chapter, such as the following:

Allspice.	Marjoram.
Anise.	Mustard flour.
Basil.	Nutmeg.
Bay leaves.	Oregano.
Caraway seed.	Paprika.
Cardamon.	Parsley leaves.
Celery seed.	Pepper, black.
Chervil.	Pepper, white.
Cinnamon.	Pepper, red.
Cloves.	Rosemary.
Coriander.	Saffron.
Cumin seed.	Sage.
Dill seed.	Savory.
Fennel seed.	Star aniseed.
Fenugreek.	Tarragon.
Ginger.	Thyme.
Horseradish.	Turmeric.
Mace.	

Paprika, turmeric, and saffron are also colors which, under § 1.10(c), shall be declared as "spice and coloring," unless declared by their common or usual name.

(3) The term "natural flavor" or "natural flavoring" means the essential oil, oleoresin, essence or extractive, hydrolysate, distillate, or other reaction product, each of which contains the vital flavoring constituents derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf or similar plant material, meat, fish, or poultry, whose significant function in food is flavoring rather than nutritional. Natural flavors include the natural extractives obtained from plants listed in § 121.101(e) and the substances listed in § 121.1163 of this chapter.

(4) The term "artificial color" or "artificial coloring" means a coloring containing any dye or pigment, which dye or pigment was manufactured by a process of synthesis or other similar artifice, or a coloring which was manufactured by extracting a natural dye or natural pigment from a plant or other material in which such dye or pigment was naturally produced.

(5) The term "chemical preservative" means any chemical that, when added to food, tends to prevent or retard deterioration thereof, but does not include common salt, sugars, vinegars, spices, or oils extracted from spices, substances added to food by direct exposure thereof to wood smoke, or chemicals applied for their insecticidal or herbicidal properties.

* * * * *

(g) A flavor shall be labeled in the following way when shipped to a food manufacturer or processor (but not a consumer) for use in a food that will subsequently be sold at retail.

(1) If the flavor consists of one ingredient, it shall be declared by its common or usual name.

(2) If the flavor consists of two or more ingredients, the label either may declare each ingredient by its common or usual name or may state "All flavor ingredients contained in this product are listed in §§ 121.101, 121.1163, or § 121.1164 of the Food and Drug Administration Regulations" of this chapter in lieu of declaring each such ingredient. Any flavor ingredient not contained in one of these regulations, and any nonflavor ingredient, shall be separately listed on the label.

(3) If the flavor is, or bears or contains, any flavor subject to Part 22 of this chapter, it shall be so labeled.

(4) In cases where the flavor contains solely natural flavor(s), the flavor shall be so labeled. In cases where the flavor contains both a natural characterizing flavor and an artificial flavor simulating it and the natural flavor predominates, the flavor shall be so labeled. In cases where the flavor contains solely artificial flavor(s) or in cases where the flavor contains both a natural characterizing flavor and an artificial flavor simulating it and the artificial flavor predominates, the flavor shall be so labeled.

(h) The label of a food to which flavor is added shall declare the flavor in the statement of ingredients in the following way:

(1) Spice, natural flavor, and artificial flavor may be declared as "spice," "natural flavor," or "artificial flavor," or any combination thereof, as the case may be.

(2) A substance which is not spice or flavor, but which is used in the manufacture of spice or flavor for a functional purpose, e.g., a carrier, emulsifier, preservative, enhancer, or potentiator, is an incidental additive and exempt from the requirement of label declaration if each of the following criteria is met:

(i) It is present in the flavor in a quantity not exceeding the amount necessary to produce the intended effect.

(ii) It is present in only trace quantities in the finished food.

(iii) It has no significant nutritive effect in the finished food.

(iv) It has no functional effect in the finished food.

(v) It is not specifically required to be declared by other regulations.

(vi) It is not a food additive as defined in section 201(s) of the act; or if it is a food additive as so defined, it is used in conformity with regulations established pursuant to section 409 of the act.

(3) Substances obtained by cutting, grinding, drying, pulping, or similar processing of tissues derived from fruit, vegetable, meat, fish, or poultry, e.g., powdered or granulated onions, garlic powder, and celery powder, are commonly understood by consumers to be food rather than flavor and shall be declared by their common or usual name.

(4) Any salt (sodium chloride) used as an ingredient in flavor shall be declared by its common or usual name "salt".

(5) Any monosodium glutamate used as an ingredient in flavor shall be declared by its common or usual name "monosodium glutamate".

(6) Any pyroligneous acid (artificial smoke flavor) used as an ingredient in flavor or in a food shall be declared by a phrase such as "pyroligneous acid, an artificial flavor", "pyroligneous acid, an artificial smoke flavor", or "artificially flavored with pyroligneous acid". No representation may be made, either directly or implied, that a food flavored with pyroligneous acid has been smoked or has a true smoked flavor, or that a seasoning sauce or similar product containing pyroligneous acid and used to season or flavor other foods will result in a smoked product or one having a true smoked flavor.

(i) If the label, labeling, or advertising of a food makes any direct or indirect representations with respect to flavor, by word, vignette, e.g., depiction of a fruit, or other means, or if for any other reason the manufacturer or distributor of a food wishes to designate the type of flavor in the food other than through the statement of ingredients, the flavor of the product shall be declared in the following way:

(1) If the food contains no artificial flavor, the name of the food on the principal display panel or panels for the label shall be accompanied by the common or usual name of the characterizing flavor, e.g., "vanilla", in letters not less than one-half the height of the letters used in the name of the food, except that if the food is one that is commonly expected to contain a characterizing ingredient, e.g., strawberries in "strawberry shortcake", and the food contains no such ingredient or contains natural flavor in addition to such ingredient, the name of the characterizing flavor shall be immediately followed by the word "flavored" in letters not less than one-half the height of the letters in the name of the characterizing flavor.

(2) In cases where the food contains both a natural characterizing flavor and an artificial flavor simulating it and the natural flavor predominates, the name of the food on the principal display panel or panels of the label shall be accompanied by the common or usual name of the characterizing flavor, in letters not less than one-half of the height of the letters used in the name of the food, followed by the word "flavored", in letters not less than one-half of the height of the letters in the name of the characterizing flavor, e.g., "vanilla flavored", "peach flavored", or "vanilla flavored and strawberry flavored".

(3) In cases where an artificial flavor is used alone, or in cases where the food contains both a natural characterizing flavor and an artificial flavor simulating it and the artificial flavor predominates, the name of the food on the principal display panel or panels of the label shall be accompanied by the common or usual name of the characterizing flavor, in letters not less than one-half of the height of the letters used in the name of the food, preceded by the word(s) "artificial" or "artificially flavored", in letters not less than one-half of the height of the letters in the name of the characterizing flavor, e.g., "artificial vanilla", or "artificially flavored strawberry" or "artificially flavored vanilla and artificially flavored strawberry".

(4) If the food is labeled in accordance with paragraph (i)(2) of this section or if it contains any artificial flavor not

simulating the characterizing flavor, the label shall also bear the words "artificial flavor added" or "artificial _____ flavor added" or "and artificial _____ flavor", the blank being filled with the common or usual name of the flavor simulated by the artificial flavor in letters of the same size and prominence as the words that precede and follow it.

(5) Wherever the name of the characterizing flavor appears on the label (other than in the statement of ingredients) so conspicuously as to be easily seen under customary conditions of purchase, the words prescribed by this paragraph shall immediately and conspicuously precede or follow such name, except:

(i) Where the characterizing flavor and a trademark or brand are presented together, other written, printed, or graphic matter that is a part or is associated with the trademark or brand may intervene if the required words are in such relationship with the trademark or brand as to be clearly related to the characterizing flavor; and

(ii) If the finished product contains more than one flavor subject to the requirements of this paragraph, the statements required by this paragraph need appear only once in each statement of characterizing flavors present in such food, e.g., "vanilla flavored, or chocolate and strawberry flavored, artificial flavors added".

(6) If the food contains both a natural characterizing flavor and an artificial flavor simulating the characterizing flavor, any reference to the natural characterizing flavor shall, except as otherwise authorized by this paragraph, be accompanied by a reference to the artificial flavor, displayed with substantially equal prominence, e.g., "strawberry and artificial strawberry flavor", or "strawberry, artificial strawberry flavor added".

Interested persons may, on or before March 20, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Comments received will be available for public inspection at the above office during regular business hours, Monday through Friday.

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-992 Filed 1-18-73;8:45 am]

[21 CFR Parts 1, 3, 5]

EXEMPTIONS FROM FOOD LABELING REQUIREMENTS

Notice of Proposed Rule Making

A fabricated food containing two or more ingredients is required by section 403(i)(2) of the Federal Food, Drug, and Cosmetic Act to bear on its label the common or usual name of each ingredient (other than spices, flavorings, and colorings): *Provided*, That, to the extent that such listing of ingredients is impracticable or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Secretary.

The Food and Drug Administration has promulgated a limited number of regulations exempting specific incidental food additives from the requirements of section 403(i)(2) of the act. The Commissioner proposes to clarify the Agency's policy with regard to the label declaration of incidental additives and to consolidate in one place the regulations concerning label exemptions currently found in 21 CFR Parts 1, 3, and 5.

The Commissioner proposes to revoke § 5.5, which was stayed at 31 FR 15730 on December 14, 1966, on the ground that 21 CFR 121.4001 (37 FR 2437) established the type of restrictions contained in § 5.5 for saccharin, the only artificial sweetener known to the Commissioner to be in use at the present time. Any other artificial sweetener will also be subject to a regulation promulgated under section 409 of the act, and will similarly include the type of restrictions contemplated by § 5.5. Accordingly, the provisions of § 5.5 are entirely obsolete. The Commissioner also proposes to revoke §§ 5.9 and 5.10, and to transfer the remainder of Part 5 and § 3.26 to a new § 1.10a. It is proposed to include in new § 1.10a provisions defining incidental additives and exempting them from the labeling requirements of section 403(i)(2) of the act, which cover the substance of former §§ 5.9 and 5.10, and to transfer exemptions from the labeling requirements of section 403(i)(2) of the act found in § 1.10 to the new § 1.10a. In addition, it is proposed that the termination of old exemptions, published as § 3.1 in 1961, be revoked as obsolete since manufacturers are now fully aware that these foods are no longer exempt from section 403(i)(2) of the act.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 403, 701(a), 52 Stat. 1048, 1055; 21 U.S.C. 343, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Parts 1, 3, and 5 be amended as follows:

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

§ 1.10 [Amended]

1. In § 1.10 paragraphs (e), (f), and (g) are hereby revoked, and paragraph (h) is redesignated as paragraph (e).

2. A new § 1.10a is added to Part 1, incorporating the substance of § 1.10 (e), (f), and (g), § 3.26, §§ 5.1 through 5.4 and §§ 5.6 through 5.8 with additional new provisions, and reading as follows:

§ 1.10a Food; labeling; exemptions from labeling requirements.

(a) The following foods are exempt from compliance with the requirements of section 403(i)(2) of the act (requiring a declaration on the label of the common or usual name of each ingredient when the food is fabricated from two or more ingredients).

(1) An assortment of different items of food, when variations in the items that make up different packages packed from such assortment normally occur in good packing practice and when such variations result in variations in the ingredients in different packages, with respect to any ingredient that is not common to all packages. Such exemption, however, shall be on the condition that the label shall bear, in conjunction with the names of such ingredients as are common to all packages, a statement (in terms that are as informative as practicable and that are not misleading) indicating that other ingredients may be present.

(2) A food having been received in bulk containers at a retail establishment, if displayed to the purchaser with either (i) the labeling of the bulk container plainly in view or (ii) a counter card, sign, or other appropriate device bearing prominently and conspicuously the information required to be stated on the label pursuant to section 403(i)(2) of the act.

(3) Propylene glycol or glycerin present in quiescently frozen confections because of use as a carrier for food-grade emulsifiers and stabilizers.

(4) Incidental additives that are present in a food at insignificant levels and do not have any technical or functional effect in that food. For the purposes of this subparagraph, incidental additives are:

(i) Substances that have no technical or functional effect but are present in a food by reason of having been incorporated into the food as an ingredient of another food, in which the substance did have a functional or technical effect.

(ii) Processing aids, which are as follows:

(*a*) Substances that are added to a food during the processing of such food but are removed in some manner from the food before it is packaged in its finished form.

(*b*) Substances that are added to a food during processing, are converted into constituents normally present in the food, and do not significantly increase the amount of the constituents naturally found in the food.

(*c*) Substances that are added to a food for their technical or functional effect in the processing but are present in the finished food at insignificant levels and do not have any technical or functional effect in that food.

(iii) Substances migrating to food from equipment or packaging or otherwise affecting food that are not food additives as defined in section 201(s) of the act; or if they are food additives as so defined, they are used in conformity with regulations established pursuant to section 409 of the act.

(b) A food repackaged in a retail establishment is exempt from the following provisions of the act if the conditions specified are met.

(1) Section 403(e)(1) of the act (requiring a statement on the label of the

name and place of business of the manufacturer, packer, or distributor).

(2) Section 403(g)(2) of the act (requiring the label of a food which purports to be or is represented as one for which a definition and standard of identity has been prescribed to bear the name of the food specified in the definition and standard and, insofar as may be required by the regulation establishing the standard the common names of the optional ingredients present in the food), if the food is displayed to the purchaser with its interstate labeling clearly in view, or with a counter card, sign, or other appropriate device bearing prominently and conspicuously the information required by these provisions.

(3) Section 403(i)(1) of the act (requiring the label to bear the common or usual name of the food), if the food is displayed to the purchaser with its interstate labeling clearly in view, or with a counter card, sign, or other appropriate device bearing prominently and conspicuously the common or usual name of the food, or if the common or usual name of the food is clearly revealed by its appearance.

(c) An open container (a container of rigid or semirigid construction, which is not closed by lid, wrapper, or otherwise) of a fresh fruit or fresh vegetable, the quantity of contents of which is not more than 1 dry quart, shall be exempt from the labeling requirements of sections 403 (e), (g)(2) (with respect to the name of the food specified in the definition and standard), and (i)(1) of the act; but such exemption shall be on the condition that if two or more such containers are enclosed in a crate or other shipping package, such crate or package shall bear labeling showing the number of such containers enclosed therein and the quantity of the contents of each.

(d) Except as provided by paragraphs (e) and (f) of this section, a shipment or other delivery of a food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantity at an establishment other than that where originally processed or packed, shall be exempt, during the time of introduction into and movement in interstate commerce and the time of holding in such establishment, from compliance with the labeling requirements of section 403 (c), (e), (g), (h), (i), (j), and (k) of the act if:

(1) The person who introduced such shipment or delivery into interstate commerce is the operator of the establishment where such food is to be processed, labeled, or repacked; or

(2) In case such person is not such operator, such shipment or delivery is made to such establishment under a written agreement, signed by and containing the post office addresses of such person and such operator, and containing such specifications for the processing, labeling, or repacking, as the case may be, of such food in such establishment as will insure, if such specifications are followed, that such food will not be adulterated or misbranded within the meaning of the act upon completion of such processing, labeling, or repacking. Such person and such operator shall each keep a copy of such agreement until 2 years after the final shipment or delivery of such food from such establishment, and shall make such copies available for inspection at any reasonable hour to any officer or employee of the Department who requests them.

(3) The article is an egg product subject to a standard of identity promulgated in Part 42 of this chapter, is to be shipped under the conditions specified in paragraph (a) or (b) of this section and for the purpose of pasteurization or other treatment as required in such standard, and each container of such egg product bears a conspicuous tag or label reading "Caution—This egg product has not been pasteurized or otherwise treated to destroy viable Salmonella micro-organisms." In addition to safe and suitable bactericidal processes designed specifically for Salmonella destruction in egg products, the term "other treatment" in the first sentence of this paragraph shall include use in acidic dressings in the processing of which the pH is not above 4.1 and the acidity of the aqueous phase, expressed as acetic acid, is not less than 1.4 percent, subject also to the conditions that:

(i) The agreement required in paragraph (b) of this section shall also state that the operator agrees to utilize such unpasteurized egg products in the processing of acidic dressings according to the specifications for pH and acidity set forth in this paragraph, agrees not to deliver the acidic dressing to a user until at least 72 hours after such egg product is incorporated in such acidic dressing, and agrees to maintain for inspection adequate records covering such processing for 2 years after such processing.

(ii) In addition to the caution statement referred to above, the container of such egg product shall also bear the statement "Unpasteurized ——— for use in acidic dressings only," the blank being filled in with the applicable name of the eggs or egg product.

(e) Conditions affecting expiration of exemptions. (1) An exemption of a shipment or other delivery of a food under paragraph (d) (1) or (3) of this section shall, at the beginning of the act of removing such shipment or delivery, or any part thereof, from such establishment become void ab initio if the food comprising such shipment, delivery, or part is adulterated or misbranded within the meaning of the act when so removed.

(2) An exemption of a shipment or other delivery of a food under paragraph (d) (2) or (3) of this section shall become void ab initio with respect to the person who introduced such shipment or delivery into interstate commerce upon refusal by such person to make available for inspection a copy of the agreement, as required by paragraph (d) (2) or (3) of this section.

(3) An exemption of a shipment or other delivery of a food under paragraph (d)(2) or (3) of this section shall expire:

(i) At the beginning of the act of removing such shipment or delivery, or any part thereof, from such establishment if the food comprising such shipment, delivery, or part is adulterated or misbranded within the meaning of the act when so removed; or

(ii) Upon refusal by the operator of the establishment where such food is to be processed, labeled, or repacked, to make available for inspection a copy of the agreement, as required by such paragraph.

(f) The word "processed" as used in this paragraph shall include the holding of cheese in a suitable warehouse at a temperature of not less than 35° F. for the purpose of aging or curing to bring the cheese into compliance with requirements of an applicable definition and standard of identity. The exemptions provided for in paragraph (d) of this section shall apply to cheese which is, in accordance with the practice of the trade, shipped to a warehouse for aging or curing, on condition that the cheese is identified in the manner set forth in one of the applicable following paragraphs, and in such case the provisions of paragraph (e) of this section shall also apply:

(1) In the case of varieties of cheese for which definitions and standards of identity require a period of aging whether or not they are made from pasteurized milk, each such cheese shall bear on the cheese a legible mark showing the date at which the preliminary manufacturing process as been completed and at which date curing commences, and to each cheese, on its wrapper or immediate container, shall be affixed a removable tag bearing the statement "Uncured ——— cheese for completion of curing and proper labeling," the blank being filled in with the applicable name of the variety of cheese. In the case of swiss cheese, the date at which the preliminary manufacturing process had been completed and at which date curing commences is the date on which the shaped curd is removed from immersion in saturated salt solution as provided in the definition and standard of identity for swiss cheese, and such cheese shall bear a removable tag reading, "To be cured and labeled as 'swiss cheese,' but if eyes do not form to be labeled as 'swiss cheese for manufacturing.'"

(2) In the case of varieties of cheeses which when made from unpasteurized milk are required to be aged for not less than 60 days, each such cheese shall bear a legible mark on the cheese showing the date at which the preliminary manufacturing process has been completed and at which date curing commences, and to each such cheese or its wrapper or immediate container shall be affixed a removable tag reading, "——— cheese made from unpasteurized milk. For completion of curing and proper labeling," the blank being filled in with the applicable name of the variety of cheese.

(3) In the case of cheddar cheese, washed curd cheese, colby cheese, granular cheese, and brick cheese made from unpasteurized milk, each such cheese shall bear a legible mark on the cheese showing the date at which the preliminary manufacturing process has been

completed and at which date curing commences, and to each such cheese or its wrapper or immediate container shall be affixed a removable tag reading "——— cheese made from unpasteurized milk. For completion of curing and proper labeling, or for labeling as ——— cheese for manufacturing," the blank being filled in with the applicable name of the variety of cheese.

(g) The label declaration of a harmless marker used to identify a particular manufacturer's product may result in unfair competition through revealing a trade secret. Exemption from the label declaration of such a marker is granted, therefore, provided that the following conditions are met:

(1) The person desiring to use the marker without label declaration of its presence has submitted to the Commissioner of Food and Drugs full information concerning the proposed usage and the reasons why he believes label declaration of the marker should be subject to this exemption; and

(2) The person requesting the exemption has received from the Commissioner of Food and Drugs a finding that the marker is harmless and that the exemption has been granted.

(h) Wrapped fish fillets of nonuniform weight intended to be unpacked and marked with the correct weight at the point of retail sale in an establishment other than that were originally packed shall be exempt from the requirement of section 403(e)(2) of the act during introduction and movement in interstate commerce and while held for sale prior to weighing and marking:

(1) *Provided*, That:

(i) The outside container bears a label declaration of the total net weight; and

(ii) The individual packages bear a conspicuous statement "To be weighed at time of sale" and a correct statement setting forth the weight of the wrapper: *And*

(2) *Provided further*, That it is the practice of the retail establishment to weigh and mark the individual packages with a correct net-weight statement prior to or at the point of retail sale. A statement of the weight of the wrapper shall be set forth so as to be readily read and understood, using such term as "wrapper tare — ounce," the blank being filled in with the correct average weight of the wrapper used.

(3) The act of delivering the wrapped fish fillets during the retail sale without the correct net-weight statement shall be deemed an act which results in the product's being misbranded while held for sale. Nothing in this paragraph shall be construed as requiring net-weight statements for wrapped fish fillets delivered into institutional trade provided the outside container bears the required information.

(i) Wrapped clusters (consumer units) of bananas of nonuniform weight intended to be unpacked from a master carton or container and weighed at the point of retail sale in an establishment other than that where originally packed shall be exempt from the requirements of section 403(e)(2) of the act during introduction and movement in interstate commerce and while held for sale prior to weighing:

(1) *Provided*, That:

(i) The master carton or container bears a label declaration of the total net weight; and

(ii) The individual packages bear a conspicuous statement "To be weighed at the time of sale" and a correct statement setting forth the weight of the wrapper:

(2) *And provided, further*, That it is the practice of the retail establishment to weigh the individual packages either prior to or at the time of retail sale.

(3) The act of delivering the wrapped clusters (consumer units) during the retail sale without an accurate net weight statement or alternatively without weighing at the time of sale shall be deemed an act which results in the product's being misbranded while held for sale. Nothing in this paragraph shall be construed as requiring net-weight statements for clusters (consumer units) delivered into institutional trade, provided that the master container or carton bears the required information.

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

§ 3.1 [Revoked]

3. The provisions of § 3.1 are hereby revoked.

§ 3.26 [Revoked]

4. The provisions of § 3.26 are hereby revoked.

PART 5—[REVOKED]

5. The provisions of Part 5 are hereby revoked.

Interested persons may, on or before March 20, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-993 Filed 1-18-73;8:45 am]

[21 CFR Parts 1, 3, 125]

SPECIAL DIETARY FOODS

Label Statements; Proposed Findings of Fact, Conclusions, and Tentative Order Following Public Hearing

In the matter of revising regulations for food for special dietary uses:

HISTORY

1. On the initiative of the Commissioner of Food and Drugs, a notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of June 20, 1962 (27 FR 5815), and numerous comments were received in response thereto. Subsequently, orders were published in the FEDERAL REGISTER of June 18, 1966 (31 FR 8521 et seq.), to become effective December 15, 1966, deleting § 1.11 (21 CFR 1.11), excepting from labeling requirements certain artificially sweetened foods (21 CFR 5.5), establishing definitions and standards of identity for dietary supplements of vitamins and minerals and for vitamin and mineral-fortified foods (21 CFR Part 80), and revising the regulations for the labeling of food for special dietary uses (21 CFR Part 125).

2. During the 30-day period provided by the orders of June 18, 1966, objections and requests for a public hearing were filed. Consequently, an order was published in the FEDERAL REGISTER of December 14, 1966 (31 FR 15730), staying the effective date of § 5.5, Part 80, and Part 125, and staying the effective date of the deletion of § 1.11, as published June 18, 1966. The order of December 14, 1966, gave notice that a public hearing would be held on the basis of the objections received, and set forth the issues to be decided at the hearing. Since the order also contained amendments to the provisions of Parts 80 and 125 published in the FEDERAL REGISTER of June 18, 1966, an additional period of 30 days was provided for the filing of objections by persons adversely affected. Numerous letters objecting to the amendments and requesting a public hearing were received; however, no substantive issues not already stated in the order of December 14, 1966, were raised by these objections. A correction of a printer's error in the order of December 14, 1966, was published in the FEDERAL REGISTER of December 21, 1966 (31 FR 16312).

3. Also published in the FEDERAL REGISTER of December 14, 1966 (31 FR 15746), was a notice proposing that § 80.2, the definition and standard of identity for vitamin- and mineral-fortified foods, which was established by the order of June 18, 1966, and amended and stayed by the order of December 14, 1966, be amended by adding to the table in paragraph (c) the following classes of food: (1) Frozen dessert products (containing vegetable fat in lieu of butter fat) made in semblance of ice cream or ice milk; (2) milk fortifiers; (3) and meal substitutes.

4. The comments received in response to the proposal of December 14, 1966, were considered and an order was subsequently published in the FEDERAL REGISTER of April 8, 1967 (32 FR 5736), amending § 80.2 to add the additional classes of food. In response to that order, several objections and requests for a public hearing were received; however, no substantive issues were raised that were not already set forth in the order of December 14, 1966.

5. A notice was published in the FEDERAL REGISTER of April 2, 1968 (33 FR 5268), scheduling a hearing to begin May 21, 1968, and a prehearing confer-

ence to begin May 7, 1968. The notice also designated Mr. David H. Harris as the Hearing Examiner for these proceedings, and notice that he was appointed a hearing examiner was published in the FEDERAL REGISTER of May 4, 1968 (33 FR 6828).

6. The hearing was convened as scheduled May 21, 1968, and recessed the same day to permit continuation of prehearing conferences. Notice was given in the FEDERAL REGISTER of June 13, 1968 (33 FR 8679), that the hearing was being reconvened June 20, 1968. The hearing was reconvened as scheduled and continued for almost 2 years, closing on May 14, 1970.

7. The taking of evidence with reference to infant foods was closed October 14, 1969, Pursuant to 21 CFR 2.96, and limited to the infant food portion of the proceedings, the Hearing Examiner submitted his report and certified the record together with his report to the Commissioner of Food and Drugs. This Hearing Examiner's report, dated August 26, 1970, is part of the public record (Docket No. FDC-79) on file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852.

8. The Hearing Examiner subsequently submitted his report of the entire proceedings, except for the previously submitted portion on infant foods, and certified the associated record together with his report to the Commissioner of Food and Drugs. This Hearing Examiner's report, dated January 25, 1971, is part of the public record (Docket No. FDC-78) and is also on file with the Hearing Clerk.

9. After review of the Hearing Examiner's report and related material on the infant foods portion of the proceedings, the Commissioner published in the FEDERAL REGISTER October 29, 1970 (35 FR 16737), proposed findings of fact, proposed conclusions, and a tentative order on label statements relating to infant foods, and provided a 30-day period for the filing of written exceptions. After review of comments received, and further review of the Hearing Examiner's report and related material, several changes were made in the tentative order, and the final order on label statements relating to infant foods (21 CFR 125.5) was published in the FEDERAL REGISTER of December 10, 1971 (36 FR 23553), with an effective date 90 days from the date of publication.

10. After review of the Hearing Examiner's report and related material on the portion of the proceedings concerning vitamin- and mineral-fortified foods, the Commissioner concluded that it would be in the public interest to develop regulations for such foods utilizing the approach of establishing nutritional quality guidelines for certain classes of foods, including those to which vitamins and/or minerals may be added. These guidelines may replace the approach of developing standards of identity for these foods as originally proposed in the form of 21 CFR 80.2. A notice of proposed rule making on nutritional quality guidelines was published in the FEDERAL REGISTER of December 23, 1971 (36 FR 24822). In that notice, the Commissioner proposed to amend Chapter I by adding a new Part 100 for nutritional quality guidelines for foods, defined general principles (proposed 21 CFR 100.1), and proposed the first nutritional quality guideline, in this case for precooked frozen convenience "heat and serve" dinners (proposed 21 CFR 100.20). The Commissioner is deferring final action on 21 CFR 80.2 until experience is gained under 21 CFR Part 100. In a notice of proposed rule making, published elsewhere in this issue of the FEDERAL REGISTER, the Commissioner proposes to establish a new 21 CFR 1.10a (Exemptions From Food Labeling Requirements) which would revoke 21 CFR 5.5, which was stayed at 31 FR 15730 on December 14, 1966, on the ground that 21 CFR 121.4001 (37 FR 2437) established the type of restrictions contained in 21 CFR 5.5 for saccharin (the only artificial sweetener known to the Commissioner to be used at the present time). Any other artificial sweetener will also be subject to a regulation promulgated under section 409 of the Federal Food, Drug, and Cosmetic Act and will similarly include the type or restrictions contemplated by 21 CFR 5.5.

11. In the past, the term "special dietary food" has been defined to include any food to which a nutrient has been added or for which nutrition claims or information have been used. This assured that such foods would have labeling information about the nutrient(s) added, pursuant to regulations promulgated in 21 CFR Part 125. The Commissioner has reviewed the history of this use of the "special dietary" designation, and has concluded that because of the complexity of the conventional food supply that it is necessary to develop general nutrition labeling available for use on all foods. Nutrition labeling is the required form of labeling for foods with added nutrients or for which the manufacturer makes nutrition claims. A notice of proposed rule making on nutrition labeling under title 21 was published in the FEDERAL REGISTER of March 30, 1972 (37 FR 6493).

12. In this issue of the FEDERAL REGISTER, the Commissioner has published the following proposals, tentative orders, and regulations that relate to other sections of special dietary labeling and nutrition labeling as follows:

(a) Nutrition labeling. (§ 1.17)

(b) Food label information panel. (§ 1.8d)

(c) Food fat labeling. (§ 1.18)

(d) Standard of identity for vitamin-mineral supplements. (§ 80.1)

(e) Food standard labeling changes.

(f) Uniform effective date for food labeling changes.

13. Beginning with the enactment of the Federal Food, Drug, and Cosmetic Act of 1938 (52 Stat. 1040), the Food and Drug Administration rendered informal opinions on many problems that arose under the act. These opinions, issued as Trade Correspondence (TC), represented the policy of the Food and Drug Administration based on specific problems and the application of the statute thereto. To avoid confusion as to the status of those TC issuances which will be superseded by the amendments to 21 CFR Part 125 as contained herein and new § 80.1 published elsewhere in this issue of the FEDERAL REGISTER, the Commissioner concludes that such TC issuances should be formally rescinded. Therefore, notice is given that the following TC issuances are rescinded effective on the effective date of the amendments to 21 CFR Part 125 set forth below:

(a) TC-93: Vitamins.

(b) TC-315: Vitamin-carrying oil—labeling.

(c) TC-363: "Vitamin B complex".

(d) TC-379: Wheat germ oil—vitamin E.

(e) TC-387: Vitamin capsules and tablets.

(f) TC-407: Vitamin B_1 tablets for use in enriching bread.

(g) TC-408: Pyridoxine and pantothenic acid in yeast tablets.

(h) TC-411: Bakery products containing thiamine, riboflavin, niacin, and iron.

LIMITED SCOPE OF THIS ACTION

14. This document pertains only to regulations concerning certain limited matters relating to labeling foods for special dietary use (21 CFR 125.1–125.3).

15. A final order was published in the FEDERAL REGISTER of December 10, 1971, on label statements relating to infant foods (§ 125.5). The order of December 10, 1971, and the present action reflect the continuing intent of the Commissioner of Food and Drugs to promulgate revised individual sections of this Part 125 as soon as the records of the hearing can be reviewed, analyzed, and the findings implemented.

16. The document of December 14, 1966, listed the issues for the contemplated hearing, including Nos. III-A, III-B, and III-C, as follows:

III. Issues concerning Part 125. A. With respect to § 125.1 *Definitions and interpretations of terms:*

1. Whether it is necessary and reasonable, in order fully to inform purchasers of the value of foods for special dietary uses, to define "special dietary use" as set forth in § 125.1(a).

2. Whether it is necessary and reasonable, in order fully to inform purchasers of the value of foods for special dietary uses, to establish "recommended dietary allowances" for essential nutrients.

3. Whether the "recommended dietary allowances" as set forth in §125.1(b), and amended by this order, are reasonable.

4. Whether the definition of "artificial sweetener" in § 125.1(c) is reasonable.

B. With respect to § 125.2 *General label statements; dietary properties; value; placement*, whether it is necessary and reasonable, in order fully to inform purchasers of the value of foods for special dietary uses, to require that the labels of such foods bear a statement as required and limited by that section, as amended by this order.

C. With respect to § 125.3 *Label statements relating to vitamins and minerals*, whether it is necessary and reasonable, in order fully to inform purchasers of the value of foods for special dietary uses, to require that the labels of such foods by reason of their vitamin or mineral content bear a statement of the per-

centages of the recommended dietary allowances of such vitamins and minerals contained in such food, with the limitation that vitamin and mineral supplements and foods fortified with vitamins and/or minerals may not bear on their labels a declaration of any quantity of added vitamins or minerals in the supplements or fortified foods which supply more than 100 percent of the recommended dietary allowance for any nutrient.

17. The public hearing in the overall matter was closed May 14, 1970, Pursuant to 21 CFR 2.96, the Hearing Examiner, Mr. David H. Harris, submitted his report in this matter and certified the record together with this report to the Commissioner of Food and Drugs. The report is part of the public record (Docket No. FDC–78) on file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852.

18. The Commissioner realizes that legal challenge may be brought against the new approach to nutrition labeling in 21 CFR 1.17. If 21 CFR 1.17 is found invalid for any reason it will be necessary to resume the labeling of foods with added nutrients, or for which nutritional claims are made, under 21 CFR Part 125. The Commissioner is therefore keeping the record on this portion of the hearing open, for this limited purpose, in the event that it becomes necessary to amend this tentative order or to issue a supplemental tentative order to provide for labeling of this type pursuant to 21 CFR Part 125 in lieu of 21 CFR 1.17.

Other Regulations and Policies Affected

The publication of this tentative order requires changes in certain existing food additive regulations and formal statements of policy under Parts 1 and 3 of Title 21 of the Code of Federal Regulations. These additional actions are as follows:

1. Since it is no longer appropriate § 1.11 *Special dietary uses* is being revoked.

2. Since the Food and Nutrition Board, National Academy of Sciences-National Research Council (NAS/NRC), has now established a set of Recommended Daily Dietary Allowances for vitamin E, and since there now is scientific evidence that the vitamin E content of the diet may not always be adequate to meet requirements, the formal statement of policy under § 3.9 *Label declaration of vitamin E in food for special delivery use* is being revoked.

3. Since appropriate and useful levels of vitamin B_{12} and folic acid have been determined, the formal statement of policy under § 3.32 *Label declarations of vitamin B_{12} and folic acid in foods for special dietary uses* is being revoked.

4. Since it is no longer appropriate, the formal statement of policy under § 3.46 *Interpretations of orders relating to dietary supplements; vitamin and mineral-fortified foods; foods for special dietary use* is being revoked.

5. Concerning folic acid (folacin), the Food and Nutrition Board, NAS/NRC, recommends daily intakes of 0.4 milligram for older children and adults, and 0.8 milligram during pregnancy. The Council on Foods and Nutrition, American Medical Association (AMA), recently reviewed the subject of desirable levels of folic acid in dietary supplements, and communicated their conclusions to the Food and Drug Administration by their letter of October 13, 1971. The Council recommended increasing the allowable maximum amount to that recommended by the Food and Nutrition Board on the basis of recent evidence of inadequate intakes in significant segments of the population, the absence of ill-effects in normal individuals from such intakes, and the lack of evidence that such intakes aggravate or mask pernicious anemia or interfere with the diagnosis or treatment of the disease. The Commissioner considers these positions of the NAS/NRC and the AMA to be nutritionally sound. Therefore, the formal statement of policy under § 3.42 *Status of pteroylglutamic acid (folic acid) in foods for special dietary use and as a drug* will be revised at a later date to reflect these quantitative changes relative to folic acid. Also, the limitation of 0.1 milligram provided for in the food additive regulation under § 121.1134 *Pteroylglutamic acid* will be revised to permit larger amounts of folic acid in dietary supplements consistent with the recommendations of the Food and Nutrition Board.

6. Since it has now been established that 0.3 milligram of iodine per day is safe in humans, including during pregnancy and lactation, since iodine deficiency goiter continues to persist in the United States, and since 0.3 milligram is a reasonable maximum daily intake to be provided by a dietary supplement for pregnancy and lactation, § 121.1073 *Potassium iodide* and § 121.1149 *Kelp* will be revised at a later date to increase the maximum daily intake of the additives to a level not to exceed 0.3 milligram of iodine.

Having considered the evidence pertaining to the issues concerning §§ 125.1, 125.2, and 125.3 received at the hearing and the Hearing Examiner's Report of January 25, 1971, and having considered the comments from the National Food Advisory Committee, the Commissioner, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 403(j), 701(e), 52 Stat. 1046, 1048, 1055–1056, as amended by 70 Stat. 919; 21 U.S.C. 341, 343(j), 371(e)) and under authority delegated to him (21 CFR 2.120), proposes the following findings of fact, conclusions of law, and tentative final order:

Proposed Findings of Fact[1]

1. Since enactment, in 1941, of the currently effective regulations concerning foods for special dietary uses, the definition of special dietary use contained therein (21 CFR 1.11) has proved inadequate, in certain respects, to meet the needs of the Food and Drug Administration in its regulatory activity. (Swain, Tr. 115, 116, 125–127, 153–155, 168, 169)

2. The term "special dietary use," as applied to food including dietary supplements used by man, means a particular use for which a product purports or is represented to be used, including but not limited to the following uses:

(a) Supplying a special dietary need that exists by reason of a physical, physiological, or other condition, including but not limited to the conditions of convalescence, pregnancy, lactation, infancy, allergic hypersensitivity to food, underweight, overweight, diabetes mellitus, or the need to control the intake of sodium;

(b) Supplying a vitamin, mineral, or other dietary property for use by man to supplement his diet by increasing the total dietary intake.

(c) Supplying a special dietary need by reason of being a food for use as the sole item of the diet. (Mickelsen, Tr. 2508; WD–G–Ross, Q&A 55, 56; WD–G–Moses, Q&A 17–19)

3. To fully inform the purchaser of the product's value for such use, the label of a food for a special dietary use should bear a statement of usefulness consisting of a list of the dietary properties upon which the special use is based. (Grollman, Tr. 1766; Hodges, Tr. 2969–70; Mickelsen, Tr. 2518–19; WD–G–Moses, Q&A 33) Many dietary supplements include named ingredients which are of no value as supplements to the human diet. (Grollman, Tr. 1626, 1675–77, 1707, Exhibit P–125, Mickelsen, Tr. 2464–65, Exhibit P–172, 2469, Exhibit P–173, Hodges, Tr. 2933, Exhibit P–179, 2936, Exhibit P–180, Herbert, Tr. 9891, Exhibit P–113, 9899, Exhibit P–468, Swain, Tr. 185–191, 213, 220, 221, 223, 229–231, 255, 264, 269, 336, 397, 442, 447, 455, 469, 475, 476, 487, Weissenberg, Tr. 8761, 6402, 5949, Exhibit P–576, P–591) However, many consumers will purchase such products with long lists of ingredients, believing them to be of better value than products with a lesser number of ingredients. (WD–G–Perloff, Q&A 38–41; Exhibit P–1151, page B9). Such consumers believe that if an ingredient is listed, it must significantly contribute to the value of the product as a dietary supplement. (WD–G–Perloff, Q&A 18, 19; Exhibit P–737) The label of a dietary supplement, as a food for special dietary use, should bear a statement of usefulness consisting of a list of the nutrient ingredients which provide the special use characteristics. The list of such ingredients should be limited to those which are of significant value and need in human nutrition as components of dietary supplements. (Grollman, Tr. 1766; Hodges, Tr. 2969–2970; Mickelsen, Tr. 2518–2520; WD–G–Moses, Q&A 33; WD–C–Ross, Q&A 59–61)

4. It is scientifically inaccurate to list a dietary property of a food for special dietary use that is of no significance in

[1] The abbreviations in the citations are:
Tr.—For transcript pages of the hearing.
P.—For exhibits introduced by the Government, the proponent.
O.—For exhibits introduced by opponents.
WD–G—For written direct testimony by a witness for the Government.
WD–3A—For written direct testimony by a witness for the designated opponent (e.g., "3A").
Q. & A.—Question and answer.

human nutrition, and listing of dietary properties should be limited to ingredients of significant value and need in human nutrition. (WD–G–Ross, Q&A 59–61; Grollman, Tr. 1766; Mickelsen, Tr. 2518–19; Hodges, Tr. 2969–70)

5. In addition to statements on the container label of a food for special dietary use it is necessary to consider the label in its entire setting including statements made in the labeling, promotional material, and advertising for such food, to determine whether the label bears a statement concerning properties of the food which are of no significance in human nutition. (WD–G–Perloff, Q&A 10, 16, 17; WD–G–Swanson, Q&A 50; WD–G–Ross, Q&A 61; Section 201(n), FDCA)

6. The term "minimum daily requirement" was adopted by the Food and Drug Administration in 1940 as a means of fully informing consumers about vitamins and minerals in food for special dietary uses. (Boehne, Tr. 2702–03; Swain, Tr. 170) The term "minimum daily requirements," as it has been used since 1940, in the labeling and promotional material for foods with special dietary uses has led to some confusion among consumers. Consumers believe that the "minimum" requirements may be, or may nearly be, inadequate in terms of the nutrient content provided. (Boehne, Tr. 2704; Weissenberg, Tr. 5891, 7734, 8783; WD–G–Gullberg, Q&A 20; WD–G–Perloff, Q&A 35, 37; Exhibit P–737) The continued existence of the term "minimum daily requirement" has led to the production, promotion, and sale of a variety of dietary supplements, that contain large multiples of the minimum daily requirements for vitamins and minerals, and by far exceed the adequate human total daily dietary requirements for these nutrients. (Boehne, Tr. 2739; Grollman, Tr. 1682 (Exhibit P–84), 1685 (Exhibit P–85); Hodges, Tr. 2933–37 (Exhibit P–181), 2939–40; Herbert, Tr. 9898 (Exhibit P–232), 9899–9901 (Exhibit P–468); Mickelsen, Tr. 2448 (Exhibit P–167); Hodges, Tr. 2942 (Exhibit P–183); Swain, Tr. 171–175, 180–182; Weissenberg, Tr. 8760 (Exhibit P–575, P–583))

7. It will prove beneficial to consumers and simplify the task of consumer education to provide for use of the term "recommended daily allowance" (RDA) as a substitute for "minimum daily requirement" (MDR). (Sebrell, Tr. 26181; WD–G–Gullberg, Q&A 21)

8. The "Recommended Dietary Allowances," revised periodically by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, represent established nutrient levels that are quantitatively high enough to provide for the adequate intake of essential nutrients under the wide variety of conditions that exist in this country for essentially all of the normal healthy persons in the United States. Furthermore, these levels are reviewed, discussed, and accepted by numerous scientists and, therefore, are considered to be extremely reliable. (Hodges, Tr. 2880, 2919, 2964–65; Grollman, Tr. 1670, 1763; Mickelsen, Tr. 2438–39; Herbert Tr. 9865–67; WD–G–Harrison, Q&A 23; Schweigert, Tr. 8257, 8260; WD–G–Gullberg, Q&A 19; Exhibit P–651; Sebrell, Tr. 23, 181)

9. Publication No. 1694 of the National Academy of Sciences entitled "Recommended Dietary Allowances, Seventh Revised Edition, 1968, A Report of the Food and Nutrition Board, National Research Council," and subsequent editions, should be used as the source of authentic and reliable information on which to base recommended daily allowances of nutrients. (WD–3A–Sebrell, Q&A 9, 10, 18, 19, Tr. 26181; Hodges, Tr. 2917; Herbert, Tr. 9865; WD–G–Harrison, Q&A 14, 23, 26, 27; WD–G–Ross, Q&A 65)

10. Recommended dietary allowances adapted from publication No. 1694 of the National Academy of Sciences are sufficiently above the average requirement for particular nutrients to cover the needs of between 95 percent and 99 percent of the normal healthy population. (Hodges, Tr. 7083; WD–46–Olsen, page 7, Tr. 29466–67; Jukes, Tr. 28688; Briggs, Tr. 28761; Mayer, Tr. 28865–66; Stokstad, Tr. 26742; Goodhart, Tr. 30169–70; Stare, Tr. 29280; WD–G–Ross P–5)

11. The essential vitamins are: Vitamins A, C (ascorbic acid), D, E, K, B_1 (thiamine), B_2 (riboflavin), niacin vitamin B_6, folic acid (folacin), pantothenic acid, vitamin B_{12}, and biotin. (WD–3A–Sebrell, Q&A 4, WD–G–Harrison, Q&A 20)

12. The essential mineral nutrients are: Calcium, chlorine, iron, magnesium, phosphorus, potassium, sodium, sulfur, copper, fluorine, iodine, manganese, and zinc. (WD–3A–Sebrell, Q&A 4)

13. The values for vitamins and minerals in the table entitled "Recommended Daily Dietary Allowances," in publication No. 1694 of the National Academy of Sciences, and values for essential nutrients derived from sections in the text when no values are given in the aforementioned table, may be used as a basis for fully informing the purchaser of the nutrient value of a food for special dietary use. A reasonable and scientifically accurate adaptation of the table and text referred to above reads as follows:

Vitamins and minerals	Unit of measurement	Infants and children under 4 years of age	Adults and children 4 or more years of age	Pregnant or lactating women
Vitamin A	International units	2,500	5,000	8,000
Vitamin D	do	400	400	400
Vitamin E	do	10	30	30
Vitamin C	Milligrams	40	60	60
Folic acid	do	0.2	0.4	0.8
Thiamine	do	0.7	1.5	1.7
Riboflavin	do	0.8	1.7	2.0
Niacin	do	9.0	20	20
Vitamin B_6	do	0.7	2.0	2.5
Vitamin B_{12}	Micrograms	3	6	8
Biotin	Milligrams	0.15	0.3	0.3
Pantothenic Acid	do	5.0	10	10
Calcium	Grams	0.8	1.0	1.3
Phosphorus	do	0.8	1.0	1.3
Iodine	Micrograms	70	150	150
Iron	Milligrams	10	18	18
Magnesium	do	200	400	450
Copper	do	1.0	2.0	2.0
Zinc	do	8.0	15	15

14. There are scientific and medical justifications for selecting an age separation at under 4 years of age for the purpose of establishing a basis for dietary supplements. (WD–33–Krehl, pages 5–8; WD–33–Emerson, pages 4–5; WD–43–Filer, page 21) The recommended daily dietary allowance of the Food and Nutrition Board, NAS–NRC, for 2- to 3-year olds can safely be used by infants and 1- to 2-year olds, and the maximum values for the under-4-years-old group can be used for all infants and children under 4 years of age. (WD–33–Krehl, pages 6–7; Tr. 2, 877–8, Hodges; WD–43–Graham; and WD–43–Filer, page 21)

15. There are demonstrable distinctions among the nutritional requirements of infants and young children, and pregnant or lactating women, as compared to the nutritional requirements of adults. (Michelsen, Tr. 2424–2427; Grollman, Tr. 1665; Hodges, Tr. 2877–2878; Herbert, Tr. 9944; WD–3A–Sebrell, Q&A 15, 16, 19, and 28; WD–G–Ross, Q&A 23, Boehne, Tr. 2741–2759)

16. The label of a food purported or represented to be for special dietary use by reason of its vitamin or mineral properties, should bear a statement revealing the proportion or percentage of the recommended daily allowance of the particular vitamins or minerals contained in a specified quantity of the product when consumed during a period of 1 day. This is both reasonable and necessary for an intelligent scientific evaluation of the article. (Herbert, Tr. 9944–5; Grollman, Tr. 1762; Hodges, Tr. 2964–6; WD–G–Ross, Q&A 63; Michelsen, Tr. 2635–7)

17. When a food is purported or represented to be for special dietary use because of certain vitamin or mineral properties, and is offered for use by more than one of the groups for which the recommended daily allowances for the vitamins and minerals are set, it then becomes necessary to state the percent or proportion of the recommended daily allowances for each group separately. (Herbert, Tr. 9945–6; WD–G–Gullberg, Q&A 17; Hodges, Tr. 2966–7)

18. It makes no difference from a scientific point of view when the proportion of the recommended daily allowance amounts to a whole number and a fraction, if the fraction is discarded. (Herbert, Tr. 9946)

19. The term "artificial sweetener" means a sweetening substance not used

in normal metabolism as a source of calories. (WD–G–Levine, Q&A 75–77, 81; WD–G–Ricketts, Q&A 34–35, 39)

20. Occasionally, in the manufacturing of foods not intended for special dietary uses, it is possible to achieve certain food characteristics only through the use of an artificial sweetener as a constituent of the food. When this situation exists, it is reasonable to consider the use of the artificial sweetener in such a food not to be for the purpose of reducing or maintaining body weight, or for use in the diet of diabetics: *Provided*, That no label reference is made to the caloric reduction or presence of the artificial sweetener in the food, other than the simple listing of the artificial sweetener as an ingredient. (WD–G–Moses, Q&A 21, 23–31; WD–G–Levine, Q&A 213, 214)

21. For the purposes of dietary evaluation and nutritional characteristics an infant should be considered to be a person 12 months of age or less. (Mickelsen, Tr. 2511; Lowe, Tr. 12, 568–70)

22. The term "serving" means that reasonable quantity of food suitable for or practicable of consumption as a part of a meal by an adult male engaged in light physical activity, or by an infant or child when the article purports or is represented to be for infant feeding or child consumption. (WD–G–Dawson, Q&A 17–20; Mickelsen, Tr. 2514, Exhibit P–718, P–723; WD–G–Gullberg, Q&A 42, 43; WD–G–Ross, Q&A 57)

23. Among dietitians and nutritionists it is customary to describe quantities of foods in units of measure thought to be readily understood by consumers such as teaspoonfuls, tablespoonfuls, cupfuls, and slices. (WD–G–Dawson, Q&A 21; WD–G–Gullberg, Q&A 42; WD–G–Ross, Q&A 58; Mickelsen, Tr. 2514)

24. The standard measuring cup is 8 fluid ounces or approximately 240 milliliters. A tablespoonful is the equivalent of 3 teaspoonfuls, approximately one-half fluid ounce, or about 15 milliliters. A teaspoon holds one-sixth fluid ounce or about 5 milliliters. (WD–G–Dawson, Q&A 22–25; WD–G–Gullberg, Q&A 44–47, 49)

25. Persons suffering from diabetes mellitus are known as "diabetics." (WD–G–Ricketts, Q&A 85; WD–G–Levine, Q&A 171; Exhibit P–1082)

26. There is no nutritional difference between a vitamin provided by a synthetic source and the same vitamin provided by a natural source, but the natural source may contain other ingredients which may limit the absorbability of the vitamin provided by the natural source. (Herbert, Tr. 9937–38, 9984, 10050)

27. A large number of dietary supplements on our domestic market advertise or otherwise call attention to the claim that their ingredients are "natural" or derived from "natural sources." (Swain, Tr. 234–477; Weissenberg, Tr. 6554–56, 8757–58; Exhibit P–35, P–40–43, P–54, P–66–68, P–70, P–74)

28. More than half of the people in the United States are likely to choose foods for special dietary uses that contain ingredients described as "natural" or derived from "natural sources" in the belief that "natural" foods are superior to "synthetic foods." (P–1151, pages B10–11, Q 16, Q 16a, Q 16b; WD–G–Perloff, A 44, 45, 46, 49)

29. For a considerable time, the labeling, promotion, and advertising of various foods offered for special dietary uses have contained statements claiming or suggesting that these products were adequate or effective, by virtue of their vitamin or mineral content, for the treatment, prevention, or mitigation of a large variety of diseases and symptoms. (Swain, Tr. 153, 157–8, 192–3, 199–200, 212–3, 224–5, 239, 254, 255, 264–72, 276–7, 286, 288–9, 314, 352, 354–6, 379, 385, 394, 396, 443–6, 453, 469–71, 478, 487–9; Weissenberg, Tr. 5819, 5980, 6017, 6027, 6049, 6152, 6193, 6347, 6416, 6436, 6443, 6450)

30. There is no rationale for allowing or encouraging the promotion and sale of dietary supplements of vitamins and/or minerals to the general American population for the purpose of treating, preventing, or curing diseases or symptoms. To the contrary, there is ample reason to discourage such methods of promoting foods for special dietary use. (Grollman, Tr. 1771–2; Mickelsen, Tr. 2520; Schweigert, Tr. 8233–4; Herbert, Tr. 9961; WD–G–Ross, Q&A 62; Hodges, Tr. 2994–5; Thiessen, Tr. 26,755–6; Briggs, Tr. 28,750–1; Unglaub, Tr. 28,942–3; Wallerstein, Tr. 28,986–90; Mayer, Tr. 28,868, 28,892–8; Gershoff, Tr. 29,108–9)

31. Lay persons are incapable of determining, by themselves, whether they have, or are likely to develop, vitamin or mineral deficiencies. (Grollman, Tr. 1771–2, 1782; Herbert, Tr. 9961, 9979–80, 10,029; Unglaub, Tr. 28,942; Wallerstein, Tr. 28,989; Hodges, Tr. 2994–5; Mickelsen, Tr. 2520; Mayer, Tr. 28,892–3)

32. Since there are persons in the United States who are receptive to the suggestions that human ailments, to a great degree, can be prevented, treated, and cured by using vitamins and minerals, it is clear that representations or suggestions that certain symptoms, ailments, or diseases result from failure to ingest adequate amounts of vitamins and minerals will lead substantial numbers of the population to conclude that they must buy dietary supplements or other foods promoted for their vitamin or mineral qualities in order to prevent, cure, or treat certain diseases or symptoms. (WD–G–Perloff, Q&A 23–5; Weissenberg, Tr. 7738–9, 8474–7; WD–G–Gullberg; Q&A 14)

33. Literally true and scientifically accurate statements concerning the ultimate physiological result of vitamin or mineral deficiencies can mislead when made in connection with foods offered for special dietary use based upon their vitamin or mineral content. (Mayer, Tr. 28892–3; Gershoff, Tr. 29120)

34. Vitamin or mineral deficiencies are unrelated to the great majority of symptoms like tiredness, nervousness, and run-down condition. (Herbert, Tr. 10029)

35. When consumers read a label, promotional material, or advertising wherein a literally true statement is made, e.g., "Night blindness is caused by a lack of vitamin A," they may frequently conclude that the symptom will appear in them unless they use the product being promoted, or, on the basis that, even though they may not suffer from the specific symptoms described, the product will be generally good for improving their vision. (WD–G–Perloff, Q&A 30–31)

36. Vitamin and mineral deficiency are considered to be abnormal conditions resulting from inadequate consumption, absorption, transport, or utilization of one or more essential vitamins or minerals. The conditions are characterized by specific clinical signs, symptoms, and/or abnormalities observed in biochemical tests, and used together by physicians to establish the diagnosis. The term "subclinical" and similar ill-defined terms when used to refer to vitamin or mineral deficiencies, in the labeling of foods for special dietary use, are neither informative nor meaningful to consumers. (Mickelsen, Tr. 2537–9; WD–G–Schaefer, Q&A 23, 32–7; Herbert, Tr. 9880–5, 9984–5; Hodges, Tr. 2993–4, 3025; Grollman, Tr. 2023, 2252)

37. Scientifically it is inaccurate to state that the quality of soil in the United States causes abnormally low concentrations of vitamins or minerals in the food supply produced in this country. (Allaway, Tr. 12, 109; Herbert, Tr. 10,003)

38. There is no relationship between the vitamin content of foods and the chemical composition of the soil in which they are grown. (Allaway, Tr. 12,061, 10–063; Mickelsen, Tr. 2620)

39. Mineral nutrients in foods are not significantly affected by storage, transportation, cooking, and other processing. (Schweigert, Tr. 8200, 8223–4; Mickelsen, Tr. 2621)

40. While some vitamins are susceptible to partial destruction through the effects of heat, light, oxidation, and other physical and chemical reactions (Schweigert, Tr. 8200–8223), loss of nutrients from the ordinary effects of cooking, processing, transportation, and storage have not significantly impaired the nutritional qualities of food in the United States. There is no need or scientific justification for recommending, for example, the routine use of dietary supplements of vitamins and minerals to offset losses that occur as a result of these processes. (Schweigert, Tr. 8227–8, 8231; Mickelsen, Tr. 2527, 2642; Herbert, Tr. 9869–70)

41. It is reasonable to prohibit representation or suggestions in labeling, promotional material, or advertising of foods offered for special dietary use based on vitamin and mineral qualities, that imply that a dietary deficiency of vitamins or minerals exists or is threatened in the United States by virtue of loss of nutrients which occur from processing, transportation, storage, and cooking. (Schweigert, Tr. 8233–4)

42. Table salt has been fortified with iodine in the United States for many years. The usual level of fortification with potassium iodide is 0.01 percent by weight, which is equivalent to 0.0076 percent iodine (or about 0.01 percent iodine). This is commonly known as iodized salt. (Boehne, Tr. 2777–8; Herbert, Tr. 9948)

43. There is no necessity for iodized salt to contain on its label a statement of the percent or proportion of the recommended daily allowance for iodine provided in a specified serving, particularly since there is no specific serving size for salt and it is used in widely varying quantities. (Herbert, Tr. 9948; WD–G–Dawson, Q&A 29)

44. The use of dietary supplements of vitamins and minerals to ensure against a specific inadequacy of intake of these nutrients is a function clearly distinguished from the use of vitamin and mineral preparations for therapeutic purposes by the administration of large amounts of specific nutrients for the correction of disorders in humans, and the same product should not be used for both functions. (Grollman, Tr. 1680–82; Herbert, Tr. 9896; Hodges, Tr. 2937–40, 2970–71; WD–G–Harrison, Q&A 22; WD–3A–Sebrell, Q&A 44; WD–G–Schaefer, Q&A 36, 37).

45. It is often impractical to supply the iron needs of adult women with conventional foods, and iron supplementation is often advisable. (WD–3A–Sebrell, p. 17, Tr. 26088–89; Hodges, Tr. 3068–69; WD–46–Olson, pp. 10–11; WD–46–Wallerstein, pp. 12–13; WD–46–White, pp. 13–14; WD–46–Schwartz, pp. 6–7; WD–46–Margen, p. 7, Tr. 28713–14; Exhibit P–651, p. 59). Many women of childbearing age, particularly including those who are pregnant, ingest inadequate amounts of iron in the diets which they consume (WD–46–Mayer, pp. 14–17; Hodges, Tr. 6738; WD–65–Vitale, p. 5, Tr. 31914; WD–46–Unglaub, p-30; WD–46–Schwartz, pp. 6–10; WD–46–Wallerstein, pp. 9, 11–12, Tr. 28976; WD–46–Olson, p. 11; WD–46–Margen, p. 10; Goodhart, Tr. 30179; WD–46–Briggs, p. 27; WD–46–White, pp. 12–14; Krehl, Tr. 27218–19; Exhibit P–651, pp. 58–59). The iron intake of many adolescent girls and menstruating women is 10 milligrams or less each day. This value is consistent with the 1,500 to 2,000 calorie diet of sedentary women. In addition, the iron requirements of infancy and of the latter half of pregnancy are clearly in excess of what may be obtained from a conventional unfortified diet. (Exhibit 0–612–46, pp. 120–121).

PROPOSED CONCLUSIONS OF LAW

A. With respect to § 125.1 *Definitions and interpretations of terms:*

The Commissioner has carefully reviewed the history of the "special dietary" designation for foods to which nutrients have been added. At the time the original regulations relating to "special dietary" foods were being developed, it appeared reasonable, on the basis of nutrition knowledge, to classify fortified foods as special, and to require labeling under 21 CFR Part 125. Over the years the science of nutrition has moved forward, and the general requirement for nutrients, on a daily basis, have been better established. In addition, foods of all kinds are recognized as the preferred source of nutrients. The majority of those foods categorized as "special dietary foods" in the past for purposes of requiring nutrient labeling are in fact intended for consumption by the general population as conventional foods.

The development of general nutrition labeling regulations, available for use on all foods, has become of primary concern to all consumers, because of the ever increasing complexity of the conventional food supply. The use of the special dietary labeling under 21 CFR Part 125 for conventional foods with added nutrients can no longer be considered adequate to provide the consumer with a complete understanding of proper use of such foods in the diet. The Commissioner has, therefore, established that nutrition labeling (21 CFR 1.17) is the required form of labeling for foods with added nutrients, or for which the manufacturer makes nutritional claims or provides nutrition information on the label or in the labeling or advertising.

It is recognized that high levels of nutrient additions may occur for which labeling for special dietary uses is appropriate. Thus, a relationship between nutrition labeling (21 CFR 1.17) and the standard of identity for dietary supplements (21 CFR 80.1) has been established, providing that food with nutrients added up to levels of 50 percent of the U.S. Recommended Daily Allowance (U.S. RDA) will be labeled under 21 CFR 1.17, and that food with nutrients added at levels between 50 percent and 150 percent of the U.S. RDA or greater will be subject to the provisions of 21 CFR 80.1 and labeled under 21 CFR 1.17.

Within 3 broadly defined groups (infants and children under 4 years of age, adults and children 4 or more years of age, and pregnant or lactating women) values can be selected from the almost 390 RDA values, as well as information on the needs of each group for 4 nutrients for which there are no RDA's. In order to provide the consumer meaningful labeling it is necessary to provide a single level of RDA values for each of the above groups.

Selection of reasonable values for labeling purposes was done primarily by choosing the highest RDA value for each of the three groups. This was done so that the needs of all individuals in the age group would be included, recognizing that the needs of many would be surpassed by the selected value. Since there is no danger to health inherent in this approach, and it does not significantly affect the traditional concept of teaching consumers about the nutrient contribution of specific foods, the selection which is made is reasonable for the purpose stated.

The Commissioner realizes that legal challenge may be brought against the new approach to nutrition labeling in 21 CFR 1.17. If 21 CFR 1.17 is found invalid for any reason it will be necessary to resume the labeling of foods with added nutrients, or for which nutritional claims are made, under 21 CFR Part 125. The Commissioner is therefore keeping the record on this portion of the hearing open, for this limited purpose, in the event that it becomes necessary to amend this tentative order or to issue a supplemental tentative order to provide for labeling of this type pursuant to 21 CFR Part 125 in lieu of 21 CFR 1.17.

Accordingly, the Commissioner concludes, based on the foregoing statement in conjunction with the findings of facts herein published, that:

1. It is reasonable and necessary, in order to fully inform purchasers of the value of foods for special dietary uses, to define "special dietary use" as set forth in § 125.1(a).

2. It is reasonable and necessary, in order to fully inform purchasers of the value of foods for special dietary uses, to establish "recommended daily allowances" for essential nutrients as set forth in § 125.1(b).

3. The "recommended daily allowances" as set forth in § 125.1(b) are reasonable.

4. The definition of "artificial sweetener," as set forth in § 125.1(c), is reasonable.

B. With respect to § 125.2 *General label statements; dietary properties; value; placement:*

Over the years there have been a number of ingredients or products marketed as nutrients and nutritional supplements, which have not been shown to be essential in human nutrition. This point was discussed in considerable detail during the 1968–70 special dietary hearings held by the Food and Drug Administration. Among ingredients or products of this type are rutin, other bioflavonoids, paraaminobenzoic acid, inositol, and similar ingredients, products, and compounds. These ingredients or products have frequently been combined with vitamins and minerals or otherwise represented as a type of nutritional supplement. In these situations there is a false representation that these ingredients or products have nutritional value. The Commissioner has concluded that ingredients or products of this type may not properly make direct or implied nutritional claims, and that in no instances can these be represented in any way that suggests a nutritional value. Combining these products with added vitamins and/or minerals in any food, or adding these ingredients to any food for which nutrition labeling is used, or calling attention to these products in any manner which would be considered to imply some nutritional benefit, is inherently misleading. Labeling of such ingredients or products may not state that their usefulness in human nutrition has not been established, or otherwise disclaim dietary or therapeutic value, since such statements are also misleading. The Commissioner recognizes that there are individuals who desire to purchase ingredients or products of this type for various reasons. These individuals have a right to obtain these ingredients or products as long as they are truthfully labeled. Thus, ingredients or products of this type may properly be marketed as individual ingredients, or products, or mixtures thereof, provided no nutritional or dietary supplement claims are made.

Accordingly, the Commissioner further concludes, based on the foregoing statement in conjunction with the finding of facts herein published, that it is reasonform and necessary, in order to fully inform purchasers of the value of foods for special dietary uses, to require that the labels of such foods bear a statement as required and limited by § 125.2 as set forth in this tentative order.

C. With respect to § 125.3 *Label statements relating to vitamins and minerals*: With the development of nutrition labeling (21 CFR 1.17) the use of special dietary labeling under 21 CFR Part 125 will be for all practical purposes limited to those articles which purport or are represented to supply a special dietary need that exists by reason of a physical or physiological condition, food represented for use as the sole item of the daily diet, and dietary supplements as provided for in 21 CFR 80.1.

The Commissioner recognizes there are foods which by their nature may contain nutrients in excess of 100 percent of the U.S. RDA per serving or reasonable daily intake. The Commissioner further recognizes the need for reasonable ranges for individual nutrients in dietary supplements above and below the U.S. RDA. The Commissioner further recognizes that departures from the U.S. RDA are appropriate for certain types or classes of foods for special dietary uses, e.g., chemically defined diets used in the dietary management of critically ill patients.

Accordingly, the Commissioner concludes, having considered the findings of fact and other relevant information, that it is reasonable and necessary, in order to fully inform purchasers of the value of foods for special dietary uses, to require that the labels of such foods, by reason of their vitamin or mineral content, bear a statement of the percentages of the recommended daily allowances for such vitamins and minerals. Nutrition labeling under 21 CFR 1.17 is not sufficiently precise for these special types of food.

TENTATIVE ORDER

Therefore, on the basis of the foregoing findings of fact and conclusions of law drawn therefrom: *It is ordered*, That the stay of effective date of §§ 125.1 through 125.3, promulgated December 14, 1966 (31 FR 15730), be ended, and that Parts 1, 3, and 125 of Title 21 of the Code of Federal Regulations be amended as follows:

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

§ 1.11 [Revoked]

1. The provisions of § 1.11 *Special dietary uses* are hereby revoked.

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

§ 3.9 [Revoked]

2. The provisions of § 3.9 *Label declaration of vitamin E in food for special dietary use* is hereby revoked.

§ 3.32 [Revoked]

3. The provisions of § 3.32 *Label declaration of vitamin B_{12} and folic acid in food for special dietary uses* is hereby revoked.

§ 3.46 [Revoked]

4. The provisions of § 3.46 *Interpretations of orders relating to dietary supplements; vitamin and mineral-fortified foods; foods for special dietary use* are hereby revoked.

PART 125—LABEL STATEMENTS CONCERNING DIETARY PROPERTIES OF FOOD PURPORTING TO BE OR REPRESENTED FOR SPECIAL DIETARY USES

5. The provisions of §§ 125.1, 125.2, and 125.3 are revised to read as follows:

§ 125.1 Definitions and interpretations of terms.

The definitions and interpretations of terms contained in section 201 of the Federal Food, Drug, and Cosmetic Act shall be applicable with the following additions:

(a) The term "special dietary use" as applied to food (including dietary supplements) used by man means a particular use for which an article purports or is represented to be used, including but not limited to the following:

(1) Supply a special dietary need that exists by reason of a physical, physiological, or other condition, including but not limited to the conditions of convalescence, pregnancy, lactation, infancy, allergic hypersensitivity to food, underweight, overweight, diabetes mellitus, or the need to control the intake of sodium. The use of an artificial sweetener in a food, except when specifically and solely used for achieving a physical characteristic in the food which cannot be achieved with sugar or other nutritive sweetener, shall be considered a use for regulation of the intake of calories and available carbohydrate, or for use in the diets of diabetics.

(2) Supplying a vitamin, mineral, or other dietary property for use by man to supplement his diet by increasing the total dietary intake, except for foods for which nutrition labeling is used as required pursuant to § 1.17 of this chapter.

(3) Supplying a special dietary need by reason of being a food for use as the sole item of the diet.

(b) The term "U.S. Recommended Daily Allowance (U.S. RDA)" means the following daily amounts of the following vitamins and minerals:

Vitamins and minerals [1]	Unit of measurement	Infants and children under 4 years of age	Adults and children 4 or more years of age	Pregnant or lactating women
Vitamin A	International units	2,500	5,000	8,000
Vitamin D	do	400	400	400
Vitamin E	do	10	30	30
Vitamin C	Milligrams	40	60	60
Folic acid	do	0.2	0.4	0.8
Thiamine	do	0.7	1.5	1.7
Riboflavin	do	0.8	1.7	2.0
Niacin	do	9.0	20	20
Vitamin B_6	do	0.7	2.0	2.5
Vitamin B_{12}	Micrograms	3	6	8
Biotin	Milligrams	.15	0.3	0.3
Panthothenic Acid	do	5.0	10	10
Calcium	Grams	0.8	1.0	1.3
Phosphorus	do	0.8	1.0	1.3
Iodine	Micrograms	70	150	150
Iron	Milligrams	10	18	18
Magnesium	do	200	400	450
Copper	do	1.0	2.0	2.0
Zinc	do	8.0	15	15

[1] The following synonyms may be added in parentheses immediately following the name of the vitamin:

Vitamin	*Synonym*
Vitamin C	Ascorbic acid.
Folic acid	folacin.
Riboflavin	vitamin B_2.
Thiamine	vitamin B_1.

(c) In addition to the vitamins and minerals listed in paragraph (b) of this section, vitamin K and the minerals chlorine, potassium, sodium, sulfur, fluorine, and manganese are recognized as essential in human nutrition, but no U.S. Recommended Daily Allowance (U.S. RDA) has been established for these nutrients.

(d) The term "artificial sweetener" means a sweetening substance not used in normal metabolism as a source of calories.

(e) The term "infant" means a person not more than 12 months of age.

(f) The term "serving" means that reasonable quantity of food suited for or practicable of consumption as part of a

meal either by an adult male engaged in light physical activity, or by an infant or child when the article purports or is represented to be for infant feeding or child consumption. A label statement regarding a serving, as used in this part, shall be in terms of a convenient unit of such food or a convenient unit of measure that can be readily understood by purchasers of such food, e.g., a serving may be expressed in terms of slices, cookies, or wafers, or in terms of ounces, fluid ounces, teaspoonfuls, tablespoonfuls, or cupfuls. A teaspoonful shall be considered to mean 5 milliliters (approximately ⅙ fluid ounce) in volume; a tablespoonful shall be considered to mean 15 milliliters (approximately ½ fluid ounce) in volume; and a cupful shall be considered to mean 240 milliliters (approximately 8 fluid ounces) in volume.

(g) The term "diabetic" means a person having diabetes mellitus.

(h) Any product containing more than the upper limit of the U.S. RDA of a vitamin or mineral is a drug, except for a food represented for use solely under medical supervision in the dietary management of specific diseases and disorders.

§ 125.2 General label statements; dietary properties; value; placement.

(a) If a food purports or is represented to be for any special dietary use, unless covered by other regulations, the principle display panel of its label shall bear a conspicuous statement of the usefulness of the food, limited to a listing of the dietary properties upon which such use is based: *Provided, however,* That if insufficient space is available on the principle display panel, the information panel may be used (21 CFR 1.8d), if such use is consistent with § 1.9 of this chapter. Such statement shall show the presence or absence of any substance, any alteration of the quantity or character of any constituent, and any other special dietary property of such food upon which such use is based.

(b) A food which purports or is represented to be a food for special dietary use shall be deemed to be misbranded under sections 201(n) and 403 (a) and (j) of the act (21 U.S.C. 321(n), 343 (a) and (j)), if its labeling bears any statement, vignette, or other printed or graphic matter that represents, suggests, or implies:

(1) That the food, because of the presence or absence of certain vitamins and/or minerals, is adequate or effective in the prevention, cure, mitigation, or treatment of any disease or symptom, except that the label may state that the food is a source of an essential nutrient and that this nutrient is important for good nutrition and health, and except that this provision shall not apply to foods represented for use solely under medical supervision in the dietary management of specific diseases and disorders.

(2) That a diet of ordinary foods cannot supply adequate amounts of nutrients.

(3) That the lack of optimum nutritive quality of a food, by reason of the soil on which that food is grown, is or may be responsible for an inadequacy or deficiency in the daily diet.

(4) That the storage, transportation, processing, or cooking of a food is or may be responsible for an inadequacy or deficiency in the quality of diets.

(5) That the food has dietary properties when such properties are of no significant value or need in human nutrition. Ingredients of products such as rutin, other bioflavonoids, para-aminobenzoic acid, inositol, and similar substances which have in the past been represented as having nutritional properties but which have not been shown to be essential in human nutrition may not be combined with vitamins and/or minerals, added to food labeled in accordance with this section, or otherwise used or represented in any way which states or implies nutritional benefit. Ingredients or products of this type may be marketed as individual products or mixtures thereof: *Provided,* That the possibility of nutritional, dietary, or therapeutic value is not stated or implied, e.g., their labeling does not state that their usefulness in human nutrition has not been established and does not otherwise disclaim nutritional, dietary, or therapeutic value.

(6) That a natural vitamin in a food is superior to an added or synthetic vitamin, or that there is a difference between vitamins naturally present and those that have been added.

§ 125.3 Label statements relating to vitamins and minerals.

(a) If a food purports or is represented to be for special dietary use because of vitamin or mineral properties, the label shall bear a statement of the percentage of the U.S. RDA of such vitamins and minerals, as set forth in § 125.1(b), suplied by such food when consumed in a specified quantity during a period of 1 day. The quantity specified shall be a reasonable quantity suitable for and practicable of consumption within 1 day. The order in which the nutrients appear on the label shall be in the order listed in § 125.1(b), except when other regulations indicate otherwise. Immediately preceding the declaration of vitamin and mineral content, the following heading shall be stated, "Percentage of U.S. Recommended Daily Allowances (U.S. RDA)". If such purported or represented special dietary use is for persons within one or more groups for which the recommended daily allowance is set, such statement shall include the percentage for each age group. When such proportion or percentage is a whole number and a fraction or a whole number and a decimal, it may be expressed as the whole number disregarding the fraction or decimal. The total quantity of vitamins or minerals in a food shall be no less than the amount declared, and no more than a reasonable amount above the declared quantity. Reasonable variations caused by heat, light, oxidation, storage, transportation, or unavoidable deviations in good manufacturing practice are recognized.

(b) The requirements of this section shall not apply to iodized salt, when the declared content of the iodine compound in the salt is equivalent to 0.01 percent by weight iodine.

Any interested person whose appearance was filed at the hearing may, on or before March 20, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written exceptions thereto. Exceptions shall point out with particularity the alleged errors in the proposed findings of fact and tentative order, and shall contain specific references to the pages of the transcript of testimony and to the exhibits on which the exceptions are based. Exceptions and accompanying briefs should be submitted in quintuplicate.

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-997 Filed 1-18-73;8:45 am]

[21 CFR Parts 3, 20]

FROZEN DESSERTS

Mellorine, Parevine; Proposal To Establish Standards of Identity

The White House Conference on Food, Nutrition, and Health was held in December 1969. The final report of the conference made many recommendations regarding food standards promulgated under Section 401 of the Federal Food, Drug, and Cosmetic Act. Among these were recommendations:

1. That a standard of characterization for food should specify the characterizing properties or ingredients of the food, and perhaps establish a required minimum level for them, but should not specify other ingredients that may be used by chemical name.

2. That a complete statement of ingredients be required on every food label, including labels of food covered by Government standards.

3. That technical chemical designations be simplified to make the statement of ingredients more meaningful and understandable to consumers.

4. That informative generic names should be considered in place of the over simplified "imitation" label. The term "imitation" on product labels has erroneously been applied not only to new products that are inferior to the traditional foods they resemble, but also to new products that are equal or superior to traditional foods.

A vegetable fat frozen dessert resembling ice cream and known as "mellorine" was first marketed in Texas in 1942. Since that time 25 States have either established regulations for or in some other way allowed distribution of such frozen dessert products resembling ice cream. Included in this group of frozen desserts is the product known as "parevine," which is similar to mellorine but contains no milk or meat or milk or meat derived ingredients. Federal definitions and standards of identity have been estab-

lished for frozen desserts which do not permit fat or oil ingredients other than milkfat, and a formal statement of policy or interpretation (21 CFR 3.39) has been issued to require the name "imitation ice cream" on vegetable fat products made in semblance of ice cream. The conflicting provisions of regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act with the various State regulations have had the effect of inhibiting the movement of these products in interstate commerce. Since mellorine and parevine now appear to be the common or usual names of these products, the Commissioner proposes to revoke § 3.39, and establish identity standards for these foods.

Other products which resemble ice cream, and which do not conform to either of the standards set forth below for mellorine and parevine, are theoretically possible. It is not the intention of the Commissioner of Food and Drugs, in proposing identity standards for mellorine and parevine, to preclude the manufacture of such frozen desserts under appropriately descriptive names. However, standards of identity for such products are not proposed at this time because the products do not yet appear to be significant items of commerce, as are mellorine and parevine.

Accordingly, it is proposed that:

§ 3.39 [Revoked]

1. Part 3 be amended by revoking § 3.39.

2. Part 20 be amended by adding two new sections to provide for standards of identity for mellorine and parevine, as set forth below:

§ 20.— Mellorine; identity.

(a) *Description.* Mellorine is the frozen food produced by freezing, while stirring, a pasteurized mix consisting of safe and suitable ingredients, including but not limited to nonfat milk solids and animal or vegetable fat, only part or which may be milkfat. Mellorine contains not less than 6.0 percent by weight of fat, and nonfat milk solids from milk, skim milk or buttermilk in such quantity that the milk protein contributed thereby is not less than 3 percent by weight of the finished food. Mellorine is sweetened with nutritive sweetener and is flavored. Mellorine contains not less than 1.6 pounds of total solids to the gallon and weighs not less than 4.5 pounds to the gallon.

(b) *Fortification.* Vitamin A is present in a quantity which will insure that 40 International Units (I.U.) are available for each gram of fat in mellorine. This requirement will be deemed to have been met if reasonable overages, within limits of good manufacturing practice, are added to insure that the required vitamin level is maintained throughout the expected shelf life of the food under customary conditions of distribution.

(c) *Definitions.* For the purposes of this section:

(1) A pasteurized mix is one which has been heated uniformly to one of the temperatures specified in the table below, and held continuously at or above that temperature for the specified time.

Temperature	*Time*
155° F.	30 minutes
175° F.	25 seconds

(2) Safe and suitable ingredients are functionally suitable substances that are not food additives or color additives within the meaning of section 201 (s) or (t) of the Federal Food, Drug, and Cosmetic Act, or if they are addivites as so defined, they are used in conformity with regulations established pursuant to section 409 or 706 of the act. They are used only in such amounts as are reasonably necessary to accomplish their intended effect.

(d) *Methods of Analysis.* Fat content shall be determined by the method contained in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970—"Fat, Roese-Gottlieb Method—Official Final Action," section 16.228.[1]

(e) *Nomenclature.* The name of the food is "mellorine." The food shall be labeled in compliance with Part 1 of this chapter. For the purposes of § 1.12 of this chapter: (1) An artificial flavor simulating the characterizing flavor shall be deemed to predominate:

(i) In the case of vanilla beans or vanilla extract used in combination with vanillin if the amount of vanillin used is greater than 1 ounce per unit of vanilla constituent, as that term is defined in § 22.1(c) of this chapter.

(ii) In the case of fruit or fruit juice used in combination with artificial fruit flavor, if the quantity of the fruit or fruit juice used is such that, in relation to the weight of the finished mellorine, the weight of the fruit or fruit juice, as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content) is less than 2 percent in the case of citrus mellorine, 6 percent in the case of berry or cherry mellorine, and 10 percent in the case of mellorine prepared with other fruits.

(iii) In the case of nut meats used in combination with artificial nut flavor, if the quantity of nut meats used is such that, in relation to the finished mellorine, the weight of the nut meats is less than 2 percent.

(iv) In the case of two or more fruits or fruit juices, or nut meats, or both, used in combination with artificial flavors simulating the natural flavors and dispersed throughout the food, if the quantity of any fruit or fruit juice or nut meat is less than one-half the applicable percentage specified in paragraph (e) (ii) or (iii) of this section. For example, if a combination mellorine contains less than 5 percent of bananas and less than 1 percent of almonds it would be "Artificially flavored banana-almond mellorine." However, if it contains more than 5 percent of bananas and more than 1 percent of almonds it would be "Banana-almond flavored mellorine."

(2) If two or more flavors of mellorine are distinctively combined in one package, e.g., "Neapolitan" mellorine, the applicable provisions of this paragraph shall govern each flavor of mellorine comprising the combination.

(f) *Label declaration.* The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 1 of this chapter and nutrition labeling shall be presented in conformity with the requirements prescribed in § 1.17 of this chapter, except that:

(1) Concentrated skim milk, nonfat dry milk, and reconstituted skim milk prepared by addition of water to concentrated skim milk or nonfat dry milk may be declared as "skim milk."

(2) Concentrated milk, dried milk, and reconstituted milk prepared by addition of water to milk or dried milk may be declared as "milk."

(3) Sweetcream buttermilk, concentrated sweetcream buttermilk, and dried sweetcream buttermilk may be declared as "buttermilk."

(4) Cheese whey, concentrated cheese whey, and dried cheese whey may be declared as "whey."

(5) Cream, dried cream, plastic cream (sometimes known as concentrated milkfat), and anhydrous milkfat may be declared as "cream."

§ 20.— Parevine.

(a) *Description.* Parevine is the frozen food produced by freezing, while stirring, a pasteurized mix consisting of safe and suitable ingredients including, but not limited to, vegetable fat and sources of egg or vegetable protein; but excluding milk, meat, and any milk or meat derived ingredients. Parevine contains not less than 6 percent by weight of fat and not less than 3 percent by weight of protein. Parevine is sweetened with nutritive sweetener and is flavored. Parevine contains not less than 1.6 pounds of total solids to the gallon and weighs not less than 4.5 pounds to the gallon.

(b) *Fortification.* Vitamin A is present in a quantity which will insure that 40 International Units (I.U.) are available for each gram of fat in parevine. This requirement will be deemed to have been met if reasonable overages, within limits of good manufacturing practice, are added to insure that the required vitamin level is maintained throughout the expected shelf life of the food under customary conditions of distribution.

(c) *Definitions.* For the purposes of this section:

(1) A pasteurized mix is one which has been heated uniformly to one of the temperatures specified in the table below, and held continuously at or above that temperature for the specified time.

Temperature	*Time*
155° F.	30 minutes
175° F.	25 seconds

(2) Safe and suitable ingredients are functionally suitable substances that are not food additives or color additives

[1] Copies may be obtained from Association of Official Analytical Chemists, Post Office Box 540, Benjamin Franklin Station, Washington, DC 20044.

within the meaning of section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act, or if they are additives as so defined, they are used in conformity with regulations established pursuant to section 409 or 706 of the act. They are used only in such amounts as are reasonably necessary to accomplish their intended effect.

(d) *Methods of analysis.* Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[1]

(1) Fat content—"Fat, Roese-Gottlieb Method—Official Final Action," section 16.228.

(2) Protein content—"Nitrogen—Official Final Action, Kjeldhl Method," section 16.226.

(e) *Nomenclature.* The name of the food is "parevine." The food shall be labeled in compliance with Part 1 of this chapter. For the purposes of § 1.12 of this chapter:

(1) An artificial flavor simulating the characterizing flavor shall be deemed to predominate:

(i) In the case of vanilla beans or vanilla extract used in combination with vanillin if the amount of vanillin used is greater than 1 ounce per unit of vanilla constituent, as that term is defined in § 22.1(c) of this chapter.

(ii) In the case of fruit or fruit juice used in combination with artificial fruit flavor, if the quantity of the fruit or fruit juice used is such that, in relation to the weight of the finished parevine, the weight of the fruit or fruit juice, as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content) is less than 2 percent in the case of citrus parevine, 6 percent in the case of berry or cherry parevine, and 10 percent in the case of parevine prepared with other fruits.

(iii) In the case of nut meats used in combination with artificial nut flavor, if the quantity of nut meats used is such that, in relation to the finished parevine, the weight of the nut meats is less than 2 percent.

(iv) In the case of two or more fruits or fruit juices, or nut meats, or both, used in combination with artificial flavors simulating the natural flavors and dispersed throughout the food, if the quantity of any fruit or fruit juice or nut meat is less than one-half the applicable percentage specified in paragraph (e) (ii) or (iii) of this section. For example, if a combination parevine contains less than 5 percent of bananas and less than 1 percent of almonds it would be "Artificially flavored banana-almond parevine." However, if it contains more than 5 percent of bananas and more than 1 percent of almonds it would be "Banana-almond flavored parevine."

(2) If two or more flavors of parevine are distinctively combined in one package, e.g., "Neapolitan" parevine, the applicable provisions of this paragraph shall govern each flavor of parevine comprising the combination.

[1] Copies may be obtained from Association of Official Analytical Chemists, Post Office Box 540, Benjamin Franklin Station, Washington, DC 20044.

(f) *Label declaration.* The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 1 of this chapter and nutrition labeling shall be presented in conformity with the requirements prescribed in § 1.17 of this chapter.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 403, 701, 52 Stat. 1046, as amended, 1047, as amended, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 343, 371) and in accordance with authority delegated to the Commissioner (21 CFR 2.120), interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal on or before March 20, 1973. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

NOTE: Incorporation by reference provisions approved by the Director of the Federal Register, January 15, 1973.

[FR Doc.73-995 Filed 1-18-73;8:45 am]

[21 CFR Parts 18, 19, 20, 27, 45]

CERTAIN STANDARDIZED FOODS

Nutrition Labeling

The Commissioner of Food and Drugs is promulgating elsewhere in this issue of the FEDERAL REGISTER a new § 1.17, establishing nutrition labeling for all foods to which vitamins or minerals are added or for which the manufacturer wishes to include information about nutrient content in labeling or advertising. The Commissioner has concluded that standardized foods, to which the addition of nutrients is optional or mandatory, should be labeled to comply with the new § 1.17 rather than the provisions of 21 CFR Part 125, which has been the case in the past. The new regulation automatically has this effect.

Some existing standards for enriched foods specifically require labeling in compliance with 21 CFR Part 125. To clarify the situation, the Commissioner has concluded that these standards should themselves be amended to refer directly to the new § 1.17 so that no confusion can arise.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 401, 403, 701(a), 52 Stat. 1040–1042, 1046–1048, and 1055; 48, 21 U.S.C. 321, 341, 343, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend the following listed provisions in existing standards of identity for foods by replacing each reference to 21 CFR Part 125 with a reference to 21 CFR 1.17, e.g., the reference in § 27.127(e)(1) to "for foods which purport to be or are represented for special dietary uses by regulations promulgated pursuant to section 403(j) of the Federal Food, Drug, and Cosmetic Act" will be changed to read "in § 1.17":

STANDARDS NOW IN EFFECT

	21 CFR citation	Subject matter
1.	§ 18.545(d)	Nonfat dry milk fortified with vitamins A and D.
2.	§ 19.513(f)	Low sodium colby cheese.
3.	§ 27.54(e)(2)	Canned pineapple juice.
4.	§ 27.60(e)(2)(iv)	Canned prune juice.
5.	§ 27.80(d)(7)	Canned applesauce.
6.	§ 45.1(b)(2)(v)	Oleomargarine, margarine.

FINAL ORDERS NOT YET CONFIRMED

	21 CFR citation	Subject matter	FR citation
1.	§ 27.158(e)	Orange juice drink	(37 FR 5224)

PROPOSED STANDARDS

1.	§ 18.2(f)	Milk	(37 FR 18392)
2.	§ 18.520(f)	Evaporated milk	(37 FR 18392)
3.	§ 18.525(f)	Concentrated milk	(37 FR 18392)

STANDARDS THAT HAVE BEEN STAYED

1.	§ 27.120(f)	Orange juice-drink	(33 FR 10713)
2.	§ 27.125(f)	Canned pineapple-grapefruit juice-drink.	(33 FR 10713)
3.	§ 27.126(g)	Canned fruit nectars	(33 FR 10713)
4.	§ 27.127(e)	Cranberry juice cocktail.	(33 FR 10088)
5.	§ 27.128(e)	Artificially sweetened cranberry juice cocktail.	(33 FR 10088)

In those food standards in which there is presently no reference to 21 CFR Part 125, although enrichment is provided and special dietary food labeling has uniformly been required, e.g., enriched bread and enriched flour, 21 CFR 17.2 and 15.10, it is unnecessary to make any change because the terms of the new § 1.17 automatically make it applicable to such products.

Interested persons may, on or before February 20, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-994 Filed 1-18-73;8:45 am]

[21 CFR Part 80]

DIETARY SUPPLEMENTS OF VITAMINS AND MINERALS

Definition, Identity, and Label Statements; Proposed Findings of Fact, Conclusions, and Tentative Order Following a Public Hearing

In the matter of establishing a definition and standard of identity for dietary supplements of vitamins and minerals:

HISTORY

1. On the initiative of the Commissioner of Food and Drugs, a notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of June 20, 1962 (27 FR 5815), and numerous comments were received in response thereto. Subsequently, orders were published in the FEDERAL REGISTER of June 18, 1966 (31 FR 8521 et seq.), to become effective December 15, 1966, deleting § 1.11 (21 CFR 1.11), exempting from labeling requirements certain artificially sweetened foods (21 CFR 5.5), establishing definitions and standards of identity for dietary supplements of vitamins and minerals and for vitamin- and mineral-fortified foods (21 CFR Part 80), and revising the regulations for the labeling of food for special dietary uses (21 CFR Part 125).

2. During the 30-day period provided by the order of June 18, 1966, objections and requests for a public hearing were filed. Consequently, an order was published in the FEDERAL REGISTER of December 14, 1966 (31 FR 15730), staying the effective date of § 5.5, Part 80, and Part 125, as published in the FEDERAL REGISTER of June 18, 1966, and staying the effective date of the deletion of § 1.11. The order published in the FEDERAL REGISTER of December 14, 1966, gave notice that a public hearing would be held on the basis of the objections received and set forth the issues to be decided at the hearing. Since the order also contained amendments to the provisions of Parts 80 and 125 published in the FEDERAL REGISTER of June 18, 1966, an additional period of 30 days was provided for the filing of objections by persons adversely affected. Numerous letters objecting to the amendments and requesting a public hearing were received; however, no substantive issues not already stated in the order of December 14, 1966, were raised by these objections. A correction of a printer's error in the order of December 14, 1966, was published in the FEDERAL REGISTER of December 21, 1966 (31 FR 16312).

3. Also published December 14, 1966 (31 FR 15746), was a notice proposing that § 80.2, the definition and standard of identity for vitamin- and mineral-fortified foods, which was established by the order of June 18, 1966, and amended and stayed by the order of December 14, 1966, be amended by adding to the table in paragraph (c) the following classes of food: (1) Frozen dessert products (containing vegetable fat in lieu of butter fat) made in semblance of ice cream or ice milk; (2) milk fortifiers; (3) and meal substitutes.

4. The comments received in response to the proposal of December 14, 1966, were considered and an order was subsequently published in the FEDERAL REGISTER of April 8, 1967 (32 FR 5736), amending § 80.2 to add the additional classes of food. In response to that order, several objections and requests for a public hearing were received; however, no substantive issues were raised that were not already set forth in the order of December 14, 1966.

5. A notice was published in the FEDERAL REGISTER of April 2, 1968 (33 FR 5268), scheduling a hearing to begin May 21, 1968, and a prehearing conference to begin May 7, 1968. The notice also designated Mr. David H. Harris as the Hearing Examiner for these proceedings, and notice that he was appointed a hearing examiner was published in the FEDERAL REGISTER of May 4, 1968 (33 FR 6828).

6. The hearing was convened as scheduled May 21, 1968, and recessed the same day to permit continuation of prehearing conferences. Notice was given in the FEDERAL REGISTER of June 13, 1968 (33 FR 8679), that the hearing was being reconvened June 20, 1968. The hearing was reconvened as scheduled and continued for almost 2 years, closing on May 14, 1970.

7. The taking of evidence with reference to infant foods was closed October 14, 1969. Pursuant to 21 CFR 2.96, and limited to the infant food portion of the proceedings, the Hearing Examiner submitted his report and certified the record together with his report to the Commissioner of Food and Drugs. This Hearing Examiner's Report, dated August 26, 1970, is part of the public record (Docket No. FDC-78) on file with the Hearing Clerk, Department of Health, Education, and Welfare, room 6-88, 5600 Fishers Lane, Rockville, MD 20852.

8. The Hearing Examiner sbsequently submitted his report of the entire proceedings, except for the previously submitted portion on infant foods, and certified the associated record together with his report to the Commissioner of Food and Drugs. This Hearing Examiner's Report, dated January 25, 1971, is part of the public record (Docket No. FDC-78) and is also on file with the Hearing Clerk.

9. After review of the Hearing Examiner's report and related material on the infant food portion of the proceedings, the Commissioner published in the FEDERAL REGISTER of October 29, 1970 (35 FR 16737), proposed findings of fact, proposed conclusions, and a tentative order on label statements relating to infant foods, and provided a 30-day period for filing of written exceptions. After review of comments received, and further review of the Hearing Examiner's Report and related material, several changes were made in the tentative order, and the final order on label statements relating to infant foods (21 CFR 125.5) was published in the FEDERAL REGISTER of December 10, 1971 (36 FR 23553), with an effective date 90 days from the date of publication.

10. After review of the Hearing Examiner's report and related material on the portion of the proceedings concerning vitamin- and mineral-fortified foods, the Commissioner concluded that it would be in the public interest to develop regulations for such foods utilizing the approach of establishing nutritional quality guidelines for certain classes of foods, including those to which vitamins and/or minerals may be added. These guidelines may replace the approach of developing standards of identity for these foods as originally proposed in the form of 21 CFR 80.2. A notice of proposed rule making on nutritional quality guidelines was published in the FEDERAL REGISTER of December 23, 1971 (36 FR 24822). In that notice, the Commissioner proposed to amend Chapter I by adding a new Part 100 for nutritional quality guidelines for foods, defined general principles (proposed 21 CFR 100.1), and proposed the first nutritional quality guideline, in this case for pre-cooked frozen convenience "heat and serve" dinners (proposed 21 CFR 100.20). The Commissioner is deferring final action on 21 CFR 80.2 until experience is gained under 21 CFR Part 100.

11. In this issue of the FEDERAL REGISTER, the Commissioner has published the following proposals, tentative orders, and regulations that relate to other sections of special dietary labeling and nutrition labeling as follows:

(a) Nutrition labeling. (§ 1.17)

(b) Food label information panel. (§ 1.8d)

(c) Food fat labeling. (§ 1.18)

(d) Special dietary food labeling. (§§ 125.1, 125.2, and 125.3)

(e) Food standard labeling changes.

(f) Uniform effective date for food labeling changes.

LIMITED SCOPE OF THIS ACTION

12. This document pertains only to that portion of this matter concerning the definition, standard of identity, and label statements of dietary supplements of vitamins and minerals. The content of this document reflects the following needs as developed by the public hearing and related historical events:

(a) That dietary supplements as defined should be based on modern human nutrition knowledge.

(b) That potentially toxic quantities of individual nutrients, insignificant quantities of individual nutrients, and gross nutrient imbalances and omissions should be avoided in dietary supplements.

(c) That a fully informative labeling system is required.

(d) That expiration dating is required.

13. To further clarify the limited scope of this action a number of additional points require comment:

(a) The purpose of dietary supplements of vitamins and minerals is to provide reasonable assurance that the total daily intakes of essential vitamins and/or minerals are adequate when doubt of adequacy may exist on the basis of the diet alone. Dietary supplements are for general supplementation of the diet. They are not designed for the treatment or clinical management of nutritional diseases or disorders.

(b) This action does not apply to natural substances, which by their nature are good sources of specific vitamins and/or minerals, except when used as a source of specific vitamins and/or minerals in dietary supplements. Although not marketable as dietary supplements except as indicated, such natural sub-

stances may be marketed as conventional foods, subject to nutritional labeling (21 CFR CFR 1.17) pertaining thereto. Other foods to which this action does not apply are described in the tentative order contained in this document.

(c) This document establishes lower and upper limits for each individual vitamin and mineral which may be present in the specified daily quantities of dietary supplements of vitamins and minerals. All of the provisions of this document are in turn subject to the provisions of 21 CFR Part 125, which define the term "special dietary use", establish the U.S. Recommended Daily Allowances (U.S. RDA's) specified by the U.S. Government in terms of nutrients and quantities of nutrients, and provide specific instructions on the general label statements permitted on foods for special dietary use under § 125.1 *Definitions and interpretations of terms;* § 125.2 *General label statements; dietary properties; value; placement;* and § 125.3 *Label statements relating to vitamins and minerals.*

(d) The tentative order contained in this document requires that the individual nutrients in dietary supplements be listed on the label in a specific order. Placing a specific nutrient or nutrients in a prominent position in a list of nutrient components can imply to the consumer a degree of relative importance for the specific nutrient or nutrients so placed. Such a prominent position for any specific nutrient is not scientifically sound in a dietary supplement of vitamins and/or minerals.

Having considered the evidence received at the hearings, the hearing examiner's report, and all the exceptions and written arguments which were filed, the Commissioner, pursuant to the Federal Food, Drug and Cosmetic Act (secs. 401, 403(j), 701(e), 52 Stat. 1046 as amended, 1048, 1055 as amended; 21 U.S.C. 341, 343(j), 371(e)) and under authority delegated to him (21 CFR 2.120), proposes the following findings of fact, conclusions of law, and tentative final order:

PROPOSED FINDINGS OF FACT [1]

1. The hearings have shown that there is a need to establish a definition for dietary supplements, and to describe what is a rational composition for dietary supplements in terms of the vitamins and minerals present, and the quantities allowed.

2. The apparent appeal to consumers which results from the addition of vitamins and minerals to food articles, with concurrent promotion calling attention to this fact, has resulted in ever increasing amounts, qualitatively and quantitatively, of these nutrients being added to various foods (Weissenburg, Tr. 8569–8570; Exhibit P–1151, page C1). In many cases, foods, particularly some cereal products, have become the equivalent of multivitamin/multimineral dietary supplements in terms of their added nutrient contents (Weissenberg, Tr. 8584; WD–G–Gullberg, Q&A 35).

3. The establishment of a standard of identity and quantitative limits for the nutrient ingredients in dietary supplements will reduce consumer confusion concerning choice of dietary supplements by insuring a basically rational formula for all products (Mayer, Tr. 28868; WD–G–Gullberg, Q&A 31).

4. Dietary supplements are articles purporting to be or represented for special dietary use by man to supplement his diet by increasing the total dietary intake of vitamins and/or minerals. They may be prepared as tablets, capsules, pills, wafers, or similar uniform units, and/or in powder, granular, flake or liquid form (Grollman, Tr. 1660; Mickelsen, Tr. 2421–2424; Hodges, Tr. 2874; Herbert, Tr. 9859; Garrett, Tr. 10943; WD–G–Ross, Q&A 14). The proper use of dietary supplements of vitamins and/or minerals is for short-term correction of specific inadequacy of intake (Hodges, Tr. 2874–2875; Herbert, Tr. 9860, 9922–9923). They are not intended for therapeutic use for the correction of disorders in humans by the administration of large amounts of specific nutrients (Grollman, Tr. 1680–1682; Herbert, Tr. 9896; Hodges, Tr. 2937–2940, 2970–2971; WD–G–Harrison, Q&A 22; WD–3A–Sebrell, Q&A 44; WD–G–Schaefer, Q&A 36, 37).

5. Vitamins are organic substances, present in foods, which are essential for the maintenance of human life and the activity of the cells of the body (Grollman, Tr. 1624–1625; WD–3A–Sebrell, Q&A 4). These include vitamins A, D, E, K, C (ascorbic acid), B_1 (thiamine), B_2 (riboflavin), B_6, and B_{12}, niacin, folic acid (folacin), biotin, and pantothenic acid (Exh. P–651; Grollman, Tr. 1625–1627).

6. Essential mineral nutrients include the inorganic elements calcium, phosphorus, iodine, iron, magnesium, copper, zinc, sodium, potassium, and manganese. They are needed by the human body in varying amounts, and are utilized in a variety of metabolic processes (WD–3A–Sebrell, Q&A 4).

7. The sale and use of vitamin/mineral preparations in the United States are extensive, running into hundreds of millions of dollars annually in wholesale bulk value, and involve three-fourths of American households (Exh. P–735; Exh. P–1151, pages B1 and B2). The majority of such preparations differ qualitatively and quantitatively from each other, presenting a bewildering variety to the consumer (Weissenberg, Tr. 5998, 6551–6552, 8752–8756; WD–G–Gullberg, Q&A 14, 26; Exhibits P–2, P–3, P–8, P–9, P–40–42, P–47, P–51–54, P–57–59, P–61–70, P–72–74, P–76–78, P–80–153, P–156–163, P–165–174, P–188, P–194–349, P–398, P–399, P–400, P–402–404, P–468, P–471, P–564, P–567, P–575–579, P–582–594, P–596–597, P–599, P–600, P–613).

8. Many dietary supplements are nutritionally irrational, in that they provide quantitative levels and qualitative combinations of nutrients for which no human individual need could possibly exist, if the products are used only as dietary supplements (Grollman, Tr. 1683 (Exhibit P–84), 1686 (Exhibit P–89), 1688 (Exhibit P–94), 1691 (Exhibit P–95), 1696 (Exhibit P–102), 1699 (Exhibit P–113), 1701–1702 (Exhibit P–113), 1707–1709 (Exhibit P–124), 1713 (Exhibit P–157), 1714 (Exhibit P–158); Mickelsen, Tr. 2447–2447A (Exhibit P–166), 2448–2450 (Exhibit P–168), 2451–2452 (Exhibit P–169), 2455–2457 (Exhibit P–171); Hodges, Tr. 2942 (Exhibit P–183); Herbert, Tr. 9898–9899 (Exhibit P–232); Weissenberg, Tr. 6553–6554; WD–G–Gullberg, Q&A 26; Exhibits P–588, P–595). Lay persons are incapable of determining, by themselves, whether they have or are likely to develop vitamin or mineral deficiencies (Grollman, Tr. 1771–2, 1782; Herbert, Tr. 9961, 9979–80, 10,029; Unglaub, Tr. 28,942; Wallerstein, Tr. 28,989; Hodges, Tr. 2994–5; Mickelsen, Tr. 2520; Mayer, Tr. 28,892–3).

9. Although approximately 20 percent of the users of dietary supplements of vitamins and minerals actually use those articles to supplement or balance their diet, more than 40 percent of those persons admit they have no idea which vitamins or minerals, if any, are not sufficiently supplied by their diet (Exhibit P–1151, page B4, Q&A 4b).

10. Certain basic vitamins and/or minerals should be included in all articles offered as multivitamin and/or multimineral supplements. The remaining group of appropriate vitamins and/or minerals are considered to be scientifically optional for inclusion (Herbert, Tr. 9880–9882). The mandatory group of vitamins and/or minerals found in multivitamin and/or multimineral supplements should include all those listed in the table entitled "Recommended Daily Dietary Allowances, Revised 1968" in publication 1694 of the National Academy of Sciences (WD–43–Filer, pp. 19–20; WD–33–Coursin, p. 23; WD–33–Emerson, p. 9; WD–33–Brin, pp. 23–24; WD–33–Krehl, pp. 8–9, Tr. 27216–27217, 27255–27256; WD–33–Horwitt, pp. 12–14; Hodges, Tr. 2878–2879, 2945–2946, 6813, 7007).

11. Many dietary supplements contain such high amounts of nutrients that they are appropriate only for therapeutic use, for persons already in a deficiency state (Hodges, Tr. 2939–40). Some of these contain potentially toxic amounts of certain vitamins (Herbert, Tr. 9691; Grollman, Tr. 1711; Exhs. P–113, P–183, P–594). There is a sound scientific basis for establishing quantitative maximums on the nutrient ingredients in a dietary supplement (Herbert, Tr. 9900–9904; WD–G–Ross, Q. & A. 17, 18; WD–G–Harrison, Q. & A. 22). This is based on the rapid excretion of excesses of certain nutrients without benefit to the consumer, as well as on the potential problems of toxicity or nutritional imbalances due to excessive ingestion of certain nutrients

[1] The abbreviations in the citations are:
Tr.—For transcript pages of the hearing.
P.—For exhibits introduced by the Government, the proponent.
O.—For exhibits introduced by opponents.
WD–G—For written direct testimony by a witness for the Government.
WD–3A—For written direct testimony by a witness for the designated opponent (e.g. "3A").
Q&A—Question and answer.

(Grollman, Tr. 1666–1669; Herbert, Tr. 9861–9862; Mickelsen, Tr. 2433–2434; WD–3A–Sebrell, Q. & A. 24, 25; Polack, Tr. 4954–4955; Exh. P–1142).

12. Some dietary supplements contain so little of a named nutrient as to be insignificant in human nutrition (Swain, Tr. 233, 488; Grollman, Tr. 1695–1696 (Exh. P–102); Mickelsen, Tr. 2448 (Exh. P–167), 2451 (Exh. P–169), 2456 (Exh. P–171), 2469 (Exh. P–173); Hodges, Tr. 2935 (Exh. P–180); WD–G–Gullberg, Q&A 26). There is a sound scientific basis for establishing quantitative minimums on the nutrient ingredients for dietary supplements since only substantial amounts of nutrients should be represented for purposes of dietary supplementation (Herbert, Tr. 9867; WD–G–Harrison, Q&A 24; Boehne, Tr. 2764; WD–3A–Sebrell, Q&A 26, 27, 39).

13. Certain dietary supplements are objectionable because they must be taken in large numbers of units for the user to get the designated amounts of the nutrients involved (Grollman, Tr. 1685 (Exhibit P–89); Hodges, Tr. 2936 (Exhibit P–180); Exhibits P–179, P–359, P–368, P–383, P–395). In establishing a standard of identity for dietary supplements it is medically and pharmacologically sound to establish a standard of identity for dietary supplements on the basis of units suitable for and practical of consumption in one day (Grollman, Tr. 1661; Hodges, Tr. 2956).

14. There are demonstrable distinctions among the nutritional requirements of infants and young children, and pregnant or lactating women, as compared to the nutritional requirements of adults (Michelsen, Tr. 2424–2427; Grollman, Tr. 1665; Hodges, Tr. 2877–2878; Herbert, Tr. 9944; WD–3A–Sebrell, Q&A 15, 16, 19 and 28; WD–G–Ross, Q&A 23; Boehne, Tr. 2741–2759).

15. There is scientific or medical justification for selecting an age separation at 4 years of age for the purpose of establishing a basis for dietary supplements (WD–33–Krehl, pp. 5–8; WD–33–Emerson, pp. 4–5; WD–43–Filer, p. 21). The recommended daily dietary allowances of the Food and Nutrition Board, NAS–NRC, for 2- to 3-year-olds can safely be used by infants and 1- to 2-year-olds, and the maximum values for the under 4-year-old group can be used for all infants and children under 4 years of age (WD–33–Krehl, pp. 6–7; Hodges, Tr. 2, 877–8; WD–43–Graham; and WD–43–Filer, p. 21).

16. The "Recommended Dietary Allowances," revised periodically by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, represent established nutrient levels that are quantitatively high enough to provide for the adequate intake of essential nutrients under the wide variety of conditions that exist in this country for essentially all of the normal healthy persons in the United States. Furthermore, these levels are reviewed, discussed, and accepted by numerous scientists and, therefore, are considered to be extremely reliable. (Hodges, Tr. 2880, 2919, 2964–65; Grollman, Tr. 1670, 1763; Mickelsen, Tr. 2438–39; Herbert, Tr. 9865–67; WD–G–Harrison, Q&A 23; Schweigert, Tr. 8257, 8260; WD–G–Gullberg, Q&A 19; Exhibit P–651; Sebrell, Tr. 26, 181).

17. Publication No. 1694 of the National Academy of Sciences entitled "Recommended Dietary Allowances, Seventh Revised Edition, 1968, A Report of the Food and Nutrition Board, National Research Council," and subsequent editions, should be used as the source of authentic and reliable information on which to base recommended daily allowances of nutrients (WD–3A–Semrell, Q&A 9, 10, 18, 19, Tr. 26181; Hodges, Tr. 2917; Herbert, Tr. 9865; WD–G–Harrison, Q&A 14, 23, 26, 27; WD–G–Ross, Q&A 65).

18. Recommended dietary allowances adapted from publication 1694 of the National Academy of Sciences are sufficiently above the average requirement for particular nutrients to cover the needs of between 95 percent and 99 percent of the normal healthy population (Hodges, Tr. 7083; WD–46–Olsen, page 7, Tr. 29466–67; Jukes, Tr. 28688; Briggs, Tr. 28761; Mayer, Tr. 28865–66; Stokstad, Tr. 26742; Goodhart, Tr. 30169–70; Stare, Tr. 29280; WD–G–Ross p. 5).

19. The identity and levels of nutrients in the NAS–NRC Recommended Dietary Allowances are extremely reliable since they are reviewed and discussed by large numbers of scientists and brought up for revision approximately every 5 years (Mickelsen, Tr. 2438–2439); Hodges, Tr. 2880; Sebrell, Tr. 26181). They are the best basis on which to establish a standard of identity for dietary supplements of vitamins and minerals in the United States (Grollman, Tr. 1670; Mickelsen, Tr. 2438; Herbert, Tr. 9864–9865; WD–3A–Sebrell, Q&A 5–7; Sebrell, Tr. 26181; WD–G–Ross, Q&A 19). Publication 1694 of the National Academy of Sciences, entitled "Recommended Dietary Allowances, Seventh Revised Edition, 1968, A Report of the Food and Nutrition Board, National Research Council" should be used as the source of authentic and reliable information on which to base a standard of identity for dietary supplements of vitamins and minerals (Exhibit P–651). Values for essential nutrients (to be designated as "U.S. Recommended Daily Allowances (U.S. RDA's)") may reasonably be derived from the table and sections in the text of this publication (WD–3A–Sebrell, Q&A 15).

20. The human body has the capacity to store varying amounts of almost all vitamins as reserves to be drawn upon when needed (Mickelsen, Tr. 2436). Fat-soluble vitamins, particularly vitamins A and D, are readily stored for relatively long periods of time, while excesses of the water-soluble vitamins are excreted more rapidly (Grollman, Tr. 1628–1629; Mickelsen, Tr. 2645; WD–3A–Sebrell, Q&A 4). The excessive ingestion of the fat-soluble vitamins A and D, because of their relatively high retention by the human body, poses a potential danger of toxicity (Mickelsen, Tr. 2644–2645; Hodges, Tr. 2956; WD–G–Ross, Q&A 18; WD–G–Harrison, Q&A 22; Herbert, Tr. 9891).

21. The nutrients which are scientifically appropriate for inclusion in dietary supplements in the United States are (1) the vitamins A, C, D, E, folic acid, niacin, riboflavin, thiamine, B_6, B_{12}, biotin, and pantothenic acid; and (2) the minerals calcium, phosphorus, iodine, iron, magnesium, copper, and zinc (Hodges Tr. 2879; Grollman, Tr. 1662; Mickelsen, Tr. 2427–2430; Herbert, Tr. 9861, 9868, 9881; Krehl, Tr. 27, 216–27, WD–G–Ross, Q. & A. 15, 16; WD–G–Harrison, Q. & A. 20; Exhibit P–651).

22. The establishment of qualitative and quantitative limits on the composition of dietary supplements will reduce consumer confusion concerning choice of dietary supplements by ensuring a basically rational formula for all products (WD–G–Gullberg, Q. & A. 31, Weissenberg, Tr. 7737).

23. From among these nutrients, appropriate for inclusion in dietary supplements, certain basic vitamins and/or minerals should be included in all articles offered as multivitamin and/or multimineral supplements (Herbert, Tr. 9880–81). Conversely, certain vitamins and minerals are, scientifically, optional in terms of whether or not they should be included in a multivitamin and/or multimineral supplement (Herbert, Tr. 9882).

24. A gross excess of folic acid intake on the part of human beings can interfere with the diagnosis of pernicious anemia as it masks the hematological manifestations of vitamin B_{12} deficiencies. (Herbert, Tr. 9872–73.)

25. While people in the United States appear to have some understanding of the comparatively greater requirements for iron experienced by many women during their child-bearing years, this appears to have affected opinion about other nutrients, since well over a third of the population believes that women need more vitamins than men (Exhibit P–1151, page B13, questions 20, 20a, 21, 21a). However, when iron is not named, only 16 percent of the population expresses an opinion that there is any difference in the mineral requirements of men and women (Exhibit P–1151, page B14, question 22).

26. All vitamins are specific chemical compounds. Each has the same composition and effect whether it is synthetically produced or derived from natural sources. (Grollman, Tr. 1758–1759; Mickelsen, Tr. 2471; Hodges, Tr. 2958–2959, 2962; Herbert, Tr. 9937–9938; WD–G–Harrison, Q&A 36).

27. It is pharmacologically necessary to allow, in a standard of identity for dietary supplements, for the inclusion of preservatives, stabilizers, colors, sweeteners, seasoning, carriers, bases, vehicles, and other substances which facilitate preparation of the product. However, no greater quantity of any such substances should be allowed to be included than is necessary to establish the desired physical or technical effect. Furthermore, the biological availability of the nutrients in the dietary supplement should not be impaired by the presence of such substances. (Grollman, Tr. 1752; Garrett, Tr. 11039).

28. Lack of a common language for identifying nutrients in dietary supplements has resulted in use of highly in-

appropriate names, having no or imprecise scientific meaning. The resultant wide variation in the manner of qualitatively naming and quantitatively declaring the nutrients in a dietary supplement on its label also extends to artificial colors, artificial flavors, and preservatives used in producing the supplement. (Grollman, Tr. 1698–1699, 1724; Herbert, Tr. 9891, 9896–9897; Weissenberg, Tr. 6623–6626, 8763–8764, 8789–8791; Exhs. P–113, P–161, P–311, P–95, P–152).

29. The use of standardized common names for various forms of dietary supplements will aid in more fully informing purchasers of the nature and value of these articles. The following common names are scientifically meaningful and accurate designations for the various supplements involved:

(a) "Multivitamin and multimineral supplement", for a dietary supplement which contains all of the mandatory vitamins and mandatory minerals listed in the table under § 80.1(f).

(b) "Multivitamin supplement", for a dietary supplement which contains all of the mandatory vitamins listed in the table under § 80.1(f).

(c) "Multimineral supplement", for a dietary supplement which contains all of the mandatory minerals listed in the table under § 80.1(f).

(d) "Multivitamin and iron supplement" or "multivitamin supplement with iron", for a dietary supplement which contains all of the mandatory vitamins listed in the table under § 80.1(f) plus the mineral iron.

(e) "_____ supplement", for a dietary supplement which contains a single vitamin or mineral listed in the table under § 80.1(f), the blank to be filled in with the name of the vitamin or mineral which the supplement purports or is represented to contain. (Grollman, Tr. 1753; Hodges, Tr. 2945–54; Mickelsen, Tr. 2487; Herbert, Tr. 9882, 9884–91; WD–G–Ross, Q&A 28–33; WD–G–Harrison, Q&A 30–33.

30. It is scientifically correct and necessary for the purpose of determining the value of a dietary supplement as a food which is purported to be or is represented for a special dietary use that the label thereof bear a statement stating the amount and percentage of the recommended daily allowance of each vitamin and/or mineral which the supplement contains in a specified daily quantity, such a statement being given for each consumer group for which the supplement is offered (Herbert, Tr. 9944–9946; Grollman, Tr. 1762; Hodges, Tr. 2964–2967; WD–G–Ross, Q&A 63; Mickelsen, Tr. 2685–2687). It is also necessary that clear directions for frequency of ingestion be stated on the label (Grollman, Tr. 1758; Hodges, Tr. 2955–2956; Herbert, Tr. 9937).

31. Reasons for a consumer desiring to know the sources of the nutrients in a dietary supplement include: (1) A medical need to have exact knowledge of all potential allergens encountered by a patient (WD–23–Kailin, Q&A 22; Lowe, Tr. 12579); and (2) religious or philosophical needs to know the components of one's total diet (WD–58–Morgan; WD–58–Prazenka; WD–58–Pietz; WD–23–Desmond; WD–23–Singer; WD–58–Pelc; WD–58–Curtis; WD–58–Taylor; WD–32–Hill).

32. Many dietary supplements include named ingredients which are of no value as supplements to the human diet (Grollman, Tr. 1626, 1675–77, 1707, Exhibit P–125; Mickelsen, Tr. 2464–65 (Exhibit P–172), 2469 (Exhibit P–173); Hodges, Tr. 2933 (Exhibit P–179), 2936, (Exhibit P–180); Herbert, Tr. 9891 (Exhibit P–113), 9899 (Exhibit P–468; Swain, Tr. 185–191, 213, 220, 221, 223, 229–231, 255, 264, 269, 336, 397, 442, 447, 455, 469, 475, 476, 487; Weissenberg, Tr. 8761, 6402, 5949, Exhibits P–576, P–591). However, many consumers will purchase such products with long lists of ingredients, believing them to be of better value than products with a lesser number of ingredients (WD–G–Perloff, Q&A 38–41; Exh. P–1151, page B9, questions 13, 14). Such consumers believe that if an ingredient is listed, it must significantly contribute to the value of the product as a dietary supplement (WD–G–Perloff, Q&A 18, 19; Exh. P–737). The label of a dietary supplement, as a food for special dietary use, should bear a statement of usefulness consisting of a list of the nutrient ingredients which provide the special use characteristics. The list of such ingredients should be limited to those which are of significant value and need in human nutrition as components of dietary supplements (Grollman, Tr. 1766; Hodges, Tr. 2969–2970; Mickelsen, Tr. 2518–2520; WD–G–Moses, Q&A–33; WD–G–Ross, Q&A 59–61).

33. A large proportion of the population of the United States is likely to choose dietary supplements, the ingredients of which are described as "natural" or from "natural sources", on the basis that "natural" constituents are superior to "synthetic" constituents (WD–G–Perloff, Q&A 44–46; Exhibit P–1151, pages B–10 and B–11, questions 16, 16a, 16b). There are many dietary supplements on the market which stress the "natural" source of their constituents (Swain, Tr. 234, 477; Weissenberg, Tr. 6554–6556, 8757–8758; Exhibits P–6, P–35, P–40–43, P–54, P–66–68, P–70, P–74), although this fact is of no nutritional significance (Grollman, Tr. 1758–1759; Mickelsen, Tr. 2471; Hodges, Tr. 2933, 2958–2959, 2962; Herbert, Tr. 9937–9938; WD–G–Harrison, Q&A 36).

34. It is medically and nutritionally appropriate to identify, on the label, chemical preservatives used in a dietary supplement, as well as to indicate on the label that artificial sweetener, artificial coloring, or artificial flavoring has been added to the article, if such is the case. In addition to these and the identification of the nutrients in the supplement, there is also the necessity for identifying alcohol, if present (Grollman, Tr. 1758; Hodges, Tr. 2956–2957; Herbert, Tr. 9941–9942). When alcohol is included as an ingredient in a dietary supplement, it is necessary, from a medical point of view, that the amount of alcohol contained in the dietary supplement by expressed on the label as a percent by volume (Grollman, Tr. 1705, 1760–1761; Hodges, Tr. 2956; Herbert, Tr. 9942).

35. Dietary supplements have been found on the market containing levels of vitamins below declared strength (Weissenberg, Tr. 8769–8770; Deutsch, Tr. 11147–11151; Garrett, Tr. 10986). Under certain ordinary and usual conditions of shipment, storage, and shelf-life, some vitamins and minerals in dietary supplements deteriorate, affecting the nutritional quality of the supplement (Grollman, Tr. 1761; Mickelsen, Tr. 2489; Hodges, Tr. 2963–2964; Herbert, Tr. 9942–9943; Garrett, Tr. 10943 et seq.). Based upon known rates of deterioration, it is technologically feasible to determine an appropriate expiration date for dietary supplements beyond which they should not be sold in the event deterioration actually occurs (Garrett, Tr. 10981 et seq.; Exhs. P–659, P–660). In the interest of consumers, it is reasonable and necessary to require that a manufacturer, packer, or distributor of dietary supplements containing vitamins and/or minerals determine an appropriate expiration date for his product, based on deterioration data under specified or customary conditions of handling and storage as indicated on the label, and that the expiration date be indicated when the supplement is offered for sale. (Garrett, Tr. 10978–10981, 11013–11015; Grollman, Tr. 1762; Hodges, Tr. 2963–2964; Mickelsen, Tr. 2489–2490; Herbert, Tr. 9943; WD–G–Gullberg, Q&A 17, 33; WD–G–Ross, Q&A 40–42; WD–G–Harrison, Q&A 34, 35).

36. The following table represents a reasonable and scientifically accurate adaptation of the 1968 Recommended Dietary Allowances as published by the Food and Nutrition Board of the National Academy of Sciences–National Research Council (WD–3A–Sebrell, Q&A 15). Upper and lower limits for the listed nutrients are appropriate for dietary supplements of vitamins and minerals (Herbert, Tr. 9900–04, 9867; WD–G–Ross, Q&A 17, 18; WD–G–Harrison, Q&A 22, 24; Boehne, Tr. 2764; WD–3A–Sebrell, Q&A 26, 27, 39).

U.S. GOVERNMENT RECOMMENDED DAILY ALLOWANCES (U.S. RDA's) AND PERMISSIBLE COMPOSITIONAL RANGES FOR DIETARY SUPPLEMENTS OF VITAMINS AND MINERALS

	Unit of measurement	Infants and children under 4 years of age, U.S. RDA			Adults and children 4 or more years of age, U.S. RDA			Pregnant or lactating Women, U.S. RDA		
		Lower limit		Upper limit	Lower limit		Upper limit	Lower limit		Upper limit
Vitamins, mandatory:										
Vitamin A	International units	1,250	2,500	2,500	2,500	5,000	5,000	5,000	8,000	8,000
Vitamin D [1]	do	200	400	400				400	400	400
Vitamin E	do	5.0	10	15	15	30	45	30	30	60
Vitamin C	Milligrams	20	40	60	30	60	90	60	60	120
Folic acid [2]	do	0.1	0.2	0.3	0.2	0.4	0.4	0.4	0.8	0.8
Thiamine	do	0.35	0.7	1.05	0.75	1.5	2.25	1.5	1.7	3.0
Riboflavin	do	0.4	0.8	1.2	0.8	1.7	2.6	1.7	2.0	3.4
Niacin	do	4.5	9.0	13.5	10	20	30	20	20	40
Vitamin B_6	do	0.35	0.7	1.05	1.0	2.0	3.0	2.0	2.5	4.0
Vitamin B_{12}	Micrograms	1.5	3	4.5	3	6	9	6	8	12
Optional:										
Vitamin D	International units				200	400	400			
Biotin	Milligrams	0.08	0.15	0.22	0.15	0.3	0.45	0.3	0.3	0.6
Pantothenic Acid	do	2.5	5.0	7.5	5.0	10	15	10	10	20
Minerals, mandatory:										
Calcium	Grams	0.125	0.8	1.2	0.125	1.0	1.5	0.125	1.3	2.0
Phosphorus [3]	do	0.125	0.8	1.2	0.125	1.0	1.5			
Iodine	Micrograms	35	70	105	75	150	225	150	150	300
Iron	Milligrams	5.0	10	15	9.0	18	27	18	18	60
Magnesium	do	40	200	300	100	400	600	100	450	800
Optional:										
Phosphorus	Grams							0.125	1.3	2.0
Copper	Milligrams	0.5	1.0	1.5	1.0	2.0	3.0	1.0	2.0	4.0
Zinc	do	4.0	8.0	12	7.5	15	22.5	7.5	15	30

[1] Optional for adults and children 4 or more years of age.
[2] Optional for liquid products.
[3] Optional for pregnant or lactating women.

DISCUSSION OF PROPOSED FINDINGS

The standard of identity established in this document is closely related to the requirements for special dietary foods, for nutrition labeling, and for over-the-counter drugs. It is therefore important that the interrelationship of these various regulatory provisions, and the rationale behind their development, be fully understood.

The evidence at the 1968–70 Special Dietary Food Hearings strongly supported the position that all requirements for vitamins and minerals can be obtained from a well-planned diet of conventional foods, and thus that conventional foods always have been, and will continue to be, the principal source of nutrients in the daily diet. For this reason, 10 percent of the U.S. RDA of a nutrient is regarded as significant for purposes of labeling under § 1.17, and indeed the presence of even 2 percent of the U.S. RDA of a nutrient is permitted to be labeled because of the cumulative impact of these small amounts when ingested in several foods in the course of the day. These relatively small amounts of nutrients may not be significant in and of themselves, but when added together they are quite sufficient to provide the full complement of daily nutrition.

A dietary supplement product, on the other hand, is not intended to be eaten like any other constituent of the normal daily diet, but rather is intended, as the name states, to be taken to supplement the diet as insurance in the event that an individual's diet may not include a full complement of essential vitamins and minerals (e.g., it is often impractical to supply the iron needs of adult women with conventional foods). It would therefore be quite inappropriate for a dietary supplement to contain the relatively small amount of nutrients found in many foods; and conversely, it would be equally inappropriate to provide for fortification of conventional foods at substantial levels which would result in gross over consumption of vitamins and minerals in the diet. Therefore, with certain exceptions, a dietary supplement must contain at least 50 percent of the U.S. RDA of the nutrients involved, and any conventional food fortified in a way that any nutrient achieves a level of greater than 50 percent of the U.S. RDA will similarly be regarded as a dietary supplement subject to all of the requirements of the standard of identity. In short, the regulations provide a sensible and reasonable distinction between the customary way of obtaining nutrients in relatively small amounts in individual food items through the daily food supply, and the insurance provided by a dietary supplement containing relatively large amounts of those nutrients.

Substantial consideration was given to the appropriate ceiling for the nutrient levels in a dietary supplement. Evidence presented at the Hearings would have justified as low as 100 percent of the U.S. RDA. The Commissioner has concluded, however, with certain exceptions, that the additional assurance provided by permitting 150 percent of the U.S. RDA in a dietary supplement is warranted. This level will cover all known nutritional needs of normal individuals.

The Commissioner has also recognized that there are a number of products comprised of nutrients, intended to provide daily nutrition in a variety of medical conditions, which are represented for use solely under medical supervision in the dietary management of specific diseases and disorders or as the sole item of a meal or in the daily diet. Many of these foods are in a state of development, and standardization is not possible on the basis of the Hearings. Accordingly, although such products are required to be labeled in compliance with §§ 125.1–125.3, they are exempt from the requirements of § 80.1. Separate regulations will be promulgated when appropriate to control the composition or labeling of these foods.

The status of meal replacements has received special consideration. The Commissioner has concluded that it is appropriate to exempt them from labeling under § 125.3 and instead to require that they be labeled under § 1.17, unless they fall within the category of "medical foods" just described above. They have also been exempted from the requirements of § 80.1, since they are properly regarded as complete replacements for a meal and not as a dietary supplement, and since the nutrient levels established for dietary supplements would be too high for a product intended as a replacement for a single meal. The Commissioner is considering a nutrition guideline limiting the nutrient levels in meal replacements to no higher than 50 percent of the U.S. RDA for adults and children 4 or more years of age.

The Commissioner has also reviewed the question whether some products containing nutrients should be classified as drugs rather than as foods under the act. As already noted, the ceiling for nutrient content provided by § 80.1 will cover all known nutritional needs for normal individuals. Dietary supplementation at any higher level is clearly unwarranted. Accordingly, any vitamin-mineral product containing more than the upper limit of the U.S. RDA must be regarded as appropriate only for the treatment of vitamin-mineral deficiencies, or for some other medical purpose, and is properly classified as a drug. The Commissioner has previously announced in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464, paragraph 94) that vitamin-mineral products which are drugs would be subject to the procedures for review of over-the-counter (OTC) drugs established in 21 CFR 130.301. The advisory review panel which considers these products will be provided all pertinent evidence and information relating to such products presented at the Special Dietary Food Hearings in addition to any other data and information submitted to it. That panel will be requested to provide its advice on safe and effective formulations and labeling of such products, and on the dividing line between OTC and prescription vitamin-mineral drug products.

The Commissioner also recognizes that foods represented solely for use under medical supervision in the dietary management of specific diseases and disorders (e.g., chemically defined diets for the nutritional support of individuals suffering from inborn errors of metabolism) represent an exception to the rule that nutrients included in products at levels greater than the upper limit of the U.S. RDA are drugs. At this time such "medical foods" should not be the subject of specific restrictions. Accordingly, the Commissioner has classified these

products as foods regardless of the nutrient levels they contain.

The lower and upper limits for any given nutrient in a dietary supplement have been, in general, set at 50 percent and 150 percent, respectively, of the U.S. RDA values (with 6 exceptions, discussed below). It is reasonable to allow for some variation in the amount of a nutrient in such a product, and the U.S. RDA is a good central point for the variation because it is an estimate of a pattern of daily nutrient needs for the U.S. population as established by scientific experts. Establishing 50 percent as the lower permissible limit provides protection for the consumer from inadequate amounts of nutrients for supplementation purposes. Establishing 150 percent as the upper permissible limit provides protection of the consumer from excessive amounts of nutrients for supplementation purposes. The upper permissible limits for vitamin A and vitamin D equal the specified U.S. RDA's for these nutrients to minimize their toxicological potential (see 37 FR 26618, December 14, 1972). For dietary supplements for pregnant or lactating women, the general principle establishing lower and upper permissible limits of composition is the specified U.S. RDA's for adults and children 4 or more years of age and twice these amounts respectively, with specific exceptions as discussed below.

In defining nutrient needs the Food and Nutrition Board of the National Academy of Sciences-National Research Council has recognized differences of opinion among experts as well as the paucity of information for some nutrients on which to base an opinion about dietary needs for humans. These facts, coupled with the need to offer the product technologist a degree of freedom in compounding dietary supplements, establish the reasonableness of having permissible ranges.

In considering dietary supplements it is reasonable to recognize two categories of products which consumers should have available to them. One is a product containing all the vitamins and/or minerals for which RDA's have been established because of the stated inability of the consumer to determine precisely what nutrients he needs (with or without the optional nutrients). The other is a product which contains only one nutrient for which RDA's have been established. The usefulness of this kind of product derives from the recognition of the need for the availability of single nutrients which may be recommended for dietary supplementation in any combination, and the inherent right of consumers to decide, on their own, what particular nutrient they may need to round out a "balanced diet." These decisions may be based on a complex set of information, knowledge, or biases, but benefit can be derived from such a choice and it should not be denied.

At the same time, the enormous variety of products possible as a result of the number of essential vitamins and minerals needs some simplification. A consumer cannot make a rational choice, for example, between one supplement with 10 vitamins and minerals versus another supplement containing a different combination of seven vitamins and minerals, and a third with only three or four vitamins present, but in substantially greater amounts. Section 80.1 thus permits full personal choice but reduces substantially the confusing array of combination products.

The recently completed study "The Ten-State Nutrition Survey, 1968–1970," Department of Health, Education, and Welfare, Health Services and Mental Health Administration, Center for Disease Control, Atlanta, Georgia, emphasizes widespread iron deficiency anemia. The Committee on Maternal Nutrition, NAS–NRC report, "Maternal Nutrition and the Course of Pregnancy: Summary Report" National Academy of Sciences, 1970, concludes that the widespread incidence of nutritional anemia and the increased iron requirements of pregnancy and lactation provide a need for iron supplementation in amounts up to 60 milligrams per day. This information justifies both this considerable increase in the upper limit for supplementation over the NAS–NRC RDA values for iron for pregnant or lactating women (18 milligrams) as reasonable in view of the more recent deliberations of the NAS–NRC, and the permitted combinations of vitamins and the mineral iron, under § 80.1 (21 CFR 80.1).

The Commissioner recognizes that there are currently on the market combinations of vitamins and minerals which do not contain all of the nutrients which are scientifically and medically appropriate for a dietary supplement, and/or do not contain the nutrients at adequate levels. Some of these products are used by consumers as a food component of their daily diet intake, in a way that is no different in principle than the use of fortified food. By establishing a standard of identity for dietary supplement (e.g., multivitamin and/or multimineral supplements), those products either containing more than one but less than all of the nutrients appropriate for inclusion in a dietary supplement, or containing any of these nutrients below the established dietary supplement range can no longer be marketed as dietary supplements.

The Commissioner has concluded that it is reasonable to permit the continued marketing of products containing less than all of the nutrients required as a dietary supplement, at levels appropriate for foods, when such products are properly labeled as foods. To maintain the right of consumers to obtain such truthfully labeled food products if they so desire, the regulations provide that such products will remain available, labeled pursuant to § 1.17 (21 CFR 1.17) (nutrition labeling). No labeling will be permitted that could be confused with dietary supplements.

Thus, the regulations provide that combinations of vitamins and minerals not meeting the requirements of the standard of identity in § 80.1 (21 CFR 80.1) can be marketed as foods if they do not contain in a single serving any of the permitted vitamins or minerals at levels greater than the lower limit established for dietary supplements in this section. Like any other food, such a product may not be labeled as a "dietary supplement" or use any terms which suggest to the consumer that the product can serve as a dietary supplement, and such product shall provide the information required under § 1.17.

Proprietary names, including those presently used, may be included on the label provided they do not infer in any manner that the product is a dietary supplement. If such a product is in other than conventional food form (e.g., a tablet or capsule), the common or usual name of the product must, in order to meet the requirements of § 1.8 (21 CFR 1.8), include a listing of the names of each of the vitamins and/or minerals present.

In addition to those combinations of vitamins and minerals containing levels less than the lower limits of nutrients required by § 80.1 (21 CFR 80.1), there are products which contain more than one, but not all, of the vitamins and minerals provided for in § 80.1, at levels within the upper and lower limits established therein. These products do not meet the requirements of dietary supplements as defined in this tentative order.

The Commissioner has carefully reviewed the record of the hearing in considering whether there is any medical or scientific justification for such combinations of vitamins and minerals other than those in this tentative order. No persuasive justification for additional combinations was presented at the hearing. The evidence strongly supported inclusion of all vitamins and/or minerals in a dietary supplement, thus eliminating the many bewildering combinations now found in the marketplace, for which there is neither medical support nor consumer understanding. Nor is the Commissioner aware of more recent scientific data supporting additional combinations as dietary supplements.

Nevertheless, it is recognized that, as scientific and medical information changes, some justification for a vitamin and/or mineral combination not permitted by this standard of identity may be brought forward. Accordingly, the Commissioner has concluded that it is reasonable to include in the standard a specific petition mechanism whereby requests may be made for inclusion of additional combinations. Such a petition would include scientific data of nutritional and technological nature to support the particular combination involved, together with the proposed name of the product and with labeling designed to differentiate the product from other dietary supplements and to be fully informative to the public.

The Commissioner will provide sufficient time to allow manufacturers to develop petitions for vitamin and mineral products currently marketed which do not comply with the requirements set forth in § 80.1. Such petitions must be submitted by December 31, 1973, unless the Commissioner extends this time. This

time period is sufficient for manufacturers to determine if there is adequate scientific and technological justification to submit a petition. Where the manufacturer can show good cause, a further extension of time will be permitted to develop the necessary information and to submit a petition. During any consideration of or proceedings with respect to any petition submitted, the Commissioner will also grant an extension of time upon reasonable request. When final action is taken on any such petition, the manufacturer will also be permitted sufficient time to make necessary changes in labeling or formulation of the product. The Commissioner concludes that this procedure is reasonable and in the public interest, in view of the importance of this new regulation. Regulatory action against products would, however, be taken against any false or misleading statements in the labeling as prohibited by 21 CFR Part 125.

Vitamins and minerals for which specific quantitative requirements in human nutrition have been established by the Food and Nutrition Board, except for vitamin D and phosphorus for certain groups, are considered as mandatory components in § 80.1. Vitamins and minerals for which only approximate quantitative requirements have been established are considered as optional components.

The adaptability of the human body to varying intakes of calcium makes the establishment of single "allowances" for this difficult. Many experts believe that 0.5 gram of calcium per day would provide a practical allowance for adults. However, the daily average intake in some industrially advanced countries is well above 0.5 gram per day, with 0.8 to 1.0 gram being a usual intake. Certain population groups have intakes up to 1.5 grams per day, and show no evidence of undesirable side reactions or failure of the body's ability to adjust. On the other hand, the FAO–WHO Expert Group on Calcium Requirements, in a comprehensive report "Calcium Requirements FAO–WHO," Rome, 1961, held the view that a calcium intake above 1.0 gram/day was unlikely to serve any physiologically useful purpose. Their recommendations for practical allowances for infants, children, and adolescents range from 0.4 to 0.7 gram/day.

The lower permissible limits for calcium, phosphorus, and magnesium are less than the limits that would result from applying the general principles because of the physiological and technological problems associated with their physical bulk. Phosphorus is not mandatory in dietary supplements for pregnant or lactating women because of evidence that supplemental phosphorus may increase the problem of leg cramps during pregnancy.

A ratio of dietary calcium to phosphorus of at least 1.0 is desirable to maintain balance of these major constituents of bones and teeth. The ratio in bones is about 2.0. However, this ratio is much lower in the soft tissues so that a ratio of at least 1.0 is reasonable. Consideration of the food supply, including its diversity, indicates the unlikelihood of achieving a ratio significantly greater than 1.0 in a normal well-balanced diet.

For these several reasons, the U.S. RDA for both calcium and phosphorus was set at 1.0 gram per day for adults. This subject needs additional research, and if future results indicate significant changes, the Commissioner will issue the required amendments.

Vitamin D is not mandatory in dietary supplements for adults and children 4 or more years of age because of its availability from vitamin D-fortified milk, its endogenous production, and the uncertainties of exogenous requirements for this group of consumers.

For the categories for adults and children 4 or more years of age and for pregnant or lactating women the upper permissible limits for folacin equal the specified U.S. RDA's for this nutrient to minimize the potential of gross amounts masking the hematological manifestations of pernicious anemia.

The actual amount of active component (of a nutrient) depends on the chemical form in which the nutrient is supplied. A table of reference forms for the water-soluble vitamins commonly used in different chemical forms is provided. For example vitamin B_6 denotes a collective term for a group of naturally occurring pyridines that are metabolically and functionally related—pyridoxine, pyridoxal, and pyridoxamine. Interconversion between the compounds is so active that there is little biological difference between them. However, each form has its own molecular weight and hence must be corrected back to a reference compound to avoid significant variations in quantitative declarations of vitamins present, as recognized in finding of fact No. 28. Thiamine nitrate is a commonly used form of thiamine. Its molecular weight is 327.36. The reference form, "thiamine chloride," has a molecular weight of 300.82. The hydrochloride has a molecular weight of 337.27. Thus, the actual amount of the active form can be readily calculated from the ratio of the respective molecular weights. Niacin (mol. wt. 123.11) is commonly supplied as niacinamide (mol. wt. 122.13), the difference in this case being negligible. The statement of standard recognized chemical compounds provides a sound reference for establishing the actual amount of a nutrient present in the various acceptable chemical forms of a given nutrient.

The Commissioner recognizes that the listing of nutrient ingredients is not in compliance with 21 CFR 1.10, in that they are not required to be listed in order of decreasing predominance. Vitamins and/or minerals in dietary supplements offered as tablets, capsules, wafers, powders, or other similar uniform units, shall be listed in the order as provided in the table under § 80.1(f). If vitamins and/or minerals are offered in the physical form of a conventional food (e.g., physical form of a breakfast cereal), and are added to a food so that a single serving provides 50 percent or more of the U.S. RDA of any one of the added vitamins and/or minerals, unless such addition is permitted or required in other regulations (e.g., a standard of identity or nutritional quality guideline), the labeling shall conform to the requirements of 21 CFR 1.17, in addition to this section.

Proposed Conclusions of Law

Based on the foregoing statements in conjunction with the findings of fact herein published the Commissioner concludes, that:

1. It will promote honesty and fair dealing in the interest of consumers, and will assist in carrying out the purpose of the law of providing full information to consumers as to the value of such foods for special dietary use, to promulgate a standard of identity for dietary supplements of vitamins and minerals as hereinafter set forth in § 80.1.

2. Such standard should limit the nutrients contained therein to those listed in § 80.1(f).

3. Such standard should limit the lower and upper amounts of nutrients supplied, to those listed in § 80.1(f).

4. The label of the dietary supplement should bear the statement as hereinafter prescribed by § 80.1(h), "multivitamin and multimineral supplement", "multivitamin supplement", "multimineral supplement", "multivitamin and iron supplement", or "multivitamin supplement with iron", or "_____ supplement" (the blank to be filled in with the name of the vitamin or mineral which the supplement purports or is represented to contain). In addition, such standard should specify the nutrients which shall comprise "multivitamin and multimineral supplements", "multivitamin supplements", "multimineral supplements", " multivitamin and iron supplements", or "multivitamin supplements with iron", and single nutrient supplements as hereinafter prescribed by § 80.1(b).

5. The label of the dietary supplement should bear the name and amount of each vitamin and mineral supplied by the supplement as prescribed by § 80.1(i).

6. The label of the dietary supplement also should name the natural source or chemical form of the nutrient ingredients used.

7. The label of a dietary supplement containing one or more nutrients subject to deterioration should bear an expiration date which will assure that the supplement contains the full declared level of the nutrients when consumed.

Tentative Order

Therefore, on the basis of the foregoing findings of fact, discussion, and conclusions of law drawn therefrom: *It is ordered*, That the stay of effective date of § 80.1, which stay was promulgated December 14, 1966 (31 FR 15730), be ended and that § 80.1 be modified to read as follows:

PART 80—DEFINITIONS AND STANDARDS OF IDENTITY FOR FOOD FOR SPECIAL DIETARY USES

§ 80.1 Dietary supplements of vitamins and minerals; definition, identity, label statements.

(a) The dietary supplements of vitamins and/or minerals for which definitions and standards of identity are prescribed by this section are prepared and offered as tablets, capsules, wafers, or other similar uniform units; in powder, granular, flake, or liquid form; or in the physical form of conventional foods; and purport to be or are represented for special dietary use by man to supplement his diet by increasing the total dietary intake of one or more of the essential vitamins and/or minerals specified in paragraph (f) of this section. The dietary supplements of vitamins and/or minerals are henceforth referred to as "dietary supplements" in this section.

(b) Classifications of dietary supplements.

(1) A dietary supplement shall contain only those vitamins and/or minerals listed in paragraph (f) of this section and shall be offered for its vitamin and/or mineral content only in the following combinations, with the provision that any vitamin or mineral defined as optional in paragraph (f) of this section may be omitted:

(i) All vitamins and minerals.

(ii) All vitamins.

(iii) All minerals.

(iv) All vitamins and the mineral iron.

(v) Vitamin D may be included in a multivitamin supplement and phosphorus may be included in a multimineral supplement without requiring the inclusion of the additional optional ingredients. The inclusion of any of the other optional ingredients (biotin or pantothenic acid for vitamins and copper or zinc for minerals) requires the inclusion of both such optional ingredients if the product is a multivitamin or multimineral supplement, and requires the inclusion of all four such ingredients if the product is a multivitamin and multimineral supplement.

(2) A dietary supplement may also be composed of any single vitamin or mineral listed in paragraph (f) of this section.

(3) Folic acid is optional for liquid dietary supplements because of instability of the vitamin in liquid preparations. Liquid dietary supplements containing multivitamins but not containing folic acid shall bear the following statement on the label, "This product does not contain the essential vitamin folic acid" which shall immediately follow the listing of vitamins, and minerals as prescribed in paragraph (i) of this section.

(4) Addition to or amendment of the list of permissible combinations of vitamins and/or minerals contained in paragraph (b)(1) of this section may be proposed by the Commissioner of Food and Drugs, on his own initiative, or upon petition by an interested person in accordance with the procedures set forth in Part 2 of this chapter. Any such petition shall be submitted in the form set forth in § 2.65 of this chapter, and shall include scientific data of a human nutritional and/or technological nature to support such addition or amendment as being consistent with the definition and purpose of dietary supplements as described by this section. The Commissioner, upon request, may extend the effective date of this section with respect to any particular product or class of products pending consideration and any administrative or court proceedings relating to any such petition, and may set a new effective date upon completion of the matter.

(5) The provisions of this section shall not apply to any food which contains or consists of any vitamin or mineral listed in § 125.1 (b) and/or (c) of this chapter, or any combination thereof, provided that all of the following requirements are met: (i) No such nutrient is contained at a level higher than the lower limit established for that nutrient pursuant to paragraph (f)(1) of this section, (ii) No direct or implied representative is made on the label, in labeling, or in advertising that the product is a dietary supplement or is adequate or appropriate for supplementing the daily diet with essential nutrients, (iii) If the product is in other than conventional food form, the common or usual name of the product required pursuant to § 1.8 of this chapter includes the names of each of the nutrients included, and (iv) The product is labeled pursuant to the provisions of § 1.17 of this chapter.

(c) General definitions.

(1) Subject to good manufacturing practices, dietary supplements described in this section shall contain in the specified daily quantity no less than the lower limit nor more than the upper limit of any nutrient specified in paragraph (f) of this section for the group(s) for which the supplement is offered.

(2) For the purposes of this section, the term "daily quantity" means the quantity of a dietary supplement that shall be specified in the labeling of the dietary supplement for consumption in a period of 1 day, and which shall be an amount or number of units reasonably suitable for and practicable of consumption in 1 day.

(3) In the event a dietary supplement is offered for more than one specific group, the specified daily quantity for each group shall be stated separately on the label.

(d) The different groups described in § 125.1(b) of this chapter shall be designated as follows: For labeling purposes:

(1) Infants and children under 4 years of age,

(2) Adults and children 4 or more years of age,

(3) Pregnant or lactating women.

(e) This section does not apply to:

(1) Other standardized foods.

(2) Foods the composition of which is defined by other regulations or statutes.

(3) Any food represented for use as the sole item of a meal or of the diet.

(4) Foods represented for use solely under medical supervision in the dietary management of specific diseases and disorders.

(5) Raw agricultural commodities (including marine products) and fabricated and other conventional foods to which single or multiple vitamins and/or minerals are added to improve nutritional quality, unless the total level (including any naturally occurring amounts) of any added vitamin or mineral per single serving attains or exceeds 50 percent of the U.S. Recommended Daily Allowance (U.S. RDA) for adults and children 4 years or more of age as specified in § 125.1(b) of this chapter, in which case the provisions of both this section and § 1.17 of this chapter shall apply. If the provisions of both this section and § 1.17 apply to a food, the labeling of such food shall conform to the labeling established in this section except that the labeling established in paragraph (c) of § 1.17 of this chapter, including the order for listing vitamins and minerals established in paragraph (c)(7)(iv) of that section, shall be used in lieu of the labeling established in paragraph (i)(1) of this section.

(6) Raw agricultural commodities (including marine products) which by their nature are sources of a specific vitamin(s) and/or mineral(s) at a level that, if it had been added, would have brought them within the definition of a dietary supplement. Such shall meet all the requirements of this section if they are represented as dietary supplements. Such foods may also be used as a source of specific vitamins and/or minerals in dietary supplements meeting the requirements of this section.

(7) A food with nutrients restored to pre-processing levels or added pursuant to § 1.8(e) of this chapter so that it is not nutritionally inferior to the food for which it substitutes and which it resembles.

(f) Permissible qualitative and quantitative composition of dietary supplements.

(1) The following table sets forth the permissible qualitative and quantitative composition of dietary supplements of vitamins and/or minerals:

U.S. GOVERNMENT RECOMMENDED DAILY ALLOWANCES (U.S. RDA'S) AND PERMISSIBLE COMPOSITIONAL RANGES FOR DIETARY SUPPLEMENTS OF VITAMINS AND MINERALS

	Unit of measurement	Infants and children under 4 years of age			Adults and children 4 or more years of age			Pregnant or lactating women		
		Lower limit	U.S. RDA	Upper limit	Lower limit	U.S. RDA	Upper limit	Lower limit	U.S. RDA	Upper limit
Vitamins, mandatory:										
Vitamin A	International units	1,250	2,500	2,500	2,500	5,000	5,000	5,000	8,000	8,000
Vitamin D [1]	do	200	400	400				400	400	400
Vitamin E	do	5.0	10	15	15	30	45	30	30	60
Vitamin C	Milligrams	20	40	60	30	60	90	60	60	120
Folic acid [2]	do	0.1	0.2	0.3	0.2	0.4	0.4	0.4	0.8	0.8
Thiamine	do	0.35	0.7	1.05	0.75	1.5	2.25	1.5	1.7	3.0
Riboflavin	do	0.4	0.8	1.2	0.8	1.7	2.6	1.7	2.0	3.4
Niacin	do	4.5	9.0	13.5	10	20	30	20	20	40
Vitamin B_6	do	0.35	0.7	1.05	1.0	2.0	3.0	2.0	2.5	4.0
Vitamin B_{12}	Micrograms	1.5	3	4.5	3	6	9	6	8	12
Optional:										
Vitamin D	International units				200	400	400			
Biotin	Milligrams	0.08	0.15	0.22	0.15	0.3	0.45	0.3	0.3	0.6
Pantothenic Acid	do	2.5	5.0	7.5	5.0	10	15	10	10	20
Minerals, mandatory:										
Calcium	Grams	0.125	0.8	1.2	0.125	1.0	1.5	0.125	1.3	2.0
Phosphorus [3]	do	0.125	0.8	1.2	0.125	1.0	1.5			
Iodine	Micrograms	35	70	105	75	150	225	150	150	300
Iron	Milligrams	5.0	10	15	9.0	18	27	18	18	60
Magnesium	do	40	200	300	100	400	600	100	450	800
Optional:										
Phosphorus	Grams							0.125	1.3	2.0
Copper	Milligrams	0.5	1.0	1.5	1.0	2.0	3.0	1.0	2.0	4.0
Zinc	do	4.0	8.0	12	7.5	15	22.5	7.5	15	30

[1] Optional for adults and children 4 or more years of age.
[2] Optional for liquid products.
[3] Optional for pregnant or lactating women.

(2) The U.S. Recommended Daily Allowances (U.S. RDA's) have been derived by the Food and Drug Administration from the "Recommended Dietary Allowances," published by the Food and Nutrition Board, National Academy of Sciences—National Research Council, and are subject to amendment from time to time as more information on human nutrition becomes available.

(g) Acceptable ingredient sources for dietary supplements:

(1) A vitamin or mineral used in a dietary supplement may be supplied by any suitable chemically synthesized or naturally produced substance which is not a food additive as defined in section 201(s) of the act; or if it is a food additive as so defined, it shall be used in conformity with regulations established pursuant to section 409 of the act.

(2) Any safe and suitable substance may be used as a preservative, stabilizer, flavor, sweetener, color, seasoning, carrier, base, or vehicle, or to facilitate preparation of the vitamin and mineral substances. A dietary supplement shall be prepared so that any such substance contained therein does not exceed the amount reasonably required to accomplish its intended physical or technical effect, and so that the biological availability of the vitamin(s) or mineral(s) is not impaired by the presence of such substance. Any such substance shall not be a food additive or color additive as defined in section 201 (s) or (t) of the act; or if it is a food additive or color additive as so defined, it shall be used in conformity with regulations established pursuant to section 409 or 706 of the act.

(h) Nomenclature.

(1) The common name of a dietary supplement shall consist of a term descriptive of the vitamin and/or mineral composition of the product, as established in paragraph (h)(2) of this section, together with a phrase or phrases designating the group(s) for which the supplement is represented, as established in paragraph (h)(3) of this section (e.g., "multivitamin and multimineral supplement for infants and children under 4 years of age"). The name of the dietary supplement shall appear prominently and conspicuously on the principal display panel(s) of the label. The letters of the phrase(s) designating the consumer group(s) for which the product is represented shall be no less than one-third the size of those used in the term descriptive of the composition of the product. In addition to the common name prescribed by this paragraph, a dietary supplement may be labeled with a proprietary name: *Provided*, That it is not false or misleading in any particular.

(2) The terms used to describe the vitamin and/or mineral composition of dietary supplements listed in paragraphs (b) (1) and (2) of this section shall be as follows: (i) "Multivitamin and multimineral supplement" for a dietary supplement containing all vitamins and minerals, (ii) "multivitamin supplement" for a dietary supplement containing all vitamins, (iii) "multimineral supplement" for a dietary supplement containing all minerals, (iv) "multivitamin and iron supplement" or "multivitamin supplement with iron" for a dietary supplement containing all vitamins and the mineral iron, (v) "———supplement" for a dietary supplement containing a single vitamin or mineral listed as a mandatory or optional ingredient in the table contained in paragraph (f)(1) of this section (the blank to be filled in with the name of the vitamin or mineral).

(3) The phrases used to designate the group(s) for which a dietary supplement is intended shall be as follows: (i) "For infants and children under 4 years of age," (ii) "for adults and children 4 or more years of age," and (iii) "for pregnant or lactating women."

(i) Format for listing vitamins and minerals, and ingredients: (1) Immediately following the name and group designation on the principal display panel, as required by paragraph (h) of this section, or on the information panel (21 CFR 1.8d) if insufficient space is available on the principal display panel, the label shall bear a listing in tabular from of each of the vitamins and/or minerals supplied by the specified daily quantity of the dietary supplement, such daily quantity being specified at the top of the list. The vitamins and/or minerals shall be described by the names appearing in paragraph (f) of this section, shall appear in the order listed in paragraph (f) of this section, and shall be grouped and identified separately as "vitamins" and/or "minerals" without reference to "mandatory" or "optional." The quantity of each vitamin and/or mineral present in a specified daily quantity of the dietary supplement shall be stated as a part of this list and expressed in percentage of the U.S. RDA for each specific group for which the supplement is offered. The quantity of each vitamin and/or mineral present in the specified daily quantity of the dietary supplement shall also appear in the tabular listing in terms of the units of measure specified in paragraph (f) of this section.

(2) For determining the percentage contents of the U.S. RDA's present in the dietary supplement, the quantitative content of the following vitamins shall be calculated in terms of the following chemically identifiable reference forms:

Vitamin	Reference form: Name	Empirical formula	Molecular weight
Vitamin C	*L*-ascorbic acid	$C_6H_8O_6$	176.12
Folic acid	Pteroylmonoglutamic acid	$C_{19}H_{19}N_7O_6$	441.41
Niacin	Niacin	$C_6H_5NO_2$	123.11
Riboflavin	Riboflavin	$C_{17}H_{20}N_4O_6$	376.37
Thiamine	Thiamin chloride	$C_{12}H_{17}ClN_4OS$	300.82
Vitamin B_6	Pyridoxine	$C_8H_{11}NO_3$	169.18
Vitamin B_{12}	Cyanocobalamin	$C_{63}H_{89}CoN_{14}O_{14}P$	1,355.40
Biotin	*d*-Biotin	$C_{10}H_{16}N_2O_3S$	244.31
Pantothenic acid	*D*-pantothenic acid	$C_9H_{17}NO_5$	219.23

(3) The following synonyms may be added in parentheses immediately following the name of the vitamin in the statement described in paragraph (i) (1) of this section:

Vitamin	*Synonym*
Vitamin C	Ascorbic acid.
Folic acid	Folacin.
Riboflavin	Vitamin B_2.
Thiamine	Vitamin B_1.

(4) A separate list of nutrient ingredients in the product shall be included on the label pursuant to the requirements of Part 1 of this chapter. Such list shall include the natural source or chemical form of each individual nutrient present in the dietary supplement.

(j) When the dietary supplement is in liquid form and contains alcohol, the label shall state the percent-by-volume of alcohol present.

(k) A dietary supplement containing one or more nutrients, subject to deterioration below the labeled value before consumption shall bear on its outside wrapper or container, as well as on the label of its immediate container, the statement: "Expiration date ———", the blank to be filled in by the month and year. The expiration date shall be the date selected by the manufacturer, packer, or distributor of the dietary supplement on the basis of tests or other information showing that the dietary supplement, until that date, under the conditions of handling, storage, and use prescribed by directions appearing on its label, or, in the absence of such prescribed directions, under customary or usual conditions of handling, storage, and use will contain not less than the quantity of each vitamin and/or mineral, as set forth on its label, when consumed.

(l) All labeling information required by this section shall comply with the conspicuousness required by section 403(f) of the act and § 1.8d of this chapter. In addition, the following labeling requirements shall be met.

(1) The list of nutrients required by paragraph (i) (1) of this section shall appear in uniform type size.

(2) The synonyms permitted by paragraph (i) (3) of this section, if used, and the list of nutrient ingredients required by paragraph (i) (4) of this section shall appear in uniform type size, and in type size no larger than that used for the list of nutrients required by paragraph (i) (1) of this section.

(m) In addition to the requirements of this section, the labels and labeling for a dietary supplement is subject to the prohibitions contained in § 125.2(b) of this chapter.

(n) All labeling for dietary supplements that is ordered after December 31, 1973, and all labeling used for such products shipped in interstate commerce after December 31, 1974, shall comply with the provisions of this section; and if not so labeled, such product shall be deemed to be misbranded under section 403 (a), (g), and (j) of the act.

Any interested person whose appearance was filed at the hearing may, on or before March 20, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written exceptions thereto. Exceptions shall point out with particularity the alleged errors in the proposed findings of fact and tentative order, and shall contain specific references to the pages of the transcript of testimony and to the exhibits on which the exceptions are based. Exceptions and accompanying briefs should be submitted in quintuplicate.

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-996 Filed 1-18-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

FOOD LABELING

Notice of Opportunity for Exceptions and Comments

The Commissioner of Food and Drugs is publishing in this issue of the FEDERAL REGISTER the following proposals, tentative orders, and regulations, with opportunity for the public to present exceptions and comments.

1. *Nutrition labeling.* A new 21 CFR 1.17, governing nutrition labeling for all food, is published as a final regulation. The Commissioner announced at the meeting of the National Food Advisory Committee on October 30, 1972, that additional time for public consideration of these regulations would be provided. Accordingly, the Commsisioner is requesting submission of any additional comment on this regulation on or before February 20, 1973. Any technical changes justified by such comment will be the subject of further modification of the regulation and will be published prior to March 15, 1973. The Commissioner does not anticipate any major changes in this regulation.

2. *Food label information panel.* A new 21 CFR 1.8d, establishing a standard food label information panel, is published as a final regulation. Additional comment on this regulation may also be submitted on or before February 20, 1973.

3. *Food fat labeling.* A new 21 CFR 1.18, governing the labeling of the fatty acid composition and cholesterol content of fat-containing food, is published as a final regulation and 21 CFR 3.41 is revoked. Additional comment on this regulation may also be submitted on or before February 20, 1973.

4. *Special dietary food regulations.* The tentative order on amendments of 21 CFR 125.1–125.3, relating to labeling of special dietary foods, is published in accordance with 21 CFR 2.97. Exceptions to this proposed order may be filed on or before March 20, 1973.

5. *Standard of identity for vitamin-mineral supplements.* The tentative order on a new 21 CFR 80.1, establishing a standard of identity for vitamin-mineral supplements, is published in accordance with 21 CFR 2.97. Exceptions to this proposed order may be filed on or before March 20, 1973.

6. *Food standard labeling changes.* Amendments to several standards of identity for enriched foods, to substitute reference to nutrition labeling in place of the existing reference to special dietary food labeling, are published as a proposal. Comments may be submitted on or before February 20, 1973.

7. *Food flavor labeling.* A revision of 21 CFR 1.12, to define spice and natural and artificial flavor and to establish a uniform pattern for labeling flavor and food to which flavor is added, is published as a proposal. Comments may be submitted on or before March 20, 1973.

8. *Incidental food additives.* Revision of 21 CFR Parts 1 and 5 including addition of a new § 1.10a, relating to exemptions from declaration of incidental ingredients, is published as a proposal. Comments may be submitted on or before March 20, 1973.

9. *Imitation food labeling.* A new 21 CFR 1.8(e), to govern application of the term "imitation" to food, is published as a proposal. Comments may be submitted on or before March 20, 1973.

10. *Standards of identity for mellorine and parevine.* Two new sections in 21 CFR Part 20, establishing standards of identity for mellorine and parevine requiring appropriate fortification and nutrition labeling, and revocation of 21 CFR 3.39, are published as proposals. Comments may be submitted on or before March 20, 1973.

11. *Label declaration of ingredients in standardized foods.* Section 3.88, which urges food manufacturers and distributors to utilize full ingredient declaration for standardized food labels, is clarified and republished.

12. *Uniform effective date for food labeling changes.* A request for comments on the establishment of a uniform effective date for food labeling changes that will be necessary as a result of promulgation of a number of new and revised regulations is published. Such comments may be submitted on or before February 20, 1973.

The Commissioner is publishing these proposals, tentative orders, and final regulations, at one time because many of them are interrelated and it is necessary that a uniform effective date be established for all. The Commissioner has carefully considered the time within which exceptions and comments must be received in order to proceed expeditiously with these matters, and has concluded that the periods set out above are reasonable. No requests for extensions will be granted.

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-698 Filed 1-18-73;8:45 am]

FOOD LABELING

Prospective Requirements for Manufacturers, Packers, and Distributors of Food; Request for Comments

The Commissioner of Food and Drugs is promulgating a number of regulations for packaged food, which are designed to furnish the consumer more information concerning the ingredients and nutritional qualities of packaged food, and to present such information in a uniform and readily understandable manner. Some of these regulations will make labeling changes mandatory, while others permit labeling changes on a voluntary basis. In some cases, moreover, these regulations will require extensive changes in current labeling, and the economic impact on the food industry, if these changes were required on a piecemeal basis over a period of time, might well be severe.

The Commissioner, therefore, is of the opinion that the mandatory effective date should be the same for all such regulations to provide an orderly and economical adjustment to the new labeling requirements. Such procedure would be in the interest of consumers as well as industry since it is likely that the cost of multiple, successive piecemeal label revisions, which would otherwise be required, would be passed on to the consumer in the form of higher food prices.

The following sections of the general regulations, under Title 21 of the Code of Federal Regulations, which are published elsewhere in this issue of the FEDERAL REGISTER, will implement some of these changes:

1. Section 1.8d *Food labeling; information panel.*

2. Section 1.17 *Food; nutrition labeling.*

3. Section 80.1 *Definition and Standard of Identity for dietary supplements of vitamins and minerals.*

4. Section 125.1 *Definitions and interpretation of terms.*

5. Section 125.2 *General label statements; dietary properties; placement.*

6. Section 125.3 *Label statements relating to vitamins and minerals.*

Other changes will be required through amendments in food standards, establishment of nutrition guidelines and common or usual names, and other regulations, some of which are published as proposals or final regulations elsewhere in this issue of the FEDERAL REGISTER.

In the past, in support of requests for time for making label changes required by newly promulgated regulations, industry has urged a lead time of 12 to 18 months for adjustment to mandatory labeling changes, because of the practice of certain segments of industry of ordering up to a 12-months supply of labels or labeled containers at one time, and because of the necessity of carrying a label inventory sufficient for several months production.

It is anticipated that the regulations in question will be promulgated within the next 6 months. In view of the multiple regulations involved in this case, and the time required for industry to redesign its labeling, obtain new labeling, and exhaust inventories of current labeling, the Commissioner proposes that a lead time of approximately 18 months for bringing products into full compliance is reasonable and proposes to provide until December 31, 1974, for full compliance for products shipped in interstate commerce.

The Commissioner also recognizes that there may be instances when an 18-month lead time will not be necessary for bringing particular products into compliance. Therefore, the Commissioner proposes to require that any affected product, for which labeling is ordered on or after December 31, 1973, comply in all respects with the provisions of these regulations at the time the labeling is placed into use, regardless of

time. Manufacturers are encouraged to order complying labeling and to begin using it at the earliest possible date.

In a policy statement (21 CFR 3.88) published in the FEDERAL REGISTER on March 10, 1972 (37 FR 5120), the Food and Drug Administration encouraged manufacturers, packers, and distributors, to voluntarily disclose in the labeling of food, complete information on the ingredients contained in the food and announced that "the Food and Drug Administration intends to amend the definitions and standards of identity of food by setting into motion, as rapidly as possible, the provisions of section 401 of the Act to require label declaration of all optional ingredients, with the exception of optional spices, flavoring, and colorings, which may continue to be designated as such without specific ingredient declaration." A clarification of this regulation is published elsewhere in this issue of the FEDERAL REGISTER. In addition, legislation requiring declaration of the mandatory ingredients in standardized foods has been initiated. The Commissioner urges that complete ingredient labeling be included at the same time that any labeling changes are made under any of the regulations which are the subject of this notice.

Interested persons may, on or before February 20, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this notice. Comments may be accompanied by a memorandum or brief in support thereof. Received comments maye be seen in the above office during working hours, Monday through Friday.

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-999 Filed 1-18-73;8:45 am]